
STATUTORY INSTRUMENTS

1993 No.1248

**CARIBBEAN AND NORTH
ATLANTIC TERRITORIES**

**The Turks and Caicos Islands
Constitution (Amendment) Order 1993**

Made - - - - - *12th May 1993*
Laid before Parliament *24th May 1993*
Coming into force on a day or days to be appointed
under section 1(4)

At the Court at Buckingham Palace, the 12th day of May 1993

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue of the powers conferred upon Her by sections 5 and 7 of the West Indies Act 1962(1) 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:

Citation construction and commencement.

1.—(1) This Order may be cited as the Turks and Caicos Islands Constitution (Amendment) Order 1993 and shall be read as one with the Turks and Caicos Islands Constitution Order 1988(2).

(2) The Turks and Caicos Islands Constitution Order 1988 and this Order may be cited together as the Turks and Caicos Islands Constitution Orders 1988 to 1993.

(3) In this Order, "the Constitution" means the Constitution set out in Schedule 2 to the Turks and Caicos Islands Constitution Order 1988.

(4) The provisions of this Order shall come into force on such day or days as the Governor, acting in his discretion, may appoint by proclamation published in the Gazette, and the Governor may appoint different days for the coming into force of different provisions of this Order.

(1) 1962 c. 19.
(2) S.I.1988/247.

Amendment of section 3 of Constitution.

2. Section 3(1) of the Constitution shall be amended by substituting for paragraph (c) the following:

“(c) the Permanent Secretary, Finance”.

Amendment of section 7 of Constitution.

3. Section 7(1) of the Constitution shall be amended as follows:

- (a) in paragraph (c), by substituting the word “five” for the word “four” and by adding at the end of the paragraph the words “, one of whom may, in accordance with such advice, be appointed by the Governor as Deputy Chief Minister”;
- (b) in paragraph (d), by substituting the words “and the Attorney General” for the words “Attorney General and the Financial Secretary”.

Amendment of section 12 of Constitution

4. Section 12(4) of the Constitution shall be repealed and the reference thereto in section 12(1) shall be deleted.

Amendment of section 13 of Constitution.

5. Section 13(1) of the Constitution shall be amended by adding, immediately after paragraph (b), the following new paragraph:

“(bb) international and offshore financial relations, resources and services, and any directly related aspect of finance;”.

Amendment of section 15 of Constitution.

6. Section 15(2) of the Constitution shall be amended by substituting the words “or Attorney General” for the words “the Attorney General or the Financial Secretary”.

Amendment of section 19 of Constitution.

7. Section 19(d) of the Constitution shall be amended by substituting the words “and the Attorney General” for the words “the Attorney General and the Financial Secretary”.

Amendment of section 21 of Constitution and repeal of Schedule 2.

8.—(1) Section 21 of the Constitution shall be amended by substituting for subsection (2) the following:

“(2) For the purposes of elections to the Legislative Council, the Islands shall be divided into thirteen electoral districts each of which shall return one member to the Council.”.

(2) Schedule 2 to the Constitution shall be repealed.

Addition of new sections 34A and 34B to Constitution.

9. The Constitution shall be amended by adding, immediately after section 34, the following new sections:

“Electoral District Boundary Commission

34A.—(1) An Electoral District Boundary Commission (in this section and in section 34B referred to as a “Commission”) shall be appointed from time to time at such time as the Governor, after consultation with the Chief Minister and the Leader of the Opposition, may determine:

Provided that—

- (a) the first Commission shall be appointed within six months of the day on which section 9 of the Turks and Caicos Islands Constitution (Amendment) Order 1993 comes into force; and
 - (b) a Commission shall be appointed not later than four years after the last Commission submitted its report under section 34B of this Constitution.
- (2) A Commission shall consist of—
- (a) a chairman, being a person who holds or has held high judicial office or high legal office, appointed by the Governor, acting in his discretion;
 - (b) a member appointed by the Governor, acting on the advice of the Chief Minister;
 - (c) a member appointed by the Governor acting on the advice of the Leader of the Opposition.
- (3) A person shall not be qualified to be appointed a member of a Commission if he is a member of the Legislative Council or a public officer other than the holder of a judicial office.
- (4) The Chairman or other member of a Commission shall vacate his office—
- (a) on the day following the submission of the report of the Commission under section 34B of this Constitution;
 - (b) if any circumstances arise that, if he were not a member, would cause him to be disqualified for appointment as such;
 - (c) if the Governor, acting in his discretion, directs that he shall be removed from office for inability to discharge the functions thereof (whether arising from infirmity of body or mind or any other cause) or for misbehaviour.
- (5) A Commission may regulate its own procedure and, with the consent of the Governor acting in his discretion, may confer powers and impose duties on any public officer or on any authority of the Government for the purpose of the discharge of its functions.
- (6) A Commission may act notwithstanding any vacancy in its membership (including any vacancy not filled when appointments of members are first made) and its proceedings shall be valid notwithstanding that some person who was not entitled so to do took part therein:
- Provided that any decision of a Commission shall require the concurrence of not less than two members of the Commission.
- (7) In the exercise of its functions under this Constitution, a Commission shall not be subject to the direction or control of any other person or authority.

Review and alteration of electoral district boundaries

34B.—(1) The first Commission appointed after the coming into force of section 9 of the Turks and Caicos Islands Constitution (Amendment) Order 1993 shall, as soon as practicable after its appointment, submit a report to the Governor and the Legislative Council containing its recommendations for the division of the Islands into thirteen electoral districts and the boundaries of those districts.

(2) A subsequent Commission shall, as soon as practicable after its appointment, review the electoral district boundaries into which the Islands are divided and, taking into account the changes or proposed changes, if any, in the number of electoral districts, shall submit a report to the Governor and the Legislative Council containing its recommendations for any changes in the boundaries of the electoral districts.

(3) In determining its recommendations under this section, a Commission shall seek to ensure that electoral districts contain, so far as is reasonably practicable, approximately equal numbers of persons qualified to be registered as electors under section 27 of this Constitution; but a Commission may depart from this principle to such extent as it considers expedient in order to take into account—

- (a) the density of population and, in particular, the need to ensure adequate representation of sparsely populated areas;
- (b) the means of communication;
- (c) geographical features.

(4) As soon as may be after a Commission has submitted a report under this section, the Governor shall cause a bill to be introduced into the Legislative Council for giving effect, whether with or without modifications, to the recommendations contained in the report. The bill:

- (a) may contain provisions for any matters which are incidental to or consequential upon its principal provisions; and
- (b) shall include a provision for the coming into force of the measure when enacted for the determination of the electoral districts to which it relates upon the next dissolution of the Legislative Council after enactment.

(4) Where any bill introduced under this section proposes to give effect to the recommendations of a Commission with modifications, there shall be laid before the Council at the same time a statement of the reasons for the modifications.”.

Amendment of section 44 of Constitution.

10. Section 44(1)(a) of the Constitution shall be amended by inserting, immediately after the words “public officer”, the words “or to the provisions of section 87 of this Constitution or the further implementation of that section.”.

Amendment of section 49 of Constitution.

11. Section 49(2) of the Constitution shall be amended by substituting the words “not exceeding two as may be appointed by the Governor, acting in his discretion” for the words “(if any) as may be prescribed by law”.

Amendment of section 53 of Constitution.

12. Section 53(3) of the Constitution shall be amended by substituting the words “appointed by the Governor, acting in his discretion” for the words “prescribed by law”.

Amendment of section 57 of Constitution.

13. Section 57(3) of the Constitution shall be amended by substituting the words “one year” for the word “two”.

Amendment of section 58 of Constitution.

14. Section 58(4) of the Constitution shall be amended by adding at the end of the subsection the following sentence: “Except in so far as regulations made under this section otherwise provide, any power delegated by such regulations may be exercised by any person to whom it is delegated without reference to the Public Service Commission.”.

Amendment of section 59 of Constitution.

15. Section 59(2) of the Constitution shall be amended by substituting the words “Permanent Secretary, Finance” for the words “Financial Secretary”.

Amendment of section 61 of Constitution.

16. Section 61 of the Constitution shall be amended by substituting a semi-colon for the full stop at the end thereof and adding the following new paragraphs:

- “(c) the protection and privileges of members of the Commission in respect of the performance of their functions and the privilege of communications to and from the Commission and its members in the case of legal proceedings;
- (d) the definition and trial of offences in relation to the functions of the Commission and the imposition of penalties for such offences:
Provided that no such penalty shall exceed a fine of one thousand dollars or imprisonment for a term of one year or both such fine and imprisonment.”.

Amendment of section 87 of Constitution.

17. Section 87 of the Constitution shall be amended by substituting for subsection (5) the following new subsection:

“(5) A law made under this Constitution shall make provision for giving effect to this section, including the sanctions which may be imposed for a failure to comply with, or the making of false statements in purported compliance with, subsections (2) and (3) and, notwithstanding anything contained in Part III of this Constitution, the sanctions which may be imposed may include the suspension of a member of the Legislative Council from sitting and voting therein for such period as may be prescribed in such a law.”.

Amendment of section 88 of Constitution.

18. Section 88(1) of the Constitution shall be amended by adding the following new definition:
““high legal office” means the office of a Law Officer, Director of Public Prosecutions, or a person exercising the functions of principal legislative draftsman, in some part of the Commonwealth;”.

Amendment of laws to conform with amendment to Constitution.

19. The Governor may, by Order published in the Gazette, at any time within twelve months of the coming into force of the relevant provision, make such amendments and modifications as may be necessary to any existing law made by a legislature constituted within the Islands as may be necessary to bring that law into conformity with the provisions of the Constitution as hereby amended.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

N. H. Nicholls
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes a number of amendments to the Constitution of the Turks and Caicos Islands, the most significant of which are:

- the increase of the number of elected members of the Executive Council from five to six and provision to enable the Governor to confer responsibility for internal financial matters on an elected member, rather than, as at present, on an official member;
- the establishment of single seat constituencies for elections to the Legislative Council and provision for an Electoral District Boundary Commission;
- additional provisions regarding the Public Service Commission and for a Register of Interests.