

**VIRGIN ISLANDS**

**VIRGIN ISLANDS CLIMATE CHANGE TRUST FUND ACT, 2015**

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**I ASSENT**

(Sgd.) John S. Duncan, OBE,  
Governor.  
15<sup>th</sup> May, 2015

**VIRGIN ISLANDS**

**No. 12 of 2015**

An Act to provide for the establishment and management of the Virgin Islands Climate Change Trust Fund and for other connected matters.

[Gazetted 22<sup>nd</sup> May, 2015]

ENACTED by the Legislature of the Virgin Islands as follows:

**PART I  
PRELIMINARY**

Short title and  
commencement.

**1.** This Act may be cited as the Virgin Islands Climate Change Trust Fund Act, 2015 and shall come into force on a date the Minister may, by Notice published in the *Gazette* appoint.

Interpretation.

**2.** (1) In this Act, unless the context otherwise requires,

“administrative expenses” means Secretariat staff salaries, legal and audit fees and other expenses, including costs related to the operations of the Trust, as approved by the Board;

“Asset Manager” means the person appointed pursuant to section 40;

“biodiversity” means the variability among living organisms from all sources, including terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part, and includes diversity within species and between species and of ecosystems;

“Board” means the Board of Trustees of the Trust appointed under section 12;

“Chairperson” means a person appointed by the Minister to chair meetings of the Board and includes a person who temporarily acts in that capacity;

“climate change” means a change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods;

“climate change adaptation” means any adjustment in natural or human systems in response to actual or expected climatic stimuli or their effects, which moderates harm or exploits beneficial opportunities, and includes various types of adaptation, including anticipatory and reactive adaptation, private and public adaptation, autonomous and planned adaptation, and disaster risk reduction measures;

“Climate Change Committee” means the Committee established by the Cabinet on the recommendation of the Minister;

“climate change mitigation” includes any anthropogenic intervention that can either reduce the sources of greenhouse gas emissions or enhance carbon sinks;

“Convention” means the United Nations Framework Convention on Climate Change concluded on the 9<sup>th</sup> of May, 1992;

“ecosystem” means a dynamic complex of plant, animal and micro-organism communities and their non-living environment, interacting as a functional unit;

“entity ordinarily resident in the Territory” means any agency or organisation, including Government and its agencies, private enterprise, registered associations, academia or non-governmental organisation, that carries out its principal business operations in the Territory;

“greenhouse gas” means atmospheric gases responsible for causing climate change, such as carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>); nitrous oxide (N<sub>2</sub>O); hydrofluorocarbons (HFCs), perfluorocarbons (PFCs) and sulphur hexafluoride (SF<sub>6</sub>);

“incremental costs of addressing climate change” means the full incremental costs of implementing measures that are covered by paragraph 1 of Article 4 of the Convention;

“low-carbon, climate-resilient development” means social, environmental and economic development that has a

minimal output of greenhouse gas (GHG) emissions into the environment while implementing appropriate climate change adaptation measures to address risks from climate change;

“Minister” means the Minister to whom responsibility for climate change is assigned;

“persons who belong to the Virgin Islands” has the same meaning as provided in Section 2 (2) of the Virgin Islands Constitution Order, 2007;

“Secretariat” means the Secretariat of the Trust established under section 22;

“Trust” means the Virgin Islands Climate Change Trust Fund established under section 4;

“Virgin Islands Climate Change Adaptation Policy” or “the Policy” means the Virgin Islands Climate Change Adaptation Policy: Achieving Low Carbon, Climate Resilient Development approved by Cabinet;

“vulnerable groups, communities and sectors” means any target group of individuals or businesses recognised as at risk from the impacts of climate change.

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Functions  
of the  
Minister.

**3.** (1) The Minister shall be responsible for reviewing and further developing the Virgin Islands Climate Change Adaptation Policy consistent with the purposes of this Act.

(2) In the exercise of his or her functions under this Act, the Minister shall consult with the Climate Change Committee.

## **PART II ESTABLISHMENT, OBJECTIVES, FUNCTIONS AND STATUS OF THE TRUST**

Establishment  
of the Trust.

**4.** (1) There is established by this Act a body to be known as the Virgin Islands Climate Change Trust Fund.

(2) The Trust shall be a body corporate with perpetual succession and a common seal, capable of entering into contracts, acquiring, holding and disposing of real and personal property, of suing and being sued and of doing and performing such acts as a body corporate may legally perform.

Objectives of  
the Trust.

**5.** The Trust shall

(a) seek to facilitate a link between domestic and international climate change finance sources with national climate change investment strategies;

- (b) serve as a catalyst to attract investments to implement a range of priority climate change adaptation and mitigation projects and programmes in the Virgin Islands; and
- (c) serve as the National Implementing Entity for the Virgin Islands, being the official organisation designated on behalf of the Territory under the Convention to receive direct financing from any external source in order to carry out climate change adaptation and climate change mitigation projects and programmes in the Virgin Islands.

**6.** (1) The functions of the Trust are

- (a) to establish and administer the governance, fiduciary management and administrative arrangements to finance the activities of the Trust;
- (b) set annual funding priorities informed by any Strategy and Implementation Plan under the Policy;
- (c) to finance innovative climate change initiatives;
- (d) to support capacity building, education, research and studies related to the incremental costs of climate change;
- (e) to raise public knowledge, appreciation and understanding of climate change impacts affecting the Territory;
- (f) to support measures related to disaster risk reduction and response to natural disasters associated with climate change;
- (g) to support actions to build ecosystem resilience to the impacts of climate change;
- (h) to provide support to reduce the vulnerability of the most vulnerable groups, communities and sectors which may be impacted by climate change;
- (i) to provide financial support, during periods of disaster response and recovery and rehabilitation, for disaster relief to vulnerable groups, communities and sectors when the Trust considers it appropriate to do so;
- (j) to utilise its funds to support both climate change adaptation and climate change mitigation projects and programmes with a focus on supporting priority adaptation actions across the relevant sectors, within the scope of

Functions and duties of the Trust.

- (i) enhancing the resilience and natural adaptive capacity of the Territory's natural resources including terrestrial ecosystems, coastal and marine ecosystems, fisheries resources and biodiversity, to climate change impacts;
- (ii) assisting the fisheries sector in adapting to the impacts of climate change by encouraging sustainable fisheries practices, and training and investing in new technologies in sustainable fisheries management;
- (iii) strengthening food security by expanding local agricultural production and increasing its resilience to climate change and climate change induced hazards;
- (iv) creating and maintaining a sustainably managed, diverse, low carbon and environmentally responsible tourism industry that is more resilient to climate fluctuations, disaster events and market changes;
- (v) minimising the vulnerability of existing and new critical infrastructure and settlements to climate change impacts;
- (vi) encouraging wide and adequate insurance coverage for natural hazard events throughout the Territory and ensure adequate resources to recover from natural disasters exacerbated by climate change including but not limited to hurricanes, storm surges and floods;
- (vii) enhancing the capacity of the health care sector and the public to deal with climate change related health impacts;
- (viii) promoting water conservation and efficiency, and enhancing the capacity of the water supply system to handle drought and severe weather events;
- (ix) increasing the resilience of the Territory to heavy rain and flood events;
- (x) promoting energy conservation and efficiency, and encouraging use of renewable energy to reduce the national energy bill and carbon emissions while increasing energy security.

- (k) to do or cause to be done such other things as the Trust consider expedient or necessary in carrying out the purpose of this Act.

(2) In carrying out its functions the Trust shall act in accordance with the policies of the government designed to manage, protect, enhance and conserve the environment from the effects of climate change.

(3) The Board may from time to time receive inputs from the Climate Change Committee on any emergent priorities.

(4) The Trust shall, in furtherance of its functions discharge the following duties:

- (a) raise funds, from domestic and international sources;
- (b) negotiate, enter into, monitor and enforce compliance with international and domestic funding agreements;
- (c) administer, disburse and monitor the use of such funds as are appropriate to its activities and ensure that the most beneficial use is made of such funds;
- (d) ensure that all entities ordinarily resident in the Territory have equal access to funding, with special consideration being given to vulnerable groups, communities and sectors, in addition to non-governmental organisations and community-based organisations;
- (e) maintain complete financial records of all financial transactions of the Trust;
- (f) maintain a complete record and account of all activities of the Trust and provide to the public, free access to information concerning the work of the Trust, except where the Trust may determine that it is necessary to impose a fee for access to specified information.

Powers of the Trust.

**7.** The Trust shall

- (a) invest money of the Trust not immediately required for the furtherance of its objectives in the same way as trustees may invest trust funds in securities within the scope of investments authorised under the Trustees Ordinance 1961;
- (b) pay all or any part of its Funds into a deposit or savings account of a bank carrying on business in the Territory, with all interest if any, payable in respect thereof applied as income;



- (c) borrow from time to time from a bank on the security of its investment to an amount not exceeding in the aggregate the sum estimated to be the total of its investments and the income therefrom;
- (d) act as trustee of money or other property vested in the Trust;
- (e) use money of the Trust to further the objects of the Trust or to meet the Trust's commitments under any agreement to which the Trust is a party;
- (f) make and enter into contracts or other arrangements for the carrying out of works, the performance of services or the supply of goods or materials;
- (g) engage in strategic planning for the Trust;
- (h) approve all procedures for grants and other funding requests supported by the Trust;
- (i) review and approve requests for grants and other funding activities supported by the Trust in accordance with the provisions of this Act;
- (j) decide on issues concerning the employment conditions of the Secretariat and staff of the Trust, including but not limited to their hiring, functions, terms of employment and dismissal, their supervision, performance review, and benefits to be paid;
- (k) approve, periodically review and modify as necessary, the operational manual and annual work plan for the Trust;
- (l) authorise the opening of bank accounts for the Trust;
- (m) contract a suitable asset manager, investment consultant, custodian, registered agent or any other professional service provider that is engaged in the interest of sound operation of the Trust;
- (n) control the use of funds of the Trust;
- (o) appoint or replace an independent outside auditor for the Trust.

**8.** (1) The Trust may accept donations from lawful sources subject to such conditions as may be imposed by the donor if doing so would not

Acceptance of contributions.

- (a) cause the Trust to violate any provision of this Act; and

(b) be reasonably expected to impair the Trust's ability to achieve its purpose.

(2) Contributions to the Trust designated for specific projects or made subject to specific conditions shall be preserved and utilised solely for the designated purpose.

**9.** (1) Notwithstanding any other provision of this Act, the Trust shall not engage in any activities or exercise any powers that are not in furtherance of its purpose.

Dedication to non-political purpose.

(2) The Trust shall not attempt to influence legislation other than in a manner consistent with its purpose.

(3) The Trust shall not participate or intervene in any political campaign on behalf of or in opposition to any candidate for political office or any political party.

**10.** (1) The Trust Fund is not a Government fund of the Territory and the capital and revenue of the Trust is not public money of the Virgin Islands and as such not subject to control and accounting except as provided by this Act.

Status of the Trust.

(2) The Trust is exempt from paying taxes, including but not limited to

(a) stamp duty;

(b) customs duty;

(c) trust duty under the Trustee Act .

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(3) The Trust

(a) is not entitled to any immunity or privilege in the Territory;

(b) cannot render the Government of the Virgin Islands liable for any debts, liabilities or obligations of the Trust;

(c) is not a public authority for any purpose and is taken not to have been constituted or established for a public purpose.

**11.** The seal of the Trust shall

Seal of the Trust.

(a) be kept in the custody of the Chairperson; and

(b) be affixed to all documents issued by the Board in the presence of the Secretary and at least one other member of the Board and shall be authenticated by the signatures of the Secretary and that member.

**PART III**  
**MANAGEMENT AND ADMINISTRATION OF THE TRUST**

Establishment  
of the Board  
of Trustees.

**12.** (1) There is established by this Act a Board of Trustees of the Trust (in this Act referred to as the “Board”).

(2) The Board shall comprise the following persons:

- (a) the Permanent Secretary of the Ministry of Natural Resources and Labour, *ex officio*;
- (b) the Financial Secretary, *ex officio*;
- (c) the Chief Executive Officer of the Trust or his or her designate, *ex officio*;
- (d) six other members appointed with the approval of Cabinet, by the Minister by instrument in writing as follows:
  - (i) a private sector representative of the tourism industry;
  - (ii) a private sector representative of the financial services sector;
  - (iii) a private sector representative of any sector responsible for making contributions to the Fund, not already represented on the Board;
  - (iv) a representative from an academic or research organisation ordinarily resident in the Territory;
  - (v) a representative from a non-governmental organisation or community-based organisation ordinarily resident in the Territory; and
  - (vi) an individual ordinarily resident in the Territory, who may possess relevant knowledge, expertise or experience related to the purposes of the Act.

(3) In appointing persons under section (2)(d), the Minister shall be satisfied that such persons have

- (a) the necessary experience and involvement in the sector for which they seek appointment;
- (b) no conflict of interest in regards to their position on the Board, including related to political affiliation;
- (c) the capacity to do one or more of the following:

- (i) attract financial support for the Trust;
- (ii) ensure effective financial management of the Trust;
- (iii) provide sound and effective decision-making leading to the attainment of identified functions of the Trust; and
- (iv) provide effective leadership and direction to the Board.

(4) The Minister shall ensure that the composition of the Board has a simple majority of persons who belong to the Virgin Islands.

(5) The Minister shall appoint a chairperson and a deputy chairperson from among the members of the Board.

(6) The Chief Executive Officer shall serve as the Secretary of the Board.

(7) Schedule 1 shall have effect in relation to the procedure for meetings of the Board. Schedule 1

**13.** (1) The Minister shall appoint the persons referred to in section 12 (2) after Appointment of non-government members of the Board.

- (a) the public advertisement of the qualifications and other criteria required for eligibility to be appointed to the Board; and
- (b) affording the public the opportunity to nominate candidates for appointment to the Board.

(2) For the purposes of subsection (1)(a), the Minister shall cause an advertisement inviting written applications and nominations of persons for appointment to the Board to be published in the *Gazette* and in at least one newspaper published and circulating throughout the Territory and the advertisement shall specify the following:

- (a) the number of non-government members to be appointed to the Board;
- (b) the particular capacity or capacities that an appointee or a nominee will be required to have, including affiliation to one of the sectors or organisations mentioned in section 12 (2) (d);
- (c) the supporting documents to be provided by each applicant or nominee, which shall include

- (i) three references;
  - (ii) a recent police report attesting to whether the applicant or the nominee has any criminal record;
  - (iii) if the applicant or the nominee is a person who belongs to the Virgin Islands, proof of their belonger status; and
  - (iv) the nomination or a letter of support from a registered organisation operating in the relevant sector referred to in section 12 (2)(d);
- (d) the closing date for applications and nominations which shall be at least twenty-eight days after the date of the advertisement;
  - (e) the address to which applications and nominations are to be sent; and
  - (f) that nomination shall not be accepted unless the nominee's written consent to the nomination is forwarded with the nomination.

(4) After the close of the application process, the Minister shall disclose to the public the names of all applicants and the sectors that they wish to represent on the Ministry's website.

(5) Any member of the public who may wish to submit written comments to the Ministry on the suitability of any applicant or nominee may do so within a period of thirty days after applications and nominations have been closed.

**14.** (1) The Board shall have executive control and management of the affairs of the Trust, and shall exercise and perform the functions, powers and duties of the Trust on its behalf, and shall be responsible for its effective and efficient administration.

Functions and powers of the Board.

(2) The Board may appoint such committees or advisory bodies as it thinks fit on such terms and conditions as it may determine, to assist in the performance of its functions.

(3) The Board may engage consultants for the purpose of obtaining expert advice as it considers necessary in the execution of its functions.

(4) The Board shall develop an operational manual which provides generally for the procedures which shall guide its operations and specifically for the matters set out in Schedule 2.

Schedule 2

(5) The Board may delegate any of its functions, other than this power of delegation, to the Chief Executive Officer or any other member of the staff of the Trust.

(6) Any act, matter or thing done in the name of, or on behalf of, the Trust by the Board is taken to have been done by the Trust.

**15.** (1) A member shall hold office for a period not exceeding three years, but is eligible for re-appointment, if otherwise qualified. Term of office.

(2) Notwithstanding the provisions of subsection (1), appointment of non Government members shall be staggered to ensure that no more than two non-government representatives are re-appointed in any calendar year.

**16.** (1) A member of the Board may resign at any time by notice in writing addressed to the Minister, and such resignation becomes effective upon receipt by the Minister, unless specified to take effect at a specified date. Resignation and removal.

(2) The Minister may, with the approval of Cabinet, revoke the appointment of a member of the Board, other than a government member if the Minister is satisfied that the member

- (a) is guilty of misconduct;
- (b) failed to attend four (4) consecutive meetings of the Board, of which the member had notice except where leave was granted by the Board, or where the member is excused by the Board for having been absent from those meetings; or;
- (c) knowingly failed to notify the Board of a conflict of interest;
- (d) no longer fulfills the conditions of appointment as set forth in section 12; or
- (e) acts in a way that is detrimental to the Trust.

**17.** (1) The office of a member of the Board becomes vacant if the member Vacancy in office.

- (a) dies; or
- (b) completes a term of office and is not re-appointed; or
- (c) resigns the office by giving written notice addressed to the Minister; or
- (d) is removed from office by the Minister; or
- (e) is an undischarged bankrupt or has compounded with his or her creditors; or

- (f) has been certified by a medical practitioner to be of unsound mind; or
- (g) is convicted of an offence involving dishonesty that is punishable by imprisonment for six months or more, or is convicted of any offence that is punishable by imprisonment for twelve months or more, or is convicted in another country of an offence that, if committed in the Territory, would be an offence so punishable; or
- (h) in the case of a member referred to in section 12 (2) (d), ceases to be qualified for appointment.

Filling of vacancy. **18.** If any vacancy occurs in the membership of the Board such vacancy shall be filled by the appointment of another qualified person who shall hold office for the remainder of the period for which the previous member was appointed.

Remuneration **19.** A member of the Board who is not a public officer shall be paid such remuneration as the Cabinet may determine and the payments shall be made out of the funds of the Trust.

Immunity from suit. **20.** No suit shall lie against a member of the Board or a person acting under the direction of the Board for an act done in good faith in the execution of his or her functions under this Act.

First meeting. **21.** The Minister shall, no later than ninety days after the commencement of this Act, call the first meeting of the Board in such manner as the Minister thinks fit.

Secretariat of the Trust. **22.** (1) There shall be a Secretariat for the Trust comprising a Chief Executive Officer, and such other staff as may be necessary to enable the Trust to exercise its functions.

(2) The Secretariat shall be responsible for providing administrative support to the Board, which shall include, *inter alia*:

- (a) developing the Business Plan pursuant to the requirements of section 28;
- (b) developing an operational manual in accordance with such direction as the Board may specify;
- (c) preparing an annual work plan including a cash flow management system that shall ensure timely disbursement and access to money as needed, both by the Trust and by projects and programmes supported by the Trust;
- (d) identifying a suitably qualified Asset Manager pursuant to the provisions of section 40;

- (e) receiving all applications for funding by the Trust and ensuring that all documentation is complete and accurate;
- (f) receiving and reviewing reports from persons and organisations implementing activities supported by the Trust;
- (g) ensuring that all projects and programmes are implemented in accordance with legal, technical and financial requirements of the Board;
- (h) establishing, implementing and monitoring enforcement of standards and procedures to ensure compliance with social and environmental safeguards for all activities of the Trust in accordance with the Virgin Islands Constitution Order 2007;
- (i) producing periodic and annual reports of the Trust;
- (j) maintaining a central public database of all past and ongoing projects and programmes funded by the Trust including information concerning their relationship to the Policy and other important project details;
- (k) maintaining a Trust Fund website to provide information on the operations and disbursements of the Trust;
- (l) monitoring, evaluating and verifying projects and programmes supported by the Trust and reporting on outcomes to the Board;
- (m) ensuring that un-coordinated duplication of activities supported by the Trust is avoided;
- (n) developing mechanisms to replicate successful projects and programmes supported by the Trust;
- (o) seeking and obtaining sources of funding for the Trust.

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(3) The Board shall fix the salary, wages and other conditions of its Secretariat staff.

Appointment  
of the Chief  
Executive  
Officer and  
other staff.

**23.** (1) The Board shall appoint a Chief Executive Officer on such terms and conditions as the Board may determine.

(2) The Chief Executive Officer shall



- (a) be responsible for carrying on the day-to-day affairs of the Board and implementation of its strategic direction as directed by the Board;
- (b) be responsible for the economical and efficient administration of the affairs of the Trust; and
- (c) have custody of the records and books of the Trust, other than books of account;
- (d) exercise all other such authority and perform such functions as may be determined by the Board.

(3) The Board shall appoint such number of other staff as it considers necessary and proper for the administration, management and performance of the Trust.

Application for funding.

**24.** (1) Applications for support under the Trust shall be submitted in response to periodic calls for proposals by the Trust.

(2) A person who desires to receive funding from the Trust in support of a project or programme shall submit an application to the Board in the manner and form determined by the Board, accompanied by such documents as may be required.

(3) The Board shall make final decisions on which application for funding by the Trust are to be supported taking into consideration the funding priorities of the Trust.

Qualifying recipients.

**25.** Applications for support under the Trust shall be submitted by an entity ordinarily resident in the Territory which may partner with entities that are not ordinarily resident in the Territory.

Review committees.  
Schedule 3

**26.** (1) Where the Board is satisfied that an application is in order, the Board shall appoint a committee to be known as a Review Committee from among the persons specified in Schedule 3 and who possess the relevant knowledge and expertise to assess the merits of the application under consideration.

(2) The Review Committee may co-opt other expertise, as may be necessary, to satisfactorily perform its functions.

**27.** (1) Where a matter is to be decided by a Body at a meeting, any member present at the meeting who has an interest in the matter shall, at that meeting, disclose the nature of the interest in advance of any consideration of the matter.

Disclosure of interests.

(2) Where a member discloses an interest under this section

- (a) the disclosure shall be recorded in the minutes of the meeting; and

- (b) the member shall not, unless that Body otherwise determines
  - (i) be present during any deliberations by that Body on that matter; or
  - (ii) take part in any decision of that Body relating to the matter.

(3) In this section “Body” means the Board or any committee or other body set up by the Board in exercise of its functions under this Act.

(4) Failure to make a disclosure under this section shall invalidate any decision concerning the matter in which the member has an interest.

#### **PART IV OPERATIONS OF THE TRUST**

**28.** (1) The Board shall conduct its activities, as far as is practicable, in accordance with a business plan prepared in accordance with this Act.

Trust to conduct activities in accordance with business plan.

(2) The Board shall, no later than one year after the commencement of the Act, prepare and deliver to the Minister a draft business plan specifying the following:

- (a) viable fundraising options for the Trust, taking into consideration options presented in the Virgin Islands Climate Change Adaptation Policy on financing options including, but not limited to, acquiring proportional access to the international aviation industry carbon levy charged to passengers departing to the Virgin Islands from European airports;
- (b) activities to be undertaken to mobilise funds for the Trust;
- (c) proposed investment policy and strategy in order to generate long-term sustainable financing for carrying out the objectives of the Fund;
- (d) projected flow of funds that will accrue to the Trust;
- (e) the strategy that the Trust proposes to adopt for the following five years to further its objectives;
- (f) the annual budget required for the following five years for the Trust to carry out its objectives;
- (g) the strategy for efficiently utilising the funds of the Trust;
- (h) the criteria that the Trust will meet when entering into funding agreements and parameters for accepting funding;

- (i) the performance indicators by which the Trust's achievement of its objectives are to be measured;
- (j) the remuneration and allowances, if any, to be paid to the members of the Board, the Secretariat and the Review Committee.

(3) The Business Plan prepared pursuant to this section shall be consistent with

- (a) the evolving funding priorities based on the Virgin Islands Climate Change Adaptation Policy and any national energy policy that may be approved; and
- (b) established criteria to ensure that the funds of the Trust are effectively distributed in a coordinated approach to achieve low-carbon, climate-resilient development within the Territory.

Consideration of business plan.

**29.** (1) The Minister, in consultation with the Minister for Finance shall, within sixty days of receipt of the draft business plan, endorse the draft business plan if he is satisfied that it complies with the requirements of this Act or refuse to endorse the business plan.

(2) Where the Minister refuses to endorse the business plan the Minister shall return the plan to the Trust and shall notify the Trust in writing of the refusal, giving reasons for the decision and informing the Trust that the plan may be revised and resubmitted.

(3) Where no decision is made within sixty days of receipt of the business plan, the business plan shall be deemed to have been endorsed by the Minister, in consultation with the Minister for Finance.

Amendment of plan.

**30.** The Board may amend the business plan with the approval of the Minister, acting in consultation with the Minister of Finance.

New plan to be prepared at certain intervals.

**31.** (1) The Board shall prepare a new business plan at least six months before the expiry of its existing business plan.

(2) Nothing in this section prevents the Board from preparing new business plans at more frequent intervals than those required by subsection (1).

(3) If a new business plan is not endorsed before the expiry of the five years to which the business plan under which the Board is conducting its activities relates, the Board shall continue to conduct its activities in accordance with the priorities and strategies specified in that plan, in so far as is practicable, until the priorities and strategies specified in the new plan are endorsed.

**PART V**  
**FINANCIAL MATTERS OF THE TRUST**

- 32.** There is established a fund to be known as the Climate Change Trust Fund, referred to in this Act as the “Fund”. Establishment of the Trust Fund.
- 33.** (1) The funds and resources of the Trust shall comprise Funds and resources of the Trust.
- (a) gifts and bequests;
  - (b) donations;
  - (c) such monies as may be appropriated by the House of Assembly for the purposes of the Trust;
  - (d) any fees, levies, taxes and fines that are specifically allocated to the Trust;
  - (e) revenues from investments, proceeds from the sale, lease or transfer of tangible and intangible property, or other income derived from the assets of the Trust;
  - (f) proceeds from services provided by the Trust; and
  - (g) any other sources of revenue deemed appropriate by the Board.
- (2) The Board may reject any gifts, bequests, or donations that may be offered to the Trust.
- 34.** The financial year for the Trust shall be for the period commencing 1<sup>st</sup> July and ending 30<sup>th</sup> June in each year. Financial year.
- 35.** (1) The funds of the Trust shall be applied in accordance with this Act and in the payment of the following: Use of Fund monies.
- (a) expenses incurred or incidental to the administration and management of the Fund including,
    - (i) remuneration and other payments to the members of the Board, the Review Committee and any committees established pursuant to this Act;
    - (ii) salaries, remuneration, allowances, pensions, gratuities and other benefits of the staff of the Secretariat or other persons employed in or in connection with the activities carried on by the Trust;

(b) any other expenditure authorised by the Board and properly related to the objectives of the Trust.

(2) The Trust shall principally finance projects and programmes associated with the incremental costs of addressing climate change in order to minimise the threats and impacts of climate change.

(3) The Trust shall not be used to support the operational costs of Government, civil society or the private sector related to the implementation of the Virgin Islands Climate Change Adaptation Policy if such actions could reasonably be expected to be covered under the normal day-to-day business costs of Government, civil society or the private sector.

(4) No part of the earnings of the Trust shall inure to the benefit of any individual or political party, or be distributed to the Board, officers or other private persons except in accordance with this Act.

Procedures with respect to disbursement of funds.

**36.** (1) Disbursements of funds under the Trust shall be in accordance with the following principles:

- (a) subject to paragraph (b), there shall be no overall limit on granting of funds by sector, theme or class of recipient;
- (b) unless otherwise specified by the Board during any given year, no more than fifty percent of funds disbursed in any year may be accessed by Government agencies unless qualifying proposals from other applicants do not absorb the remaining funding capacity;
- (c) awards shall be based on priorities, demand and the meeting of criteria as specified by the Board, in addition to the report of the Review Committee;
- (d) upper funding limits shall be established for any single award and these may vary by recipient and activity type;
- (e) the Trust shall not implement any project or programme that it funds.

(2) The Trust may provide support subject to such terms and conditions it considers necessary.

**37.** (1) All monies which comprise the Trust Fund and which do not have to be used immediately to defray expenses of the Trust, shall be invested in such a manner as the Board considers fit to preserve the principal and achieve a reasonable rate of return.

Investment of Trust monies.

(2) The Board may either directly or through authorised agents, undertake investments pursuant to subsection (1), including the buying and selling of such securities or other obligations as the Board determines to be appropriate.

**38.** (1) Subject to such general or specific conditions as the Minister for Finance may specify, the Board may borrow such money as it considers necessary to discharge its functions.

Borrowing funds.

(2) Without limiting the generality of subsection (1), the Minister for Finance may specify conditions with respect to

- (a) the amount of a loan;
- (b) the sources of borrowing; and
- (c) the terms and conditions of a loan.

(2) The Board shall not pledge the assets of the Fund as security for any loan, without the written approval of the Minister for Finance.

**39.** (1) The Board shall establish, with one or more authorised deposit-taking institutions, such accounts as it thinks appropriate for the money received and expended by the Trust.

Trust to establish accounts.

(2) There shall be paid into the account of the Trust

- (a) all money received by or on account of the Trust;
- (b) all money directed to be paid into the accounts of the Trust by or under this or any other Act.
- (c) all interest received in respect of the investment of money belonging to the Trust;
- (d) all money borrowed by or advanced to the Trust.

(3) The money in the accounts of the Trust may, subject to the terms of any trust or condition affecting that money or any part of it, be applied for any one or more of the following purposes:

- (a) providing the remuneration of the members of the Board, the Secretariat and other staff of the Trust;
- (b) covering the administrative expenses and operating costs of the Trust;
- (c) discharging the liabilities incurred by the Trust in the exercise of its functions, including the provision of grants;

(d) any other purpose authorised by or under this or any other Act.

(4) No monies shall be paid out of the Trust's accounts except with the authority, and in accordance with any general or special directions, of the Board.

(5) The bank accounts of the Trust shall be subject to inspection by the Board.

Asset  
management.

**40.** (1) The Board shall appoint an internationally recognised Asset Manager to invest and manage the assets of the Trust.

(2) The Asset Manager shall be selected through a transparent and competitive public tender process from a list of qualified financial management individuals or organisations.

(3) The contract with the Asset Manager shall be for a term of no more than five years, but may be renewed subject to satisfactory performance as determined through an independent performance review commissioned by the Board.

(4) The Board shall pay the Asset Manager a management fee of no more than two percent of the value of the assets of the Trust under management by the Asset Manager.

(5) The Asset Manager shall oversee the investment of the Trust's assets and other financial activities as directed by the Board, including receiving and disbursing funds of the Trust, maintaining financial records, development and implementation of an investment strategy for funds of the Trust, financial reporting, fund management and provision of an overdraft or short term loan facility to cover cash flow needs, subject to the orders of the Board.

(6) The Asset Manager shall keep all funds of the Trust on deposit with banks or trust companies approved by the Board.

(7) The Asset Manager shall submit reports to the Board upon request.

(8) All accounts associated with the management of the Trust Fund shall be open at all times to the inspection of the Board.

(9) With approval of the Board, the Asset Manager may delegate certain functions of his or her office to employees of the Board, but he or she shall continue to be responsible for the proper performance of such functions.

**41.** (1) The Board shall keep proper accounts of all sums of money received and expended or invested in any form by the Board and of the matters in respect of which such receipts, expenditures or investments take place and the assets and liabilities of the Trust.

Accounts  
and audit.

(2) The accounts of the Trust shall be subject to inspection by the Board, the Minister, and the Minister of Finance, subject to reasonable restrictions which may be provided in the operational manual.

(3) The Board shall prepare or cause to be prepared quarterly financial statements which the Trust shall transmit to the Minister, the Minister of Finance and any interested party.

(4) The Board shall appoint an independent external auditor of internationally recognised standing and competence, approved by the Minister of Finance, to audit the financial accounts of the Trust annually.

(5) The Auditor appointed pursuant to subsection (4) shall verify the Trust's balance sheet and other financial accounts for each fiscal year and shall prepare a comprehensive, detailed written report in accordance with international standards for auditing.

(6) The Board shall make the Auditor's completed annual report publicly available and provide a copy of such report to the Minister and the Minister of Finance.

**42.** The Board shall, not later than the first day of April in each year, prepare in such form as the Minister and the Minister of Finance may direct, a budget for the next fiscal year which sets forth

Annual budget.

- (a) projected revenue of the Trust from all sources;
- (b) costs for Trust administration; and
- (c) costs of grants and other financial commitments to projects consistent with the Trust's purpose.

**43.** (1) Until completion of the Trust's first twelve month fiscal year, the Trust may use up to twenty percent (20%) of its annual budget for administrative expenses as determined by the Business Plan.

Limits on administrative expenses.

(2) In the Trust's second twelve month fiscal year, and in each fiscal year thereafter, the Trust shall use no more than fifteen percent (15%) of its annual budget to pay for administrative expenses as determined by the Business Plan.

Recovery of money by Trust.

**44.** Any fee or other money due to the Trust may be recovered by the Trust as a debt in a court of competent jurisdiction.

## PART VI MISCELLANEOUS

Annual report.

**45.** (1) As soon as practicable after the 30 June in each year, and in any event no later than the last business day in October of each year, the Trust shall



prepare and deliver to the Minister and the Minister of Finance a report of the activities of the Trust during the financial year.

(2) The report prepared pursuant to subsection (1) shall include copies of the audited financial statements and accounts of the Trust for the financial year to which the report relates and the auditor's report on the statements and accounts prepared by the auditor.

(3) The Minister shall forward the report delivered pursuant to subsection (1) to Cabinet for consideration and as soon as practicable thereafter cause a copy to be laid before the House of Assembly.

(5) The first report prepared pursuant to this section shall contain a report on the activities of the Trust from the date of commencement of this Act to the end of the first fiscal year immediately following that date.

Dissolution  
of the  
Trust.

**46.** (1) The Board may, by resolution, voluntarily dissolve the Trust in the following circumstances only:

- (a) in the event of bankruptcy of the Trust;
- (b) if the Trust's tax-exempt status provided for in section 9 is revoked; or
- (c) if it has become impracticable to achieve the objectives of the Trust.

(2) Where the Trust is dissolved pursuant to subsection (1), the assets of the Trust shall be distributed to any organisation which has as its purpose a charitable, educational or scientific purpose for the benefit of the public that is substantially similar to that of the Trust.

(3) For the purposes of subsection (2), the assets of the Trust shall not be distributed to any organisation that is affiliated with any government, Ministry or government agency.

Review of  
Act.

**47.** (1) The Minister shall periodically review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.

(2) The review shall be undertaken as soon as possible after a period of five years from the commencement of this Act.

(3) The Minister shall within twelve months after the end of the period of five years referred to in subsection (2) table the report of the review of the Act.

**48.** The Minister may, on the advice of the Board, amend the schedule by Order published in the *Gazette*.

Power to  
amend the  
schedule.

**49.** (1) The Minister, in consultation with the Minister of Finance, may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Regulations.

(2) Without limiting the generality of subsection (1), regulations may be provide for

- (a) the guidelines and criteria for applications for funding;
- (b) the levies and charges to be paid with respect to climate change issues, including charges to offset energy use;
- (c) the investment of fund monies;
- (d) to provide for the winding up of the Trust
- (e) prescribing anything that is required to be prescribed by this Act.

## SCHEDULE 1

[Section 12 (7)]

### MEETINGS OF THE BOARD

Meetings  
of the  
Board.

**1.** The Board shall meet at least once in every quarter for the transaction of its business and such meeting shall be held at a time and a place the Board may determine.

**2.** At every meeting of the Board, the Chairperson shall preside and in his or her absence the deputy chairperson shall preside.

**3.** (1) The quorum for a meeting of the Board is five members, of whom one shall be a government representative.

(2) If a quorum is not present within one (1) hour from the time appointed for the Meeting, or during a Meeting a quorum ceases to be present, the Meeting shall be adjourned to such time and place as the Members of the Board shall determine.

**4.** The decisions of the Board shall be by a majority of the votes of the members present and voting and in the event of a tie the chairperson shall together have the casting vote.

Notice of  
meetings.

**5.** (1) Notice of any meeting of the Board shall be given to each member of the Board at least ten (10) working days before such meeting is to be held.

(2) A notice issued pursuant to subsection (1) shall be sent to each member of the Board at her or his residential address or usual place of business, and shall be given by mail, telefax or electronic mail.

(3) Every notice issued pursuant to this section shall state the time and place of the meeting and the business to be transacted or the purpose of the meeting.

Extraordinary  
meetings of the  
Board.

**6.** (1) The Board may, if it thinks fit, transact any of its business

(a) by the circulation of papers among all the members of the Board for the time being; or

(b) by telephone, closed-circuit television, video-conferencing or other means with all or some of its members,

and a resolution in writing by a majority of those members is taken to be a decision of the Board.

(3) For the purposes of this section the Chairperson and each member shall have the same voting rights as they have at an ordinary meeting of the Board.

(4) A resolution approved under subsection (1) shall be recorded in the minutes of the meetings of the Board.

(5) For the purposes of subsection (1), the Board may circulate papers among the members in hard copy, by facsimile or other electronic transmission of the information in the papers concerned.

(6) Service of any document on a Chairperson of the Board, or the Chief Executive Officer shall be deemed to be service on the Trust.

**9.** The names of all members of the Board as first constituted and any change in the membership thereof shall be published in the *Gazette*.

Publication of membership.

**10.** Subject to the provisions of this Act the Board may regulate its own proceedings.

Regulating proceedings.

## SCHEDULE 2

[Section 14(4)]

### MATTERS TO BE PROVIDED FOR IN OPERATIONAL MANUAL

1. The administration of the Trust, with particular emphasis on
  - (a) the proposed organisational structure of the Trust;
  - (b) the terms of reference for the Board, the Secretariat and the Review Committee;
  - (c) office management and administrative requirements for the Trust;
  - (d) procedures for record keeping and the management of information, including the management of confidential information and information to be accessed by the public;
  - (e) operational safeguards and procedures to monitor, evaluate and verify that the operations of the Trust achieve its stated objectives;
  - (f) procedures to evaluate the effectiveness of the governance structures and funding operations of the Trust;
  - (g) management of promotional activities;
  - (h) requirements for an annual work plan to achieve the objectives of the Trust.
  
2. The framework for fiduciary management with particular emphasis on the
  - (a) qualifications and terms of reference for the asset manager;
  - (b) procedures for asset manager performance evaluations;
  - (c) process for tracking funds with the asset manager;
  - (d) process for notifying the asset manager of the timing of transfers of investment proceeds;
  - (e) parameters for investment of funds;
  - (f) instructions for the Asset Manager on allocating of funds and new capital to benefit specific Trust endowments;
  - (g) cash flow management system that shall ensure timely disbursement and access to money as needed, both by the Trust and by projects supported by the Trust;

- (h) book-keeping and accounts management procedures;
  - (i) procedures for management of fund transfers;
  - (j) procedures for financial reporting including reports of investment returns
  - (k) procedures for procurements of goods and services;
  - (l) results based and performance based disbursement process;
  - (m) internal and external audit procedures;
  - (n) terms of reference for auditors;
3. The procedures and guidelines for grants including
- (a) procedures for coordination and review of annual funding requests;
  - (b) reporting process for grant recipients;
  - (c) operational guidelines concerning what may be considered as incremental costs, operational costs and normal day-to-day business costs, when considering applications for funding by the Trust;
  - (d) procedures establishing calls for proposals (including their frequency and timing) for priority climate change adaptation and climate change mitigation actions, which may be revised annually, for funding by the Trust as determined by the Climate Change Committee in their Strategy and Implementation Plan;
  - (e) operational procedures and application forms for applying for support from the Trust;
  - (f) guidelines and criteria for considering and approving applications for funding support by the Trust, including guidelines concerning the amount to be dedicated to management fees by any applicant;
  - (g) eligibility criteria for entities ordinarily resident in the Territory submitting applications that may receive funding support from the Trust;
  - (h) procedures whereby the Trust can actively support capacity building in the non-governmental sector in particular capacity building support to small non-governmental organisations through a small grant not exceeding ten thousand dollars in order that they may subsequently meet eligibility criteria to receive funding support from the Trust.

## SCHEDULE 3

[Section 26]

### PERSONS ELIGIBLE TO BE APPOINTED TO THE REVIEW COMMITTEE

1. The following officers or their designees:

- (a) the Chief Conservation and Fisheries Officer, *ex officio*, who shall be the Chairperson;
- (b) the Director of the British Virgin Islands Tourist Board, *ex officio*;
- (c) the Director of the Department of Disaster Management, *ex officio*;
- (d) a Senior Technical Officer in the Ministry of Communication and Works, *ex officio*;
- (e) the Chief Planner, *ex officio*;
- (f) the Chief Agricultural Officer, *ex officio*;
- (g) the Chief Medical Officer, *ex officio*;
- (h) the Director of the National Parks Trust, *ex officio*;
- (i) the General Manager of the BVI Electricity Corporation, *ex officio*;

2. The following technical experts from outside government:

- (a) an economist;
- (b) an energy production/distribution expert;
- (c) an environmental scientist;
- (d) a renewable energy expert;
- (e) a water resources expert;
- (f) a civil engineer; and
- (g) a representative from a community-based organisation.

Passed by the House of Assembly this 24<sup>th</sup> day of March, 2015.

(Sgd.) Ingrid Moses Scatliffe,  
Speaker.

(Sgd.) Phyllis Evans,  
Clerk of the House of Assembly.