
 STATUTORY INSTRUMENTS

1986 No. 1157

CARIBBEAN AND NORTH ATLANTIC TERRITORIES**The Turks and Caicos Islands (Constitution)(Interim Amendment)
Order 1986***Made* - - - 8th July 1986*Laid before Parliament* 23rd July 1986*Coming into operation on a day to be appointed under section 1(3)*

At the Court at Buckingham Palace, the 8th day of July 1986

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by section 5 of the West Indies Act 1962(a) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1.—(1) This Order may be cited as the Turks and Caicos Islands (Constitution) (Interim Amendment) Order 1986 and shall be construed as one with the Turks and Caicos Islands (Constitution) Orders 1976 to 1982(b), which Orders are hereinafter referred to as “the principal Order”.

Citation,
Commence-
ment and
Construction.

(2) This Order and the principal Order may be cited together as the Turks and Caicos Islands (Constitution) Orders 1976 to 1986.

(3) This Order shall come into operation on such day as the Governor, acting in his discretion, may appoint by proclamation published in the *Gazette*.

2. This Order shall continue in force for the period of two years beginning from the date of the commencement of this Order and shall then expire unless it is continued in force or sooner revoked by Order in Council made by Her Majesty under the provisions of section 5 of the West Indies Act 1962.

Duration of
Order.

3. On the commencement of this Order the offices of Chief Minister, Minister and Permanent Secretary shall become vacant.

Offices to
become vacant

4. So long as this Order is in operation the provisions of the principal Order set out in Schedule 1 to this Order shall not have effect.

Suspension of
certain
provisions of
the principal
Order.

(a) 1962 c.19.

(b) S.I. 1976/1156, 1979/919, 1982/1075.

Interim
executive
legislative
powers.

5. So long as this Order is in operation the provisions set out in Schedule 2 to this Order (which relate to the powers of the Governor, the Executive Council and the Legislative Council) shall have effect and shall be read together with the provisions of the principal Order not affected by section 4 above.

G. I. de Deney,
Clerk of the Privy Council.

Section 4 SCHEDULE 1

PROVISIONS OF THE PRINCIPAL ORDER WHICH SHALL NOT HAVE EFFECT.

- 1.—(1) In section 2(1) the definitions of “Chief Minister”, “*ex-officio* member” and “Minister”;
2. Subsection (3) of section 7;
3. Part III;
4. In subsections (1)(c) and (e) of section 25 and in subsection (2)(b) of section 27 the words “in any part of the Commonwealth”;
5. In subsection (2) of section 32 the words “and, if no meeting has been called sooner, shall call a meeting within six months of the previous meeting”;
6. In subsections (1) and (2) of section 33 the words “acting on the advice of the Chief Minister,” and “acting after consultation with the Chief Minister,” respectively;
7. Section 43.

Section 5 SCHEDULE 2

PROVISIONS CONCERNING THE GOVERNOR, THE EXECUTIVE COUNCIL AND
LEGISLATIVE COUNCIL WHICH SHALL HAVE EFFECT.

THE GOVERNOR

Exercise of the
Governor's
functions.

1.—(1) In any case in which the Governor is required, under the provisions of section 7 of the principal Order, to consult the Executive Council, he is not obliged to act in accordance with the advice of the Executive Council.

(2) In any case where the Governor acts contrary to the advice of the Executive Council he shall, as soon as practicable, report his action and the reasons therefor to a Secretary of State.

(3) The question whether the Governor has exercised any power after consultation with or in accordance with the advice of the Executive Council shall not be enquired into by any Court.

Governor's
special
responsibilities.

2. The Governor, acting in his discretion, shall be responsible for the conduct, subject to the provisions of this Order, of any business of the government of the Islands with respect to the following matters —

- (a) defence;
- (b) external affairs;
- (c) internal security, including immigration and the Police Force;
- (d) the appointment of any person to any public office, the suspension, termination of appointment, dismissal or retirement of any public officer, or the taking of any disciplinary action in respect of such an officer, the application to any public officer of the terms or conditions of employment of the public service for which financial provision has been made, or the organisation of the public service.

THE EXECUTIVE COUNCIL

- 3.—(1) There shall be an Executive Council for the Islands, which shall consist of — The Executive.
- (a) the Governor;
 - (b) the Chief Secretary, the Attorney General and the Financial Secretary, who shall be known as “the *ex-officio* members of the Executive Council”;
 - (c) up to four persons, who shall be known as “the nominated members”, appointed by the Governor, acting in his discretion, during Her Majesty’s Pleasure, to be selected from the elected members of the Legislative Council, the appointed members of the Legislative Council and persons qualified for elected membership of the Legislative Council under the provisions of section 22 of the principal Order.
- (2) The Governor shall, without delay, report to Her Majesty through a Secretary of State every appointment made under this section.
4. The members of the Executive Council, other than the Governor, shall each, before entering upon the duties of his office as such member, make before the Governor an oath of allegiance and an oath for the due execution of his office. Oaths.
5. The Executive Council shall be summoned by the Governor acting in his discretion. Summoning of Executive Council.
- 6.—(1) The Governor shall, so far as is practicable, attend and preside at meetings of the Executive Council. Proceedings in and quorum of the Executive Council.
- (2) In the absence of the Governor from any meeting of the Council, the Chief Secretary, the Attorney General or the Financial Secretary, in that order, shall preside at the meeting.
- (3) No business shall be transacted at any meeting of the Council if there are less than three members present, including the person presiding.
- (4) Subject to subsection (3) of this section, the Council shall not be disqualified for the transaction of business by reason of any vacancy in the membership of the Council (including any vacancy not filled when the Council is first constituted or re-constituted at any time) and the validity of the transaction of business in the Council shall not be affected by reason only of the fact that some person who was not entitled so to do took part in the proceedings.
7. The Governor, or any person presiding over a meeting of the Executive Council in his absence, may summon any public officer or other person to a meeting of the Executive Council whenever, in his judgment, the business before the Council renders the presence of that officer or other person desirable. Attendance of other persons: meetings.

THE LEGISLATIVE COUNCIL

8. The Governor may suspend the office of Speaker for any period during the period this Order is in operation in which case during the period of suspension aforesaid the Governor may exercise any of the powers and functions conferred on the Speaker by the principal Order or he may appoint another person to do so. The Governor may suspend the office of Speaker.
- 9.—(1) If the Governor considers that it is expedient — Governor’s reserved power (Part V of principal Order).
- (a) in the interests of public order, public faith or good government (which expressions shall, without prejudice to their generality, include the responsibility of the Islands as a territory within the Commonwealth and all matters pertaining to the creation or abolition of any public office or to the salary or other conditions of service of any public officer); or

- (b) in order to secure detailed control of the finances of the Islands during such time as, by virtue of the receipt of financial assistance by the Islands from Her Majesty's Exchequer in the United Kingdom for the purpose of balancing the annual budget or otherwise, such control rests with Her Majesty's Government,

that any Bill published in The Gazette by or on behalf of the Executive Council, or any motion proposed in the Legislative Council, should have effect, then, if the Council fail to pass the Bill or to carry the motion within such time and in such form as the Governor thinks reasonable and expedient, the Governor may, at any time that he thinks fit, and notwithstanding any provision of this Constitution or of any other law in force in the Islands or of any Standing Orders of the Council, declare that the Bill or motion shall have effect as if it had been passed or carried by the Council either in the form in which it was published or proposed or with such amendments as the Governor thinks fit which have been published in The Gazette as aforesaid or proposed in the Council or any committee thereof; and the Bill or the motion shall be deemed thereupon to have been so passed or carried, and the provisions of this Constitution, and in particular the provisions relating to assent to Bills and disallowance of laws, shall have effect accordingly:

Provided that the Governor shall not exercise his powers under this subsection without having first consulted a Secretary of State, unless in his judgment the matter is so urgent that it is necessary for him to do so before having so consulted.

(2) The Governor shall forthwith report to a Secretary of State every case in which he makes any such declaration and the reasons therefor.

(3) If any member of the Council objects to any declaration made under this section, he may, within fourteen days of the making thereof, submit to the Governor a statement in writing of his reasons for so objecting, and a copy of the statement shall, if furnished by the member, be forwarded by the Governor as soon as practicable to a Secretary of State.

(4) Any declaration made under this section other than a declaration relating to a Bill may be revoked by a Secretary of State and the Governor shall forthwith cause notice of the revocation to be published by Government Notice; and from the date of such publication any motion that is deemed to have been carried by virtue of the declaration shall cease to have effect and the provisions of subsection (2) of section 38 of the Interpretation Act 1889 shall apply to the revocation as they apply to the repeal of an Act of Parliament.

10. The powers of the Governor under paragraphs 8 and 9 of this Schedule shall be exercised by him acting in his discretion.

11. The words "in or outside the Islands" shall have effect in place of the words which shall not have effect by virtue of paragraph 4 of Schedule 1 to this Order.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order suspends certain provisions of the Constitution of the Turks and Caicos Islands concerning the executive and legislature and makes temporary provision in place thereof for the exercise of executive and legislative powers in respect of the Islands.

SI 1986/1157
ISBN 0-11-067157-0



780110 671574