

SCHEDULE 2
TO THE ORDER

THE CONSTITUTION OF THE TURKS AND CAICOS ISLANDS
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PART III
THE LEGISLATURE

Constitution of legislature.

18. There shall be a legislature for the Turks and Caicos Islands which shall consist of Her Majesty and a Legislative Council.

The Legislative Council.

19. The Legislative Council shall consist of—
- (a) a Speaker, elected as provided in section 20 of this Constitution;
 - (b) thirteen elected members;
 - (c) three appointed members; and
 - (d) the Chief Secretary, the Attorney General and the Financial Secretary.

The Speaker and Deputy Speaker.

20.—(1) When the Legislative Council first meets after a general election, or after the office of Speaker has fallen vacant for any reason other than a dissolution of the Council, and before it proceeds to the despatch of any other business, the Council shall elect a person to be Speaker of the Council.

(2) The Speaker shall be elected from among the elected or appointed members of the Legislative Council who are not members of the Executive Council or from among persons who are not members of the Legislative Council, and shall be elected by a majority of the votes of the elected and appointed members of the Legislative Council:

Provided that no person shall be elected as Speaker who is not qualified to be an appointed member or who would for any reason be disqualified from being an appointed member.

(3) When the Legislative Council first meets after a general election, and before it proceeds to the despatch of any other business except the election of a Speaker, it shall elect a member, from among the elected or appointed members of the Legislative Council who are not members of the Executive Council, to be the Deputy Speaker, by a majority of the votes of the elected and appointed members of the Legislative Council, and if the office of Deputy Speaker falls vacant for any reason other than a dissolution of the Council, the Council shall, as soon as convenient, elect another such member to that office.

- (4) A person shall vacate the office of Speaker or Deputy Speaker—
- (a) on dissolution of the Legislative Council;
 - (b) if he informs the Legislative Council, by writing under his hand addressed to the Council and received by the Clerk of the Council, that he resigns his office;
 - (c) (i) in any circumstances which, in the case of the Speaker, would cause him to vacate his seat if he were an appointed member; or

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- (ii) in the case of the Deputy Speaker, if he ceases to be a member of the Legislative Council;
- (d) if on the date of his election as Speaker or Deputy Speaker he is a party to, or a partner in a firm or a director or manager of a company which is a party to, any contract with the Government of the Islands or, if on any date after such election he or a firm in which he is a partner or a company of which he is a director or manager becomes a party to any such contract, or if he becomes a partner in a firm or a director or manager of a company which is a party to any such contract, and he does not, before the expiration of thirty days from the date in question, disclose to the Council or, if that is impracticable, to the Clerk of the Council in writing, the nature of such contract and his interest, or the interest of such firm or company, therein and the Council does not exempt him from vacating his office under this paragraph;
- (e) if he becomes a member of the Executive Council; or
- (f) on the passing, by the votes of two-thirds of the elected and appointed members, of a motion expressing no confidence in him as Speaker or Deputy Speaker, as the case may be.

Elected members.

21.—(1) The elected members of the Legislative Council shall be persons qualified for election in accordance with the provisions of this Constitution and, subject to the provisions of this Constitution, shall be elected in the manner provided by law.

(2) For the purposes of elections to the Legislative Council, the Islands shall be divided into the five electoral districts specified in Column 1 of Schedule 2 to this Constitution which shall comprise the islands or component parts specified in relation thereto in Column 2 of that Schedule, and each electoral district shall return to the Council the number of members specified in relation thereto in Column 3 of that Schedule.

Qualifications for elected membership.

22. Subject to section 25 of this Constitution, a person shall be qualified to be elected as a member of the Legislative Council if, and shall not be qualified to be so elected unless, he—

- (a) has attained the age of twenty-one years; and
- (b) is, on the date of his nomination for election, resident in the Islands and has been so resident for not less than twelve months, in the aggregate, out of the two years immediately preceding that date; and
- (c) falls into one of the following categories, that is to say—
 - (i) he was born in the Islands; or
 - (ii) he was born outside the Islands of a father or mother either of whom was born in the Islands; or
 - (iii) he has, under the law in force in the Islands regulating immigration, the status of “Belonger”.

Appointed members.

23. Appointed members of the Legislative Council shall be appointed from among persons qualified under section 24 of this Constitution, and so far as possible from among persons representing shades of opinion which would not otherwise be represented in the Legislative Council, as follows—

- (a) one shall be appointed by the Governor acting in his discretion;

- (b) one shall be appointed by the Governor acting in accordance with the advice of the Chief Minister;
- (c) one shall be appointed by the Governor acting in accordance with the advice of the Leader of the Opposition:

Provided that no person shall be appointed under this section who has unsuccessfully stood as a candidate for election as an elected member at any election since the last dissolution of the Legislative Council.

Qualifications for appointed membership.

24. Subject to section 25 of this Constitution, a person shall not be qualified to be appointed as a member of the Legislative Council unless he has attained the age of twenty-one years and is qualified to be registered as an elector in the Islands.

Disqualifications for elected or appointed membership.

25.—(1) No person shall be qualified to be an elected member or an appointed member of the Legislative Council who—

- (a) is, by virtue of his own act, under any acknowledgement of allegiance, obedience or adherence to any foreign power or state;
 - (b) holds or is acting in any public office;
 - (c) has been adjudged or otherwise declared bankrupt under any law in force in any part of the Commonwealth and has not been discharged;
 - (d) is a person certified to be insane or otherwise adjudged to be of unsound mind under any law in force in the Islands;
 - (e) at the date of election, is under sentence of death imposed on him by a court of law in any country, or is serving or has at any time within the period of five years immediately preceding that date been serving any part of a sentence of imprisonment (by whatever name called) of at least twelve months imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court; or is under such a sentence of imprisonment the execution of which has been suspended;
 - (f) is a party to, or a partner in a firm or a director or manager of a company which is a party to, any contract with the Government of the Islands and,
 - (i) in the case of an appointed member, has not disclosed to the Governor in writing the nature of such contract and his interest, or the interest of such firm or company, therein; or
 - (ii) in the case of an elected member, has not, within the period of one month immediately preceding the date of election, published in the *Gazette* a notice setting out the nature of such contract and his interest, or the interest of such firm or company, therein;
 - (g) is disqualified for membership of the Legislative Council by any law relating to offences connected with elections; or
 - (h) in the case of an elected member, is disqualified for election by any law by reason of his holding or acting in any office the functions of which involve—
 - (i) any responsibility for, or in connection with, the conduct of any election; or
 - (ii) any responsibility for the compilation or revision of any register of electors.
- (2) For the purposes of subsection (1)(e) of this section—

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- (a) where a person is serving two or more sentences of imprisonment that are required to be served consecutively he shall, throughout the whole time during which he so serves, be regarded as serving a sentence exceeding twelve months if (but not unless) any one of those sentences exceeds that term; and
- (b) no account shall be taken of a sentence of imprisonment imposed as an alternative to or in default of the payment of a fine.

Tenure of seats of members of Legislative Council.

26.—(1) Subject to the provisions of this Constitution, an appointed member of the Legislative Council shall hold his seat therein during Her Majesty's pleasure.

(2) Every appointed or elected member of the Legislative Council shall vacate his seat therein at the next dissolution of the Council after his appointment or election.

(3) An appointed or elected member of the Legislative Council shall also vacate his seat therein—

- (a) if he resigns it by writing under his hand addressed to the Speaker;
- (b) if, without the written permission of the Speaker, he is absent from three consecutive meetings of the Legislative Council;
- (c) if he ceases to be ordinarily resident in the Islands;
- (d) if he becomes a party to any contract with the Government of the Islands, or if any firm in which he is a partner or any company of which he is a director or manager becomes a party to any such contract, or if he becomes a partner in a firm or a director or manager of a company which is a party to any such contract, unless exempted by the Speaker from vacating his seat; or
- (e) if any circumstances arise such that, if he were not a member of the Legislative Council, would cause him to be disqualified for appointment or election, as the case may be, by virtue of any provision of section 25(1) of this Constitution, other than paragraph (f).

(a) (4) (a) If circumstances such as are referred to in subsection (3)(e) of this section arise because a member is declared bankrupt, adjudged to be of unsound mind, under sentence of death or imprisonment or convicted or reported guilty of an offence relating to elections and it is open to the member to appeal against the decision (either with or without the leave of a court or other authority) he shall forthwith cease to perform his functions as a member of the Legislative Council, but, subject to paragraph (b) of this subsection, he shall not vacate his seat in the Council until the expiration of a period of thirty days thereafter:

Provided that the Governor, acting in his discretion, in the case of an appointed member, or the Speaker, in the case of an elected member, may at the request of the member, from time to time, extend that period to enable the member to pursue an appeal against the decision, save that extensions of time exceeding in the aggregate one hundred and fifty days shall not be given without the approval, signified by resolution, of the Legislative Council.

- (b) If, on the determination of any appeal, such circumstances as aforesaid continue to exist and no further appeal is open to the member, or if for any reason, including the refusal of leave to appeal or the expiration of any time limit for entering an appeal, it ceases to be open to the member to appeal, he shall forthwith vacate his seat.
- (c) If at any time before the member vacates his seat such circumstances as aforesaid cease to exist, his seat shall not become vacant on the expiration of the period referred to in paragraph (a) of this subsection and he may resume the performance of his functions as a member.

Qualifications of electors and entitlement to vote.

27.—(1) Subject to subsection (2) of this section, a person shall be qualified to be registered as an elector for the purpose of the election of members of the Legislative Council if, and shall not be so qualified unless, on the qualifying date—

- (a) he has attained the age of eighteen years; and
- (b) he is resident in the Islands and has been so resident for not less than twelve months, in the aggregate, out of the two years immediately preceding the qualifying date; and
- (c) he falls into one of the following categories, that is to say—
 - (i) he was born in the Islands; or
 - (ii) he was born outside the Islands of a father or mother either of whom was born in the Islands; or
 - (iii) he has, under the law in force in the Islands regulating immigration, the status of “Belonger”.

(2) No person shall be qualified to be registered as an elector under this section who on the qualifying date—

- (a) is a person certified to be insane or otherwise adjudged to be of unsound mind under any law in force in the Islands;
- (b) is under sentence of death imposed on him by a court of law in any country or is serving a sentence of imprisonment (by whatever name called) for a term exceeding twelve months imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court; or
- (c) is disqualified by or under any law in force in the Islands from being registered as an elector by reason of having been convicted of an offence relating to elections.

(3) Section 25(2) of this Constitution shall apply for the purpose of subsection (2)(b) of this section as it applies for the purpose of section 25(1)(e).

(4) In this section “qualifying date” means such date as may be appointed by or under any law as the date with reference to which the qualifications of persons for registration as electors, for the purpose of the election of members of the Legislative Council, are to be ascertained.

(5) A person registered as an elector shall be entitled to vote at an election unless he is prohibited from so doing by reason of his conviction, prior to the election, of an election offence which disqualifies him from voting:

Provided that no person shall be entitled to vote in an electoral district if—

- (a) he is not registered as an elector in that district;
- (b) he has voted in another electoral district; or
- (c) he is in lawful custody.

Leader of the Opposition.

28.—(1) Subject to the provisions of this section, the Governor may appoint a Leader of the Opposition.

(2) The Governor shall appoint as the Leader of the Opposition—

- (a) the member of the Legislative Council who, in the judgment of the Governor, is the leader of any opposition party whose numerical strength in the Council is greater than that of any other opposition party; or

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- (b) if there is no such party, the member of the Legislative Council who in the judgment of the Governor is best able to command the support of the members of the Council in opposition to the Government.
- (3) If at any time between the polling in a general election and the next following dissolution of the Legislative Council the Governor is satisfied that, if the office of the Leader of the Opposition were then vacant, he would appoint thereto a person other than the person then holding that office, the Governor shall revoke the appointment of the Leader of the Opposition.
- (4) The office of the Leader of the Opposition shall also become vacant—
 - (a) if for any reason other than a dissolution of the Legislative Council the holder thereof ceases to be a member of the Council; or
 - (b) if the holder thereof is appointed as the Chief Minister.
- (5) In this section, “opposition party” means a group of members of the Legislative Council in opposition to the Government who are prepared to support one of their number as their leader.
- (6) In the exercise of his functions under this section the Governor shall act in his discretion.

Determination as to validity of membership of *ex officio* and appointed members.

29. Any question as to whether a person is an *ex officio* member or an appointed member of the Legislative Council, or whether any such member has vacated his seat, shall be determined by the Governor acting in his discretion.

Determination as to validity of membership of elected members.

- 30.—(1) The Supreme Court shall have jurisdiction to hear and determine any question as to whether—
- (a) any person has been validly elected as a member of the Legislative Council; or
 - (b) an elected member of the Council has vacated his seat therein or is required by virtue of section 26(4) of this Constitution to cease to perform his functions as such member.
- (2) An application to the Supreme Court for the determination of any question under subsection (1) of this section may be made by the Attorney General or by any person who is a registered elector; and an application for the determination of any question under paragraph (b) of that subsection may also be made by any member of the Legislative Council.

Penalty for unauthorised person sitting or voting.

- 31.—(1) Any person who sits or votes in the Legislative Council knowing, or having reasonable grounds for believing, that he is not entitled so to do shall be liable to a penalty not exceeding two hundred dollars for each day on which he so sits or votes.
- (2) The penalty referred to in subsection (1) of this section shall be recoverable by action in the Supreme Court at the suit of the Attorney General.

Sessions of Legislative Council.

- 32.—(1) Subject to the provisions of this section, the sessions of the Legislative Council shall be held at such times and places as the Governor may appoint by proclamation published in the *Gazette*: Provided that there shall be at least one session in every year and a session shall be held within one month after any general election.
- (2) When the Council is in session, the Speaker may call meetings of the Council from time to time and, if no meeting has been called sooner, shall call a meeting within four months of the

previous meeting or at any time when requested so to do by the Governor or by seven or more members of the Council.

Prorogation and dissolution.

33.—(1) The Governor, acting in accordance with the advice of the Chief Minister, may at any time prorogue the Legislative Council by proclamation published in the *Gazette*.

(2) The Governor, acting after consultation with the Chief Minister, may at any time dissolve the Legislative Council by proclamation published in the *Gazette*.

(3) The Governor shall dissolve the Legislative Council at the expiration of four years from the date when the Council first meets after any general election (including the last general election before the commencement of this Constitution), unless it has been sooner dissolved.

General elections and filling vacant seats.

34.—(1) A general election shall be held at such time within three months after every dissolution of the Legislative Council as the Governor shall appoint by proclamation published in the *Gazette*.

(2) Whenever an elected member of the Legislative Council vacates his seat, for any reason other than a dissolution of the Council, an election shall be held to fill the vacancy, on such date as the Governor shall appoint by proclamation published in the *Gazette*, within three months of the occurrence of the vacancy unless the Council is sooner dissolved or will be dissolved under section 33(3) of this Constitution within four months of the occurrence of the vacancy.

(3) Whenever an appointed member of the Legislative Council vacates his seat, for any reason other than a dissolution of the Council, the Governor shall, as soon as practicable, appoint a person to fill the vacancy under section 23 of this Constitution.