SCHEDULE 2 Section 8

INTERIM PROVISIONS WHICH SHALL HAVE EFFECT

Advisory Council

1.—(1) There shall be an Advisory Council for the Turks and Caicos Islands, which shall consist of—

(a) the Governor;

(b) the Deputy Governor, the Chief Executive, the Attorney General and the Permanent Secretary, Finance;

(c) up to seven other persons, who shall be known as "the nominated members", appointed by the Governor, of whom at least five shall be Belongers.

(2) No person shall be appointed as a nominated member who—

(a) has been adjudged or otherwise declared bankrupt under any law in force in the Commonwealth and has not been discharged;

(b) is a person certified to be insane or otherwise adjudged to be of unsound mind under any law in force in the Islands;

(c) is under sentence of death imposed on him or her by a court of law in any country, or is serving or has at any time within the preceding five years been serving any part of a sentence of imprisonment (by whatever name called) of at least twelve months imposed on him or her by such a court or substituted by competent authority for some other sentence imposed on him or her by such a court; or is under such a sentence of imprisonment the execution of which has been suspended; or

(d) 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 and has not disclosed to the Governor in writing the nature of such contract and his or her interest, or the interest of such firm or company, in it.

(3) Each member of the Advisory Council (other than the Governor) shall, before entering upon the functions of his or her office as such member, make before the Governor an oath of allegiance and an oath for the due execution of his or her office in the forms set out in the Schedule to the Constitution.

(4) The Governor may terminate the appointment of any nominated member at any time.

(5) Any appointment and any termination of appointment under this paragraph shall be made by the Governor, acting in his or her discretion, by instrument under the public seal.

Summoning and proceedings of Advisory Council

2.—(1) The Advisory Council shall be summoned by the Governor, acting in his or her discretion.

(2) The Governor shall, so far as practicable, attend and preside at meetings of the Advisory Council.

(3) In the absence of the Governor from any meeting of the Advisory Council, the Deputy Governor, the Chief Executive, the Attorney General or the Permanent Secretary, Finance, in that order, shall preside at the meeting.

(4) No business shall be transacted at any meeting of the Advisory Council if there are less than four members present, including the person presiding.

(5) Subject to subparagraph (4), the Advisory Council shall not be disqualified for the transaction of business by reason of any vacancy in its membership (including any vacancy not filled when the Council is first constituted or reconstituted 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 to do so took part in the proceedings.

(6) The Governor, or any person presiding over a meeting of the Advisory Council in his or her absence, may summon any public officer or other person to a meeting of the Council whenever, in his or her judgement, the business before the Council renders the presence of that officer or other person desirable.

(7) The Governor, acting in his or her discretion, may make rules for the conduct of business by the Advisory Council.

Functions of Advisory Council

3.—(1) Subject to subparagraph (2), the Governor, acting in his or her discretion, may consult the Advisory Council on the formulation of policy and in the exercise of any function conferred upon him or her by the Constitution or any other law.

(2) The Governor shall not consult the Advisory Council—

(a) when acting under instructions given to him or her by Her Majesty through a Secretary of State; or

(b) when exercising any function conferred upon the Governor by this Constitution or any other law which is expressed to be exercisable by the Governor in accordance with the recommendation or advice of, or after consultation with, any person or authority other than the Advisory Council.

(3) The Governor shall not be obliged to act in accordance with any advice given to him or her by the Advisory Council.

(4) The question whether or not the Governor has exercised any function after consultation with, or in accordance with the advice of, the Advisory Council shall not be inquired into by any court.

Chief Executive

4.—(1) There shall be a Chief Executive whose office shall be a public office.

(2) Power to make appointments to the office of Chief Executive, and to remove or exercise disciplinary control over any person holding or acting in that office, is vested in the Governor, acting in his or her discretion.

(3) Under the authority of the Governor, the Chief Executive shall be the head of the public service, and in exercising that responsibility the Chief Executive shall comply with any directions given to him or her by the Governor.

Acting Governor and Governor's deputy

5.—(1) Section 23(1) of the Constitution shall have effect as if paragraphs (a), (b) and (c) were replaced by the following—

"(a) the Deputy Governor; or

(b) the Chief Executive; or

(c) the Attorney General; or

(d) the Permanent Secretary, Finance,".

(2) Section 24(1) of the Constitution shall have effect as if the reference to "paragraph (a), (b) or (c) of section 23(1)" were a reference to "paragraph (a), (b), (c) or (d) of section 23(1)".

Appointments

6. The Governor may make any of the following appointments in his or her discretion—

(a) the appointment of members of the Judicial Service Commission under section 81(2)(b) of the Constitution;

(b) the appointment of members of the Public Service Commission under section 83(2)(b), (c), (d) and (e) of the Constitution; and

(c) the appointment of a Complaints Commissioner under section 92(2) of the Constitution.

Appointment, etc, of public officers

7. Section 84(1) of the Constitution shall have effect as if the words "unless the Governor is instructed by Her Majesty through a Secretary of State to do otherwise" were replaced by the words—

"but the Governor, acting in his or her discretion, may—

(a) act otherwise than in accordance with that advice if he or she determines that compliance with that advice would prejudice Her Majesty's service; and

(b) make an appointment to any public office without reference to the Public Service Commission in any case where he or she considers that reasons of urgency so require".

Power to make laws

8. The Governor, acting in his or her discretion, may make laws for the peace, order and good government of the Turks and Caicos Islands.

Consultative Forum

9.—(1) There shall be a Consultative Forum for the Turks and Caicos Islands.

(2) The Consultative Forum shall consist of—

(a) between eleven and fifteen members, who shall be known as "the appointed members", appointed by the Governor from among persons representative of the community; and

(b) the Chief Executive, the Attorney General and the Permanent Secretary, Finance.

(3) Paragraph 1(2) shall apply in relation to the appointment of an appointed member of the Consultative Forum as it applies in relation to the appointment of a nominated member of the Advisory Council.

(4) The Governor shall appoint an appointed member of the Consultative Forum to preside over its proceedings, and any other appointed member to preside in the absence of that member; and the Governor may terminate any such appointment at any time.

(5) Each member of the Consultative Forum shall, before entering upon the functions of his or her office as such member, make before the Forum an oath of allegiance in the form set out in the Schedule to the Constitution.

(6) The Governor may terminate the appointment of any appointed member of the Consultative Forum at any time.

(7) Any appointment and any termination of appointment under this paragraph shall be made by the Governor, acting in his or her discretion, by instrument under the public seal.

Functions of Consultative Forum

10.—(1) The functions of the Consultative Forum shall be to make recommendations to the Governor on—

(a) any Bill or other proposal for legislation referred to it by the Governor;

(b) any policy or proposed policy of the Government referred to it by the Governor or on its own initiative; and

(c) any other matter brought before the Consultative Forum by one of its members.

(2) The Governor shall not be bound by any recommendations made by the Consultative Forum.

(3) The Governor, acting in his or her discretion, may assign to any member of the Advisory Council responsibility for the conduct on behalf of the Governor of any business in the Consultative Forum.

(4) The Governor, acting in his or her discretion, may, by order published in the Gazette, make rules for the summoning of the Consultative Forum and the discharge of its functions.

Disallowance of laws

11.—(1) Any law made by the Governor may be disallowed by Her Majesty through a Secretary of State.

(2) Whenever a law has been disallowed by Her Majesty the Governor shall, as soon as practicable, cause notice of the disallowance to be published in the *Gazette* and the law shall be annulled with effect from the date of the publication of that notice.

(3) Section 16(1) of the Interpretation Act 1978(**1**) shall apply to the annulment of any law under this section as it applies to the repeal of an Act of Parliament, save that any enactment repealed or amended by or in pursuance of that law shall have effect as from the date of the annulment as if that law had not been made.

Registration of interests

12. Section 98(4) of the Constitution shall have effect as if there were inserted after the words "all members of the" the words "Advisory Council (except the Governor)".

Interpretation

13. Section 99(2)(a) of the Constitution shall have effect as if there were inserted before the words "the Public Service Commission" the words "the Advisory Council, the Consultative Forum,".

Forms of oaths and affirmations

14. In the Schedule to the Constitution, paragraph 3 shall have effect as if the references to "the Cabinet" were references to "the Advisory Council".

(**1**) 1978 c.30.