

SCHEDULE TO THE ORDER

THE CONSTITUTION OF THE COMMONWEALTH OF THE BAHAMAS

CHAPTER III

PROTECTION OF FUNDAMENTAL RIGHTS AND FREEDOMS OF THE INDIVIDUAL

Fundamental rights and freedoms of the individual

15. Whereas every person in The Bahamas is entitled to the fundamental rights and freedoms of the individual, that is to say, has the right, whatever his race, place of origin, political opinions, colour, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest, to each and all of the following, namely—

- (a) life, liberty, security of the person and the protection of the law;
- (b) freedom of conscience, of expression and of assembly and association; and
- (c) protection for the privacy of his home and other property and from deprivation of property without compensation,

the subsequent provisions of this Chapter shall have effect for the purpose of affording protection to the aforesaid rights and freedoms subject to such limitations of that protection as are contained in those provisions, being limitations designed to ensure that the enjoyment of the said rights and freedoms by any individual does not prejudice the rights and freedoms of others or the public interest.

Protection of right to life

16.—(1) No person shall be deprived intentionally of his life save in execution of the sentence of a court in respect of a criminal offence of which he has been convicted.

(2) A person shall not be regarded as having been deprived of his life in contravention of this Article if he dies as the result of the use, to such extent and in such circumstances as are permitted by law, of such force as is reasonably justifiable—

- (a) for the defence of any person from violence or for the defence of property;
- (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
- (c) for the purpose of suppressing a riot, insurrection or mutiny; or
- (d) in order to prevent the commission by that person of a criminal offence,

or if he dies as a result of a lawful act of war.

Protection from inhuman treatment

17.—(1) No person shall be subjected to torture or to inhuman or degrading treatment or punishment.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this Article to the extent that the law in question authorises the infliction of any description of punishment that was lawful in the Bahamas Islands immediately before 10th July 1973.

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Protection from slavery and forced labour

- 18.**—(1) No person shall be held in slavery or servitude.
- (2) No person shall be required to perform forced labour.
- (3) For the purposes of this Article, “forced labour” does not include—
- (a) any labour required in consequence of the sentence or order of a court;
 - (b) any labour required of a member of a disciplined force in pursuance of his duties as such or, in the case of a person who has conscientious objections to service in a naval, military or air force, any labour which that person is required by law to perform in place of such service;
 - (c) labour required of any person while he is lawfully detained which, though not required in consequence of the sentence or order of a court, is reasonably necessary in the interests of hygiene or for the maintenance of the place in which he is detained; or
 - (d) any labour required during a period of public emergency (that is to say, a period to which Article 29 of this Constitution applies) or in the event of any other emergency or calamity that threatens the life or well-being of the community, to the extent that the requiring of such labour is reasonably justifiable, in the circumstances of any situation arising or existing during that period or as a result of that other emergency or calamity, for the purpose of dealing with that situation.

Protection from arbitrary arrest or detention

- 19.**—(1) No person shall be deprived of his personal liberty save as may be authorised by law in any of the following cases—
- (a) in execution of the sentence or order of a court, whether established for The Bahamas or some other country, in respect of a criminal offence of which he has been convicted or in consequence of his unfitness to plead to a criminal charge or in execution of the order of a court on the grounds of his contempt of that court or of another court or tribunal;
 - (b) in execution of the order of a court made in order to secure the fulfilment of any obligation imposed upon him by law;
 - (c) for the purpose of bringing him before a court in execution of the order of a court;
 - (d) upon reasonable suspicion of his having committed, or of being about to commit, a criminal offence;
 - (e) in the case of a person who has not attained the age of eighteen years, for the purpose of his education or welfare;
 - (f) for the purpose of preventing the spread of an infectious or contagious disease or in the case of a person who is, or is reasonably suspected to be, of unsound mind, addicted to drugs or alcohol, or a vagrant, for the purpose of his care or treatment or the protection of the community;
 - (g) for the purpose of preventing the unlawful entry of that person into The Bahamas or for the purpose of effecting the expulsion, extradition or other lawful removal from The Bahamas of that person or the taking of proceedings relating thereto; and, without prejudice to the generality of the foregoing, a law may, for the purposes of this sub-paragraph, provide that a person who is not a citizen of The Bahamas may be deprived of his liberty to such extent as may be necessary in the execution of a lawful order requiring that person to remain within a specified area within The Bahamas or prohibiting him from being within such an area.

(2) Any person who is arrested or detained shall be informed as soon as is reasonably practicable, in a language that he understands, of the reasons for his arrest or detention and shall be permitted, at his own expense, to retain and instruct without delay a legal representative of his own choice and to hold private communication with him; and in the case of a person who has not attained the age of eighteen years he shall also be afforded a reasonable opportunity for communication with his parent or guardian.

(3) Any person who is arrested or detained in such a case as is mentioned in sub-paragraph (1) (c) or (d) of this Article and who is not released shall be brought without undue delay before a court; and if any person arrested or detained in such a case as is mentioned in the said sub-paragraph (1)(d) is not tried within a reasonable time he shall (without prejudice to any further proceedings that may be brought against him) be released either unconditionally or upon reasonable conditions, including in particular such conditions as are reasonably necessary to ensure that he appears at a later date for trial or for proceedings preliminary to trial.

(4) Any person who is unlawfully arrested or detained by any other person shall be entitled to compensation therefor from that other person.

(5) Where a person is detained by virtue of such a law as is referred to in Article 29 of this Constitution, the following provisions shall apply—

- (a) he shall, as soon as reasonably practicable and in any case not more than five days after the commencement of his detention, be furnished with a statement in writing, in a language that he understands, of the grounds upon which he is detained;
- (b) not more than fourteen days after the commencement of his detention, a notification shall be published in the Gazette stating that he has been detained and giving particulars of the provisions of law under which his detention is authorised;
- (c) he may from time to time request that his case be reviewed under sub-paragraph (d) of this paragraph but, where he has made such a request, no subsequent request shall be made before the expiration of three months from the making of the previous request;
- (d) where a request is made under sub-paragraph (c) of this paragraph, the case shall, within one month of the making of the request, be reviewed by an independent and impartial tribunal established by law, prescribed over by the Chief Justice or another Justice of the Supreme Court appointed by him, and consisting of persons who are Justices of the Supreme Court or who are qualified to be appointed as Justices of the Supreme Court;
- (e) he shall be afforded reasonable facilities to consult and instruct, at his own expense, a legal representative of his own choice, and he and any such legal representative shall be permitted to make written or oral representations or both to the tribunal appointed for the review of his case.

(6) On any review by a tribunal in pursuance of paragraph (5) of this Article of the case of any detained person, the tribunal may make recommendations concerning the necessity or expediency of continuing his detention to the authority by whom it was ordered, but, unless it is otherwise provided by law, that authority shall not be obligated to act in accordance with any such recommendations.

(7) When any person is detained by virtue of such a law as is referred to in Article 29 of this Constitution the Prime Minister or a Minister authorised by him shall, not more than thirty days after the commencement of the detention and thereafter not more than thirty days after the making of the previous report, make a report to each House stating the number of persons detained as aforesaid and the number of cases in which the authority that ordered the detention has not acted in accordance with the recommendations of a tribunal appointed in pursuance of paragraph (5) of this Article:

Provided that in reckoning any period of thirty days for the purposes of this paragraph no account shall be taken of any period during which Parliament stands prorogued or dissolved.

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Provisions to secure protection of law

20.—(1) If any person is charged with a criminal offence, then, unless the charge is withdrawn, the case shall be afforded a fair hearing within a reasonable time by an independent and impartial court established by law.

(2) Every person who is charged with a criminal offence—

- (a) shall be presumed to be innocent until he is proved or has pleaded guilty;
- (b) shall be informed as soon as reasonably practicable, in a language that he understands and in detail, of the nature of the offence charged;
- (c) shall be given adequate time and facilities for the preparation of his defence;
- (d) shall be permitted to defend himself before the court in person or, at his own expense, by a legal representative of his own choice or by a legal representative at the public expense where so provided by or under a law in force in The Bahamas;
- (e) shall be afforded facilities to examine in person or by his legal representative the witnesses called by the prosecution before the court, and to obtain the attendance and carry out the examination of witnesses to testify on his behalf before the court on the same conditions as those applying to witnesses called by the prosecution;
- (f) shall be permitted to have without payment the assistance of an interpreter if he cannot understand the language used at the trial of the charge; and
- (g) shall, when charged on information in the Supreme Court, have the right to trial by jury;

and except with his own consent the trial shall not take place in his absence unless he so conducts himself in the court as to render the continuance of the proceedings in his presence impracticable and the court has ordered him to be removed and the trial to proceed in his absence.

(3) When a person is tried for any criminal offence, the accused person or any person authorised by him in that behalf, shall, if he so requires and subject to payment of such reasonable fee as may be prescribed by law, be given within a reasonable time after judgment a copy for the use of the accused person of any record of the proceedings made by or on behalf of the court.

(4) No person shall be held to be guilty of a criminal offence on account of any act or omission that did not, at the time it took place, constitute such an offence, and no penalty shall be imposed for any criminal offence that is severer in degree or description than the maximum penalty that might have been imposed for that offence at the time when it was committed.

(5) No person who shows that he has been tried by a competent court for a criminal offence and either convicted or acquitted shall again be tried for that offence or for any other criminal offence of which he could have been convicted at the trial for that offence, save upon the order of a superior court in the course of appeal or review proceedings relating to the conviction or acquittal.

(6) No person shall be tried for a criminal offence if he shows that he has been pardoned for that offence.

(7) No person who is tried for a criminal offence shall be compelled to give evidence at the trial.

(8) Any court or other adjudicating authority prescribed by law for the determination of the existence or extent of any civil right or obligation shall be established by law and shall be independent and impartial; and where proceedings for such a determination are instituted by any person before such a court or other adjudicating authority, the case shall be given a fair hearing within a reasonable time.

(9) All proceedings instituted in any court for the determination of the existence or extent of any civil right or obligation, including the announcement of the decision of the court, shall be held in public.

(10) Nothing in paragraph (9) of this Article shall prevent the court from excluding from the proceedings persons other than the parties thereto and their legal representatives to such extent as the court—

- (a) may be empowered by law so to do and may consider necessary or expedient in circumstances where publicity would prejudice the interests of justice, or in interlocutory proceedings or in the interests of public morality, the welfare of persons under the age of eighteen years or the protection of the private lives of persons concerned in the proceedings;
- (b) may be empowered or required by law to do so in the interests of defence, public safety or public order; or
- (c) may be empowered or required to do so by rules of court and practice existing immediately before 10th July 1973 or by any law made subsequently to the extent that it makes provision substantially to the same effect as provision contained in any such rules.

(11) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of—

- (a) sub-paragraph (2)(a) of this Article to the extent that the law in question imposes upon any person charged with a criminal offence the burden of proving particular facts;
- (b) sub-paragraph (2)(e) of this Article to the extent that the law in question imposes conditions that must be satisfied if witnesses called to testify on behalf of an accused person are to be paid their expenses out of public funds;
- (c) paragraph (5) of this Article to the extent that the law in question authorises a court to try a member of a disciplined force for a criminal offence notwithstanding any trial and conviction or acquittal of that member under the disciplinary law of that force, so, however, that any court so trying such a member and convicting him shall in sentencing him to any punishment take into account any punishment awarded him under that disciplinary law.

Protection for privacy of home and other property

21.—(1) Except with his consent, no person shall be subjected to the search of his person or his property or the entry by others on his premises.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this Article to the extent that the law in question makes provision—

- (a) which is reasonably required—
 - (i) in the interests of defence, public safety, public order, public morality, public health, town and country planning, the development of mineral resources, or the development or utilisation of any other property in such a manner as to promote the public benefit; or
 - (ii) for the purpose of protecting the rights and freedoms other persons;
- (b) to enable to officer or agent of the Government of The Bahamas, a local government authority or a body corporate established by law for public purposes to enter on the premises of any person in order to inspect those premises or anything thereon for the purpose of any tax, rate or due or in order to carry out work connected with any property that is lawfully on those premises and that belongs to that Government, authority or body corporate, as the case may be; or
- (c) to authorise, for the purpose of enforcing the judgment or order of a court in any civil proceedings, the search of any person or property by order of a court or the entry upon any premises by such order,

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and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

Protection of freedom of conscience

22.—(1) Except with his consent, no person shall be hindered in the enjoyment of his freedom of conscience, and for the purposes of this Article the said freedom includes freedom of thought and of religion, freedom to change his religion or belief and freedom, either alone or in community with others, and both in public and in private, to manifest and propagate his religion or belief in worship, teaching, practice and observance.

(2) Except with his consent (or, if he is a person who has not attained the age of eighteen years, the consent of his guardian) no person attending any place of education shall be required to receive religious instruction or to take part in or attend any religious ceremony or observance if that instruction, ceremony or observance relates to a religion other than his own.

(3) No religious body or denomination shall be prevented from or hindered in providing religious instruction for persons of that body or denomination in the course of any education provided by that body or denomination whether or not that body or denomination is in receipt of any government subsidy, grant or other form of financial assistance designed to meet, in whole or in part, the cost of such course of education.

(4) No person shall be compelled to take any oath which is contrary to his religion or belief or to take any oath in a manner which is contrary to his religion or belief.

(5) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this Article to the extent that the law in question makes provision which is reasonably required—

- (a) in the interests of defence, public safety, public order, public morality or public health; or
- (b) for the purpose of protecting the rights and freedoms of other persons, including the right to observe and practice any religion without the unsolicited interference of members of any other religion,

and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

Protection of freedom of expression

23.—(1) Except with his consent, no person shall be hindered in the enjoyment of his freedom of expression, and for the purposes of this Article the said freedom includes freedom to hold opinions, to receive and impart ideas and information without interference, and freedom from interference with his correspondence.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this Article to the extent that the law in question makes provision—

- (a) which is reasonably required—
 - (i) in the interests of defence, public safety, public, order, public morality or public health; or
 - (ii) for the purpose of protecting the rights, reputations and freedoms of other persons, preventing the disclosure of information received in confidence, maintaining the authority and independence of the courts, or regulating telephony, telegraphy, posts, wireless broadcasting, television, public exhibitions or public entertainment; or
- (b) which imposes restrictions upon persons holding office under the Crown or upon members of a disciplined force,

and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

Protection of freedom of assembly and association

24.—(1) Except with his consent, no person shall be hindered in the enjoyment of his freedom of peaceful assembly and association, that is to say, his right to assemble freely and associate with other persons and in particular to form or belong to political parties, or to form or belong to trade unions or other associations for the protection of his interests.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this Article to the extent that the law in question makes provision—

- (a) which is reasonably required—
 - (i) in the interests of defence, public safety, public order, public morality or public health; or
 - (ii) for the purpose of protecting the rights and freedoms of other persons; or
- (b) which imposes restrictions upon persons holding office under the Crown or upon members of a disciplined force,

and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

Protection of freedom of movement

25.—(1) Except with his consent, no person shall be hindered in the enjoyment of his freedom of movement, and for the purposes of this Article the said freedom means the right to move freely throughout The Bahamas, the right to reside in any part thereof, the right to enter. The Bahamas, the right to leave The Bahamas and immunity from expulsion therefrom.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this Article to the extent that the law in question makes provision—

- (a) which is reasonably required—
 - (i) in the interests of defence, public safety, public order, public morality, public health, town and country planning or the prevention of plant or animal diseases; or
 - (ii) for the purpose of protecting the rights and freedoms of other persons,
- and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society;
- (b) for the removal of a person from The Bahamas to be tried outside The Bahamas for a criminal offence or to undergo imprisonment in some other country in respect of a criminal offence of which he has been convicted;
 - (c) for the imposition of restrictions upon the movement or residence within The Bahamas of public officers or members of a disciplined force that are reasonably required for the purpose of the proper performance of their functions; or
 - (d) for the imposition of restrictions on the movement or residence within The Bahamas of any person who is not a citizen of The Bahamas or the exclusion or expulsion therefrom of any such person; or
 - (e) for the imposition of restrictions on the right of any person to leave The Bahamas in the public interest, or for securing compliance with any international obligation of the Government of The Bahamas particulars of which have been laid before Parliament.

(3) Any restriction on a person's freedom of movement which is involved in his lawful detention shall not be held to be inconsistent with or in contravention of this Article.

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(4) For the purposes of sub-paragraph (c) of paragraph (2) of this Article “law” in that paragraph includes directions in writing regarding the conduct of public officers generally or any class of public officer issued by the Government of The Bahamas.

Protection from discrimination on the grounds of race, etc

26.—(1) Subject to the provisions of paragraphs (4), (5) and (9) of this Article, no law shall make any provision which is discriminatory either of itself or in its effect.

(2) Subject to the provisions of paragraphs (6), (9) and (10) of this Article, no person shall be treated in a discriminatory manner by any person acting by virtue of any written law or in the performance of the functions of any public office or any public authority.

(3) In this Article, the expression “discriminatory” means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, place of origin, political opinions, colour or creed whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages which are not accorded to persons of another such description.

(4) Paragraph (1) of this Article shall not apply to any law so far as that law makes provision—

- (a) for the appropriation of revenues or other funds of The Bahamas or for the imposition of taxation (including the levying of fees for the grant of licences); or
- (b) with respect to the entry into or to exclusion from, or the employment, engaging in any business or profession, movement or residence within, The Bahamas of persons who are not citizens of The Bahamas; or
- (c) with respect to adoption, marriage, divorce, burial, devolution of property on death or other matters of personal law; or
- (d) whereby persons of any such description as is mentioned in paragraph (3) of this Article may be subjected to any disability or restriction or may be accorded any privilege or advantages which, having regard to its nature and to special circumstances pertaining to those persons or to persons of any other such description, is reasonably justifiable in a democratic society; or
- (e) for authorising the granting of licences or certificates permitting the conduct of a lottery, the keeping of a gaming house or the carrying on of gambling in any of its forms subject to conditions which impose upon persons who are citizens of The Bahamas disabilities or restrictions to which other persons are not made subject.

(5) Nothing contained in any law shall be held to be inconsistent with or in contravention of paragraph (1) of this Article to the extent that it makes provision with respect to standards or qualifications (not being a standard or qualification specifically relating to race, place of origin, political opinions, colour or creed) in order to be eligible for service as a public officer or as a member of a disciplined force or for the service of a local government authority or a body corporate established by law for public purposes.

(6) Paragraph (2) of this Article shall not apply to anything which is expressly or by necessary implication authorised to be done by any such provision of law as is referred to in paragraphs (4) or (5) of this Article.

(7) Subject to the provisions of sub-paragraph (4)(e) and of paragraph (9) of this Article, no person shall be treated in a discriminatory manner in respect of access to any of the following places to which the general public have access, namely, shops, hotels, restaurants, eating-houses, licensed premises, places of entertainment or places of resort.

(8) Subject to the provisions of this Article no person shall be treated in a discriminatory manner—

- (a) in respect of any conveyance or lease or agreement for, or in consideration of, or collateral to, a conveyance or lease of any freehold or leasehold hereditaments which have been offered for sale or lease to the general public;
- (b) in respect of any covenant or provisions in any conveyance or lease or agreement for, or in consideration of, or collateral to, a conveyance or lease restricting by discriminatory provisions the transfer, ownership, use or occupation of any freehold or leasehold hereditaments which have been offered for sale or lease to the general public.

(9) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this Article to the extent that the law in question makes provision whereby persons of any such description as is mentioned in paragraph (3) of this Article may be subjected to any restriction on the rights and freedoms guaranteed by Articles 21, 22, 23, 24 and 25 of this Constitution, being such a restriction as is authorised by Article 21(2)(a), 22(5), 23(2), 24(2) or 25(2) (a) or (e), as the case may be.

(10) Nothing in paragraph (2) of this Article shall affect any discretion relating to the institution, conduct or discontinuance of civil or criminal proceedings in any court that is vested in any person by or under this Constitution or any other law.

Protection from deprivation of property

27.—(1) No property of any description shall be compulsorily taken possession of, and no interest in or right over property of any description shall be compulsorily acquired, except where the following conditions are satisfied, that is to say—

- (a) the taking of possession or acquisition is necessary in the interests of defence, public safety, public order, public morality, public health, town and country planning or the development or utilisation of any property in such manner as to promote the public benefit or the economic well-being of the community; and
- (b) the necessity therefor is such as to afford reasonable justification for the causing of any hardship that may result to any person having an interest in or right over the property; and
- (c) provision is made by a law applicable to that taking of possession or acquisition—
 - (i) for the making of prompt and adequate compensation in the circumstances; and
 - (ii) securing to any person having an interest in or right over the property a right of access to the Supreme Court, whether direct or on appeal from any other authority, for the determination of his interest or right, the legality of the taking of possession or acquisition of the property, interest or right, and the amount of any compensation to which he is entitled, and for the purpose of obtaining prompt payment of that compensation; and
- (d) any party to proceedings in the Supreme Court relating to such a claim is given by law the same rights of appeal as are accorded generally to parties to civil proceedings in that Court sitting as a court of original jurisdiction.

(2) Nothing in this Article shall be construed as affecting the making or operation of any law so far as it provides for the taking of possession or acquisition of property—

- (a) in satisfaction of any tax, rate or due;
- (b) by way of penalty for breach of the law, whether under civil process or after conviction of a criminal offence under the law of The Bahamas;
- (c) as an incident of a lease, tenancy, mortgage, charge, bill of sale, pledge or contract;
- (d) upon the attempted removal of the property in question out of or into The Bahamas in contravention of any law;
- (e) by way of the taking of a sample for the purposes of any law;

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- (f) where the property consists of an animal upon its being found trespassing or straying;
- (g) in the execution of judgments or orders of courts;
- (h) by reason of its being in a dilapidated or dangerous state or injurious to the health of human beings, animals or plants;
- (i) in consequence of any law making provision for the validation of titles to land or (without prejudice to the generality of the foregoing words) the confirmation of such titles, or for the extinguishment of adverse claims, or with respect to prescription or the limitation of actions;
- (j) for so long only as may be necessary for the purposes of any examination, investigation, trial or inquiry or, in the case of land, the carrying out thereon—
 - (i) of work or reclamation, drainage, soil conservation or the conservation of other natural resources; or
 - (ii) of agricultural development or improvement that the owner or occupier of the land has been required, and has, without reasonable and lawful excuse, refused or failed to carry out; or
- (k) to the extent that the law in question makes provision for the vesting or taking of possession or acquisition or administration of—
 - (i) enemy property;
 - (ii) property of a deceased person, a person of unsound mind or a person who has not attained the age of twenty-one years, for the purposes of its administration for the benefit of the persons entitled to the beneficial interest therein;
 - (iii) property of a person adjudged insolvent or a defunct company that has been struck off the Register of Companies, or a body corporate in liquidation, for the purpose of its administration for the benefit of the creditors of that insolvent person or body corporate and, subject thereto, for the benefit of other persons entitled to the beneficial interest in the property; or
 - (iv) property subject to a trust, for the purpose of vesting the property in persons appointed as trustees under the instrument creating the trust or by a court or, by order of a court, for the purpose of giving effect to the trust.

(3) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this Article to the extent that the law in question makes provision for the orderly marketing or production or growth or extraction of any agricultural or fish product or mineral or water or any article or thing prepared for market or manufactured therefor or for the reasonable restriction of the use of any property in the interest of safeguarding the interests of others or the protection of tenants, licensees or others having rights in or over such property.

(4) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this Article to the extent that the law in question makes provision for the compulsory taking possession in the public interest of any property, or the compulsory acquisition in the public interest of any interest in or right over property, where that property, interest or right is held by a body corporate established directly by law for public purposes in which no monies have been invested other than monies provided by Parliament or by any Legislature established for the former Colony of the Bahamas Islands.

Enforcement of fundamental rights

28.—(1) If any person alleges that any of the provisions of Articles 16 to 27 (inclusive) of this Constitutions has been, is being or is likely to be contravened in relation to him then, without prejudice to any other action with respect to the same matter which is lawfully available, that person may apply to the Supreme Court for redress.

- (2) The Supreme Court shall have original jurisdiction—
- (a) to hear and determine any application made by any person in pursuance of paragraph (1) of this Article; and
 - (b) to determine any question arising in the case of any person which is referred to it in pursuance of paragraph (3) of this Article,

and may make such orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing or securing the enforcement of any of the provisions of the said Articles 16 to 27 (inclusive) to the protection of which the person concerned is entitled:

Provided that the Supreme Court shall not exercise its powers under this paragraph if it is satisfied that adequate means of redress are or have been available to the person concerned under any other law.

(3) If, in any proceedings in any court established for The Bahamas other than the Supreme Court or the Court of Appeal, any question arises as to the contravention of any of the provisions of the said Articles 16 to 27 (inclusive), the court in which the question has arisen shall refer the question to the Supreme Court.

(4) No law shall make provision with respect to rights of appeal from any determination of the Supreme Court in pursuance of this Article that is less favourable to any party thereto than the rights of appeal from determinations of the Supreme Court that are accorded generally to parties to civil proceedings in that Court sitting as a court of original jurisdiction.

(5) Parliament may make laws to confer upon the Supreme Court such additional or supplementary powers as may appear to be necessary or desirable for enabling the Court more effectively to exercise the jurisdiction conferred upon it by paragraph (2) of this Article and may make provision with respect to the practice and procedure of the Court will exercising that jurisdiction.

Provisions for time of war or emergency

29.—(1) This Article applies to any period when—

- (a) The Bahamas is at war; or
- (b) there is in force a proclamation (in this section referred to as a “proclamation of emergency”) made by the Governor-General and published in the Gazette declaring that a state of public emergency exists for the purposes of this section.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of Article 19, any provision of Article 20 other than paragraph (4) therefor, or any provision of Articles 21 to 26 (inclusive) of this Constitution to the extent that the law in question makes in relation to any period to which this Article applies provisions, or authorises the doing during any such period of anything, which is reasonably justifiable in the circumstances of any situation or existing during that period for the purpose of dealing with that situation.

(3) Where any proclamation of emergency has been made, copies thereof shall as soon as practicable be laid before both Houses of Parliament, and if for any cause those Houses are not due to meet within five days the Governor-General shall, by proclamation published in the Gazette, summon them to meet within five days and they shall accordingly meet and sit upon the day appointed by the proclamation and shall continue to sit and act as if they had stood adjourned or prorogued to that day;

Provided that if the proclamation of emergency is made during the period between a dissolution of Parliament and the next ensuing general election—

- (a) the Houses to be summoned as aforesaid shall be the Houses referred to in Article 66 of this Constitution unless the Governor-General is satisfied that it will be practicable to hold that election within seven days of the making of the proclamation of emergency; and

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(b) if the Governor-General is so satisfied, he shall (instead of summoning the Houses so referred to meet within five days of the making of the Proclamation) summons the Houses of the new Parliament to meet as soon as practicable after the Holding of that election.

(4) A proclamation of emergency shall, unless it is sooner revoked by the Governor-General, cease to be in force at the expiration of a period of fourteen days beginning on the date on which it was made or such longer period as may be provided under paragraph (5) of this Article, but without prejudice to the making of another proclamation of emergency at or before the end of that period.

(5) If at any time while a proclamation of emergency is in force (including any time while it is in force by virtue of the provisions of this paragraph) a resolution is passed by each House of Parliament approving its continuance in force for a further period, not exceeding six months, beginning on the date on which it would otherwise expire, the proclamation shall, if not sooner revoked, continue in force for that further period.

Saving of existing law

30.—(1) Subject to paragraph (3) of this Article, nothing contained in or done under the authority of any written law shall be held to be inconsistent with or in contravention of any provision of Articles 16 to 27 (inclusive) of this Constitution to the extent that the law in question—

- (a) is a law (in this Article referred to as “an existing law”) that was enacted or made before 10th July 1973 and has continued to be part of the law of The Bahamas at all times since that day;
- (b) repeals and re-enacts an existing law without alteration; or
- (c) alters an existing law and does not thereby render that law inconsistent with any provision of the said Articles 16 to 27 (inclusive) in a manner in which, or to an extent to which, it was not previously so inconsistent.

(2) In sub-paragraph (1)(c) of this Article the reference to altering an existing law includes references to repealing it and re-enacting it with modifications or making different provisions in lieu thereof, and to modifying it; and in paragraph (1) of this Article “written law” includes any instrument having the force of law and in this paragraph and the said paragraph (1) references to the repeal and re-enactment of an existing law shall be construed accordingly.

(3) This Article does not apply to any regulation or other instrument having legislative effect made, or to any executive act done, after 9th July 1973 under the authority of any such law as is mentioned in paragraph (1) of this Article.

Interpretation

31.—(1) In this Chapter—

“contravention”, in relation to any requirement, includes a failure to comply with that requirement; and cognate expressions shall be construed accordingly;

“court” means any court of law having jurisdiction in The Bahamas other than a court established by a disciplinary law, and includes the Judicial Committee of Her Majesty's Privy Council or any court substituted therefore by any law made under Article 105 of this Constitution and—

- (a) In Article 16, Article 18, Article 19, paragraphs (2), (3), (5), (8), (9) and (10) of Article 20, Article 26 and paragraph (3) of Article 28 of this Constitution includes, in relation to an offence against a disciplinary law, a court established by such a law; and
- (b) In Article 18, Article 19 and paragraph (3) of Article 28 of this Constitution includes, in relation to an offence against a disciplinary law, any person or authority empowered to exercise jurisdiction in respect of that offence;

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“disciplinary law” means a law regulating the discipline of any disciplined force;

“disciplined force” means—

- (a) a naval, military or air force;
- (b) the Police Force of The Bahamas;
- (c) the Prison Service of The Bahamas; or
- (d) any other force or service specified by Act of Parliament to be a disciplined force for the purposes of this Chapter;

“legal representative” means a person entitled to practice in The Bahamas as Counsel and Attorney of the Supreme Court;

“member” in relation to a disciplined force includes any person who, under the law regulating the discipline of that force, is subject to that discipline.

(2) Any reference in Articles 16, 19, 25 and 27 of this Constitution to a criminal offence shall be construed as including an offence against disciplinary law, and any such reference in paragraphs (2) to (7) (inclusive) of Article 20 of this Constitution shall, in relation to proceedings before a court constituted by or under disciplinary law, be construed in the same manner.

(3) In relation to any person who is a member of a disciplined force raised under a law of any country other than The Bahamas and lawfully present in The Bahamas, nothing contained in or done under the authority of the disciplinary law of that force shall be held to be inconsistent, with or in contravention of any of the provisions of this Chapter.