

## 1972 No. 1101

CARIBBEAN AND NORTH ATLANTIC  
TERRITORIES

## The Cayman Islands (Constitution) Order 1972

*Made - - - - 26th July 1972**Laid before Parliament 1st August 1972**Coming into Operation 22nd August 1972*

At the Court at Buckingham Palace, the 26th day of July 1972

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue 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:—

Citation,  
commence-  
ment,  
revocation  
and inter-  
pretation.

1.—(1) This Order may be cited as the Cayman Islands (Constitution) Order 1972 and shall come into operation on 22nd August 1972.

(2) The instruments mentioned in Schedule I to this Order are revoked on the coming into operation of this Order:

Provided that Part III of the Schedule to the Cayman Islands (Constitution) Order 1965(b) as amended by the Cayman Islands (Constitution) (Amendment) Order 1967(c) shall be revoked on the day notified by the Governor under section 2(1) of this Order.

(3) The Interpretation Act 1889(d) shall apply with the necessary adaptations for the purpose of interpreting and otherwise in relation to this Order as it applies for the purpose of interpreting and in relation to an Act of Parliament.

Constitution  
of Cayman  
Islands.

2.—(1) Schedule 2 to this Order shall have effect as the Constitution of the Cayman Islands as from the date on which the Legislative Assembly of the Cayman Islands is next dissolved after the coming into operation of this Order:

Provided that Part II of the said Schedule shall have effect from such later day as may be notified by the Governor of the Cayman Islands by a Cayman Islands Government Notice.

(2) Schedule 2 to this Order may be cited as the Constitution of the Cayman Islands, and references in any law made before this Order to the Cayman Islands (Constitution) Order 1965 or to any particular provision thereof shall be construed, as from the commencement of this Order, as references to the Constitution of the Cayman Islands and to the corresponding provision thereof.

*W. G. Agnew.*

(a) 1962 c. 19.

(b) S.I. 1965/1860 (1965 III, p. 5588).

(c) S.I. 1967/970 (1967 II, p. 2933).

(d) 1889 c. 63.

## SCHEDULE 1

## Section 1.

## INSTRUMENTS REVOKED BY THIS ORDER

| Instrument   | Reference                              |
|--|--|
| The Cayman Islands (Constitution) Order 1965                               | S.I. 1965/1860<br>(1965 III, p. 5588). |
| The Cayman Islands (Constitution) (Amendment) Order 1967                   | S.I. 1967/970<br>(1967 II, p. 2933).   |
| The Cayman Islands (Constitution) (Amendment) Order 1971                   | S.I. 1971/1737<br>(1971 III, p. 4733). |
| The Cayman Islands (Legislative Assembly—Extension of Duration) Order 1971 | S.I. 1971/2100<br>(1971 III, p. 6190). |
| The Cayman Islands Constitution (Amendment) Order 1972                     | S.I. 1972/808<br>(1972 II, p. 2600).   |

## SCHEDULE 2

## Section 2.

*The Constitution of the Cayman Islands*

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3. Acting Governor.
4. Governor's deputy.

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7. Governor to consult the Council.
8. Governor may act contrary to advice of Council.
9. Assignment of responsibility.
10. Temporary members of Council.
11. Determination of questions as to membership.
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*Section*

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**SCHEDULE TO THE CONSTITUTION**

## PART I

*The Governor*

1.—(1) There shall be a Governor of the Cayman Islands who shall be appointed by Her Majesty by Commission under Her Sign Manual and Signet and shall hold office during Her Majesty's pleasure. The Governor.

(2) The Governor shall, for the purpose of administering the government of the Islands, have such powers and duties as are conferred or imposed on him by this Constitution or any other law and such other powers as Her Majesty may from time to time be pleased to assign to him, and, subject to the provisions of this Constitution and of any other law by which any such powers or duties are conferred or imposed, shall do and execute all things that belong to his office according to such Instructions, if any, as Her Majesty may from time to time see fit to give him ; but no court shall enquire whether or not he has complied with any such Instructions.

(3) A person appointed to the office of Governor shall, before entering upon the functions of that office, make oaths of allegiance and for the due execution of that office in the forms set out in the Schedule to this Constitution.

2. The Governor shall receive such emoluments as may be fixed by a Secretary of State, and those emoluments are hereby charged upon the revenues of the Islands. Emoluments of Governor.

3.—(1) During any period when the office of Governor is vacant or the Governor is absent from the Islands or is for any other reason unable to perform the functions of his office those functions shall, during Her Majesty's pleasure, be assumed and performed by— Acting Governor.

(a) such person as Her Majesty may designate in that behalf by Instructions given under Her Sign Manual and Signet or through a Secretary of State ; or

(b) if there is no person in the Islands so designated and able to perform those functions, such public officer as the Governor, acting in his discretion, shall by writing under his hand appoint.

(2) Before assuming the functions of the office of Governor, any such person as aforesaid shall make the oaths directed by section 1 of this Constitution to be made by the Governor.

(3) Any such person as aforesaid shall not continue to perform the functions of the office of Governor after the Governor or some other person having a prior right to perform the functions of that office has notified him that he is about to resume or assume those functions.

4.—(1) Whenever the Governor—

(a) has occasion to be absent from the seat of government but not from the Islands ; or

(b) has occasion to be absent from the Islands for a period which he has reason to believe will be of short duration ; or

(c) is suffering from an illness which he has reason to believe will be of short duration,

he may, by instrument under the public seal, acting in his discretion, appoint any person in the Islands to be his deputy during such absence Governor's deputy.

or illness and in that capacity to perform on his behalf such of the functions of the office of Governor as may be specified in that instrument.

(2) The power and authority of the Governor shall not be abridged, altered or in any way affected by the appointment of a deputy under this section, and a deputy shall conform to and observe all instructions that the Governor, acting in his discretion, may from time to time address to him ; but no court shall enquire whether or not he has complied with any such instructions.

(3) A person appointed as a deputy under this section shall hold that appointment for such period as may be specified in the instrument by which he is appointed, and his appointment may be revoked at any time by Her Majesty by instructions given through a Secretary of State, or by the Governor, acting in his discretion.

## PART II

### *Executive Council*

**Executive Council.** 5. There shall be an Executive Council in and for the Islands which, subject to section 10 of this Constitution, shall consist of—

- (a) three official members, who shall be appointed by the Governor, acting in pursuance of instructions given to him by Her Majesty through a Secretary of State, by instrument under the public seal, from among persons holding public office ; and
- (b) four elected members, who shall be elected by the elected members of the Assembly from among the elected members of the Assembly.

**Tenure of office of members of Council.** 6.—(1) The official members of the Executive Council shall hold their seats in the Council during Her Majesty's pleasure :

Provided that the seat of an official member shall in any case become vacant—

- (a) if he resigns his seat in the Council by writing under his hand addressed to the Governor and the Governor, acting in his discretion, accepts the resignation ;
- (b) if he is absent from the Islands without the written permission of the Governor, acting in his discretion ; or
- (c) if he ceases to hold public office.

(2) The seat of an elected member of the Executive Council shall become vacant—

- (a) if he resigns his seat in the Council by writing under his hand addressed to and received by the Governor ;
- (b) when the Assembly first meets after a dissolution thereof ;
- (c) if he ceases to be a member of the Assembly for any reason other than a dissolution thereof ;
- (d) if he is absent from the Islands without the written permission of the Governor ;
- (e) if, without the written permission of the Governor, he is absent from three consecutive meetings of the Executive Council ; or

- (f) if his election to the Executive Council is revoked by a resolution of the Assembly in favour of which there are cast the votes of not less than two-thirds of all the elected members of the Assembly :

Provided that a motion for the revocation of the election of an elected member under this paragraph on the ground that he has contravened the provisions of section 9(2) of this Constitution shall not be introduced except by a member of the Executive Council.

7.—(1) The Governor shall, subject to the following provisions of this section, consult with the Executive Council in the formulation of policy and in the exercise of all powers conferred upon him by this Constitution or by any other law for the time being in force in the Islands, except in the exercise of—

Governor to  
consult  
Council.

- (a) any power conferred upon him by this Constitution which he is empowered to exercise in his discretion or in pursuance of Instructions given to him by Her Majesty ;
- (b) any power conferred by any law other than this Constitution which he is empowered or directed, either expressly or by necessary implication, by that or any other law to exercise without consulting the Council ; or
- (c) any power that in his opinion relates to—
  - (i) defence ;
  - (ii) external affairs ;
  - (iii) internal security ;
  - (iv) the police ; or
  - (v) the appointment (including the appointment on promotion or transfer, appointment on contract and appointment to act in an office) of any person to any public office, the suspension, termination of employment, dismissal, or retirement of any public officer or taking of 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 (including salary scales, allowances, leave, passages or pensions) for which financial provision has been made, or the organisation of the public service to the extent that it does not involve new financial provision :

Provided that in exercising his powers in relation to the matters mentioned in this paragraph (c) the Governor shall keep the Executive Council informed of any matters that in his judgment may involve the economic or financial interests of the Cayman Islands or the enactment of laws under Part IV of this Constitution.

(2) The Governor shall not be required to consult with the Executive Council in any case in which, in his judgement—

- (a) the service of Her Majesty would sustain material prejudice thereby ;
- (b) the matters to be decided are too unimportant to require such consultation ; or
- (c) the urgency of the matter requires him to act before the Council can be consulted.

(3) In every case falling within paragraph (c) of the last foregoing subsection the Governor shall, as soon as practicable, communicate to the Executive Council the measures which he has adopted and the reasons for those measures.

(4) 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  
may act  
contrary to  
advice of  
Council.

**8.**—(1) Subject to the provisions of this Constitution, in any case where the Governor is required by the last foregoing section to consult with the Executive Council, he shall act in accordance with the advice given him by the Council unless he considers it inexpedient in the interests of public order, public faith or good government to do so:

Provided that he shall not so act against the advice of the Council without first obtaining the approval of a Secretary of State, unless in his judgment the matter is so urgent that it is necessary for him to act before obtaining such approval, in which case he shall forthwith report his action to a Secretary of State with the reasons therefor.

(2) Whenever the Governor acts otherwise than in accordance with the advice given to him by the Council, any member of the Council may require that there be recorded in the minutes the grounds of any advice or opinion which he may have given on the question.

Assignment  
of responsi-  
bility.

**9.**—(1) Subject to any instructions given to him by Her Majesty through a Secretary of State, the Governor acting in his discretion shall to the extent that he deems appropriate charge members of the Executive Council with responsibility for any business of the Government (other than a matter mentioned in section 7(1)(c) of this Constitution) or any Department of the Government.

(2) It shall be the duty of a member so charged with responsibility to act in the exercise thereof in accordance with the policies of the Government as decided in the Council and in accordance with the principles of collective responsibility, and to support in the Legislative Assembly any measure decided upon in the Council, unless he has received the prior permission of the Governor to act otherwise or not to support such a measure.

Temporary  
members of  
Council.

**10.**—(1) Whenever a member of the Executive Council is by reason of his illness or absence from the Islands or for any other reason incapable of performing the functions of his office, then—

(a) in the case of the incapacity of an official member, the Governor acting in his discretion may, by instrument under the public seal, appoint any public officer to be temporarily a member of the Council ; or

(b) in the case of the incapacity of an elected member, the elected members of the Assembly, if the Governor informs the Assembly that that is desirable, may elect a person from among the elected members of the Assembly to be temporarily a member of the Council.

(2) The Governor shall forthwith report to Her Majesty through a Secretary of State any appointment made under this section.

(3) A person appointed or elected under this section to be temporarily a member of the Executive Council shall vacate his seat—

(a) when he is informed by the Governor that the circumstances giving rise to the appointment or election have ceased to exist ; or

(b) in the case of a person appointed in place of an official member, if his appointment is revoked by Her Majesty through a Secretary of State or by the Governor, acting in his discretion.

(4) Subject to the provisions of this section, the provisions of this Constitution shall apply in relation to a person appointed or elected to be temporarily a member of the Executive Council as they apply to the member in whose place he was appointed or elected.

**11.** Any question whether a person is a member of the Executive Council shall be determined by the Governor acting in his discretion.

Determina-  
tion of  
questions as  
to member-  
ship.

**12.** Before assuming the functions of his office a member of the Executive Council shall make before the Governor, or some other person authorised in that behalf by the Governor, acting in his discretion, an oath for the due execution of his office in the form set out in the Schedule to this Constitution.

Oath by  
members of  
Council.

**13.—(1)** The Executive Council shall not be summoned except by the authority of the Governor, acting in his discretion.

Summoning  
of Council  
and transac-  
tion of  
business.

(2) No business shall be transacted at any meeting of the Executive Council unless there are four members present besides the Governor or other person presiding.

(3) Subject to the provisions of the last foregoing subsection, the Executive 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 is 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 therein.

**14.—(1)** The Governor shall, so far as is practicable, attend and preside at meetings of the Executive Council.

Presiding  
in Council.

(2) In the absence of the Governor there shall preside at any meeting of the Executive Council such member of the Council as the Governor, acting in his discretion, may appoint.

**15.** No question shall be submitted to the Executive Council for their advice except by and with the approval of the Governor, acting in his discretion ; but if the Governor declines to submit any question to the Council when requested in writing by any member of the Council to do so, that member may require that there be recorded in the minutes his written application, together with the answer given thereto by the Governor.

Submission  
of questions  
to Council.

**16.** The person presiding may, when in his opinion the business before the Executive Council makes it desirable, summon any person to a meeting of the Council, notwithstanding that that person is not a member of the Council.

Summoning  
of persons  
to Council.



## PART III

*Legislative Assembly*

- Legislative Assembly.** **17.—**(1) There shall be a Legislative Assembly for the Islands.  
 (2) Subject to the provisions of this Constitution, the Assembly shall consist of—
- (a) the Governor, or at any time when there is a person holding the office of Speaker, the Speaker ;
  - (b) three official members, who shall be appointed by the Governor acting in pursuance of instructions given to him by Her Majesty through a Secretary of State, by instrument under the public seal, from among persons holding public office ; and
  - (c) twelve elected members, who shall be persons qualified for election in accordance with the provisions of this Constitution and elected in the manner provided by any law in force in the Islands.
- Qualifications for elected membership.** **18.** Subject to the provisions of the next following section, a person shall be qualified to be elected as a member of the Assembly if, and shall not be qualified to be so elected unless, he—
- (a) is a British subject of the age of twenty-one years or over ; and
  - (b) has resided in the Islands for a period or periods totalling not less than five years out of the seven years immediately preceding the date of his nomination for election and is resident therein at that date ; and either
  - (c) was born in the Islands or of parents one of whom at the time of his birth was domiciled or ordinarily resident in the Islands ; or
  - (d) is domiciled in the Islands at the date of his nomination for election.
- Disqualifications for the Assembly who—** **19.—**(1) No person shall be qualified to be elected as a member of the Assembly who—
- (a) is, by virtue of his own act, under any acknowledgement of allegiance, obedience or adherence to a 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) subject to the provisions of the next following subsection, is under sentence of death imposed on him by a court in any part of the Commonwealth, or is serving a sentence of imprisonment (by whatever name called) 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 is under such a sentence of imprisonment the execution of which has been suspended ;
  - (f) is disqualified for election by any law in force in the Islands 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 electoral register ;

(g) 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 for or on account of the public service and has not, in the case of a contested election, caused to be published, at least one month before the day of the poll, a Government Notice setting out the nature of such contract and his interest, or the interest of any such firm or company, therein ; or

(h) is disqualified for membership of the Assembly by any law in force in the Islands relating to offences connected with elections.

(2) For the purposes of paragraph (e) of the last foregoing subsection—

(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.

**20.**—(1) Subject to the provisions of this Constitution, an official member of the Assembly shall hold his seat in the Assembly during Her Majesty's pleasure.

Tenure of  
office of  
members of  
Assembly.

(2) The seat of an official member of the Assembly shall become vacant—

(a) if he ceases to hold a public office ;

(b) upon a dissolution of the Assembly ; or

(c) if he resigns his seat by writing under his hand addressed to the Governor, and the Governor, acting in his discretion, accepts his resignation.

(3) The seat of an elected member of the Assembly shall become vacant—

(a) upon a dissolution of the Assembly ;

(b) if, without the written permission of the Governor, he is absent from three consecutive meetings of the Assembly ;

(c) if he ceases to be a British subject ;

(d) if he ceases to be resident in the Islands ;

(e) if he resigns his seat by writing under his hand addressed to the Governor ;

(f) if he becomes a party to any contract with the Government of the Islands for or on account of the public service, 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 :

Provided that, if in the circumstances it appears to him to be just to do so, the Governor may exempt any elected member from vacating his seat under the provisions of this paragraph.

if the member, before or as soon as practicable after becoming a party to the contract, or before or as soon as practicable after becoming otherwise interested in the contract (whether as a partner in a firm or as a director or manager of a company), discloses to the Governor the nature of the contract and his interest or the interest of the firm or company therein ;

(g) if any of the circumstances arise that, if he were not a member of the Assembly, would cause him to be disqualified for election thereto by virtue of paragraph (a), (b), (c), (d), (f) or (h) of subsection (1) of the last foregoing section ; or

(h) in the circumstances specified in the next following section.

Vacation of  
seat on  
sentence.

**21.—**(1) Subject to the provisions of this section, if an elected member of the Assembly is sentenced by a court in any part of the Commonwealth to death or to imprisonment (by whatever name called) for a term exceeding twelve months, he shall forthwith cease to perform his functions as a member of the Assembly, and his seat in the Assembly shall become vacant at the expiration of a period of thirty days thereafter :

Provided that the Governor may, at the request of the member, from time to time extend that period for thirty days to enable the member to pursue any appeal in respect of his conviction or sentence, so however that extensions of time exceeding in the aggregate three hundred and thirty days shall not be given without the approval of the Assembly signified by resolution.

(2) If at any time before the member vacates his seat he is granted a free pardon or his conviction is set aside or his sentence is reduced to a term of imprisonment of less than twelve months or a punishment other than imprisonment is substituted, his seat in the Assembly shall not become vacant under the provisions of the last foregoing subsection, and he may again perform his functions as a member of the Assembly.

(3) For the purposes of this section—

(a) where a person is sentenced to two or more terms of imprisonment that are required to be served consecutively, account shall be taken only of any of those terms that exceeds twelve months ; 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.

Temporary  
members of  
Assembly.

**22.—**(1) Whenever an official member of the Assembly is by reason of his illness or absence from the Islands or for any other reason incapable of performing the functions of his office, the Governor acting in his discretion may, by instrument under the public seal, appoint any public officer to be temporarily a member of the Assembly in his place.

(2) A person appointed under this section to be temporarily a member of the Assembly—

(a) shall hold his seat in the Assembly during Her Majesty's pleasure ; and

(b) shall vacate his seat when he is informed by the Governor that the member on account of whose incapacity he was appointed is again able to perform his functions as a member of the Assembly, or when the seat of that member becomes vacant.

(3) The Governor shall forthwith report to Her Majesty through a Secretary of State any appointment made under this section.

(4) Subject to the provisions of this section, the provisions of this Constitution shall apply to a person appointed to be temporarily a member of the Assembly as they apply to the member on account of whose incapacity he was appointed.

23.—(1) Any question whether a person has been validly appointed as an official member of the Assembly, or whether an official member of the Assembly has vacated his seat therein, shall be determined by the Governor acting in his discretion.

Determina-  
tion of  
questions as  
to member-  
ship of  
Assembly.

(2) Any question whether a person has been validly elected as a member of the Assembly, or whether an elected member of the Assembly has vacated his seat therein, shall be determined by the Grand Court, whose decision shall be final and not subject to any appeal.

(3) (a) An application to the Grand Court for the determination of any question whether a person has been validly elected as a member of the Assembly may be made by—

- (i) a person who voted or had the right to vote at the election to which the application relates ;
- (ii) a person claiming to have had the right to be returned at such election ;
- (iii) a person alleging himself to have been a candidate at such election ; or
- (iv) the Attorney-General.

(b) An application to the Grand Court for the determination of any question whether an elected member of the Assembly has vacated his seat therein may be made by—

- (i) any elected member of the Assembly ; or
- (ii) the Attorney-General.

(c) If any application referred to in paragraph (a) or (b) of this subsection is made by a person other than the Attorney-General, the Attorney-General may intervene and may then appear or be represented in the proceedings.

24.—(1) Any person who sits or votes in the Assembly knowing or having reasonable grounds for knowing that he is not entitled to do so shall be liable to a penalty not exceeding twenty pounds for each day upon which he so sits or votes.

Penalty for  
sitting or  
voting in  
Assembly  
when  
unqualified.

(2) Any such penalty shall be recoverable by civil action in the Grand Court at the suit of the Governor.

25. Subject to the provisions of the next following section, a person shall be entitled to be registered as an elector in one electoral district only, but he shall not be entitled to be registered as an elector for elections to the Assembly unless he—

Qualifica-  
tions of  
electors.

- (a) is a British subject of the age of eighteen years or over ; and
- (b) either has been ordinarily resident in the Islands for a period or periods amounting to at least five years out of the seven years immediately preceding the date of registration and is resident therein at that date, or is domiciled and resident therein at that date.

**Disqualifications of electors.** **26.**—(1) A person shall not be entitled to be registered as an elector in any electoral district who—

- (a) subject to the provisions of the next following subsection, is under sentence of death imposed on him by a court in any part of the Commonwealth, or is serving a sentence of imprisonment (by whatever name called) 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 is under such a sentence of imprisonment the execution of which has been suspended ;
- (b) is a person certified to be insane or otherwise adjudged to be of unsound mind under any law in force in the Islands ; or
- (c) is disqualified for registration as an elector by any law in force in the Islands relating to offences connected with elections.

(2) The provisions of subsection (2) of section 19 of this Constitution shall apply for the purposes of the last foregoing subsection as they apply for the purposes of paragraph (e) of subsection (1) of the said section 19.

**Right to vote at elections.** **27.**—(1) Any person who is registered as an elector in an electoral district shall, while so registered, be entitled to vote at any election for that district unless he is prohibited from so voting by any law in force in the Islands—

- (a) because he is a returning officer ; or
- (b) because he has been concerned in any offence connected with elections.

(2) No person shall vote at any election for any electoral district who—

- (a) is not registered as an elector in that district ;
- (b) has voted in another electoral district at the same election ;
- (c) is in lawful custody ; or
- (d) is for any other reason unable to attend to vote in person (except in so far as it may be provided by law that such persons may vote).

**Law as to elections.** **28.** Subject to the provisions of this Constitution, a law enacted under this Constitution may provide for the election of members of the Assembly, including (without prejudice to the generality of the foregoing power) the following matters, that is to say :—

- (a) the qualifications and disqualifications of electors ;
- (b) the registration of electors ;
- (c) the ascertainment of the qualifications of electors and of candidates for election ;
- (d) the division of the Islands into electoral districts for the purpose of elections ;
- (e) the holding of elections ;
- (f) the determination of any question whether any person has been validly elected a member of the Assembly or whether the seat of any elected member in the Assembly has become vacant ;

- (g) the definition and trial of offences connected with elections and the imposition of penalties therefor, including the disqualification for membership of the Assembly, or for registration as an elector, or for voting at elections, of any person concerned in any such offence ; and
- (h) the disqualification for election as members of the Assembly of persons holding or acting in any office the functions of which involve any responsibility for, or in connection with, the conduct of any election or the compilation or revision of any electoral register.

#### PART IV

##### *Powers and Procedure in Legislative Assembly*

**29.** Subject to the provisions of this Constitution, the Governor, with the advice and consent of the Assembly, may make laws for the peace, order and good government of the Islands. Power to make laws.

**30.** Subject to the provisions of this Constitution, the Governor and the Assembly shall, in the transaction of business and the making of laws, conform as nearly as may be to the directions contained in any Instructions under Her Majesty's Sign Manual and Signet which may from time to time be addressed to the Governor in that behalf. Royal Instructions.

**31.—**(1) Subject to the provisions of this Constitution and of any Instructions under Her Majesty's Sign Manual and Signet, the Assembly may from time to time make, amend and revoke Standing Orders for the regulation and orderly conduct of its own proceedings and the despatch of business, and for the passing, intituling and numbering of Bills and for the presentation thereof to the Governor for assent ; but no such Standing Orders or amendment or revocation thereof shall have effect unless they have been approved by the Governor. Standing Orders.

(2) The first Standing Orders of the Assembly shall, subject to the provisions of this Constitution, be the Standing Orders of the Legislative Assembly constituted by the Order of 1965 as in force immediately before the appointed day, with such adaptations and modifications as may be necessary, and those Standing Orders may be amended or revoked by Standing Orders made under the last foregoing subsection.

**32.—**(1) At sittings of the Assembly there shall preside—

- (a) the Governor ; or
- (b) at any time when there is a person holding the office of Speaker, the Speaker ; or
- (c) in the absence of the Governor or, as the case may be, of the Speaker, the senior official member of the Assembly.

Presiding in Assembly.

(2) The Governor, acting in his discretion, may appoint a Speaker of the Legislative Assembly, who shall be a person, whether or not a member of the Assembly, who is qualified and not disqualified to be a member of the Assembly :

Provided that this sub-section shall not come into force until the Legislative Assembly has passed a resolution that there shall be an office of Speaker.

**33.** The Assembly shall not be disqualified for the transaction of business by reason of any vacancy in the membership thereof (including any vacancy not filled when the Assembly is first constituted or is reconstituted at any time) and any proceedings therein shall be valid notwithstanding that some person who was not entitled to do so sat or voted in the Assembly or otherwise took part in those proceedings.

**Quorum.** **34.—**(1) If at any sitting of the Assembly a quorum is not present and any member of the Assembly who is present objects on that account to the transaction of business and, after such interval as may be prescribed in the Standing Orders of the Assembly, the person presiding at the sitting ascertains that a quorum is still not present, he shall adjourn the Assembly.

(2) For the purposes of this section a quorum shall consist of seven members of the Assembly in addition to the person presiding.

**Voting.**      **35.—**(1) Save as otherwise provided in this Constitution, all questions proposed for decision in the Assembly shall be determined by a majority of votes of the members present and voting.

(2) The Governor or other member presiding shall not vote unless on any question the votes are equally divided, in which case he shall have and exercise a casting vote.

**Summoning of persons to assist Assembly.** **36.**—(1) The Governor or other person presiding may, when in his opinion the business before the Assembly makes it desirable, summon any person to a meeting of the Assembly notwithstanding that that person is not a member of the Assembly.

(2) Any person so summoned shall be entitled to take part as if he were a member in the proceedings of the Assembly relating to the matter in respect of which he was summoned, except that he may not vote.

**Introduction of Bills.**      **37.**—(1) Subject to the provisions of this Constitution and of the Standing Orders of the Assembly, any member may introduce any Bill or propose any motion for debate in, or may present any petition to, the Assembly, and the same shall be debated and disposed of according to the Standing Orders of the Assembly.

(2) Except on the recommendation of the Governor the Assembly shall not—

(a) proceed upon any Bill (including any amendment to a Bill) which, in the opinion of the person presiding in the Assembly, makes provision for imposing or increasing any tax, for imposing or increasing any charge on the revenues or other funds of the Islands or for altering any such charge otherwise than by reducing it or for compounding or remitting any debt due to the Islands ;

(b) proceed upon any motion (including any amendment to a motion) the effect of which, in the opinion of the person presiding in the Assembly, is that provision would be made for any of the purposes aforesaid ; or

(c) receive any petition which, in the opinion of the person presiding in the Assembly, requests that provision be made for any of the purposes aforesaid.

**38.—(1)** If the Governor considers that it is expedient—

Governor's  
reserved  
power.

- (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 introduced, or any motion proposed, in the Assembly should have effect, then, if the Assembly 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 Assembly, declare that the Bill or motion shall have effect as if it had been passed or carried by the Assembly either in the form in which it was introduced or proposed or with such amendments as the Governor thinks fit which have been moved or proposed in the Assembly 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 Assembly 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 sub-section (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.

(5) The powers of the Governor under this section shall be exercised by him acting in his discretion.



- Assent to Bills.** **39.**—(1) A Bill shall not become a law until—
- (a) the Governor has assented to it in Her Majesty's name and on Her Majesty's behalf and has signed it in token of his assent ; or
  - (b) Her Majesty has given Her assent to it through a Secretary of State and the Governor has signified Her assent by Proclamation.
- (2) When a Bill is presented to the Governor for his assent, he shall, subject to the provisions of this Constitution and of any Instructions addressed to him under Her Majesty's Sign Manual and Signet or through a Secretary of State, declare that he assents, or refuses to assent, to it, or that he reserves the Bill for the signification of Her Majesty's pleasure:
- Provided that the Governor shall reserve for the signification of Her Majesty's pleasure—
- (a) any Bill which is in any way repugnant to, or inconsistent with, the provisions of this Constitution ; and
  - (b) any Bill which determines or regulates the privileges, immunities or powers of the Assembly or of its members ;
- unless he has been authorized by a Secretary of State to assent to it.
- (3) This section shall have effect in relation to any Bill passed by the Legislative Assembly subsisting immediately before the appointed day but not assented to before that day as it has effect in relation to Bills passed after the appointed day.
- Return of Bills by Governor.** **40.** The Governor may return to the Assembly any Bill presented to him for his assent, transmitting therewith any amendments which he may recommend, and the Assembly shall deal with such recommendation.
- Disallowance of laws.** **41.**—(1) Any law to which the Governor has given his assent 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 by Government Notice and the law shall be annulled with effect from the date of the publication of that notice.
- (3) The provisions of subsection (2) of section 38 of the Interpretation Act 1889, shall apply to the annulment of any law under this section as they apply 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.
- Committees of Assembly.** **42.**—(1) The Governor may, by directions in writing, establish one or more committees of the Assembly having such functions in relation to the conduct of the business of the Government of the Islands in relation to such matters as may be prescribed by such directions, and (without prejudice to the generality of the foregoing power) directions establishing a committee under this subsection may include provision—
- (a) with respect to the tenure of office of members of the committee ;
  - (b) regulating the manner in which the committee shall perform its functions and the procedure of the committee.

(2) Before establishing a committee under the last foregoing subsection the Governor shall consult with the Executive Council with respect to the establishment thereof, the directions to be given thereto and the number of members thereof, but shall not be obliged to act in accordance with its advice.

(3) A committee of the Assembly established under this section shall act in accordance with the policies of the Government of the Islands and with any directions given to the committee by the Governor:

**Provided** that the question whether it has so acted shall not be enquired into in any court.

(4) If the Governor so directs, a committee shall cease to deal with any particular business within its competence which is under consideration by the committee.

(5) The functions of a committee of the Assembly established under this section shall not include functions in relation to the conduct of business in respect of any matter referred to in section 7(1)(c) of this Constitution.

(6) The provisions of this section shall be without prejudice to the establishment, by or under the rules of procedure of the Assembly, of committees of the Assembly for the purpose of the exercise of its function under Part IV of this Constitution or the establishment by the Governor of committees of the Assembly for special purposes relating to any of the matters mentioned in the last foregoing subsection.

**43.—**(1) A committee established under section 42(1) of this Constitution shall consist of a chairman and such number of other members as the Governor may decide:

Membership  
of  
committees.

**Provided** that the majority of the members of such a committee shall be elected members of the Assembly, appointed by the Governor in accordance with the advice of the elected members of the Assembly.

(2) The Chairman of a committee established under section 42(1) of this Constitution shall be a member of the Executive Council who has been charged with responsibility under section 9 of this Constitution and whose responsibility corresponds as nearly as maybe to the functions of such committee.

(3) The members of a committee who are not members of the Assembly shall be appointed by the Governor acting in his discretion.

**44.** Except for the purpose of enabling this section to be complied with, no official or elected member of the Assembly shall be permitted to take part in its proceedings until he has made before the Governor, or some other person authorized in that behalf by the Governor, acting in his discretion, an oath of allegiance in the form set out in the Schedule to this Constitution.

Oath of  
Allegiance.

**45.** A law enacted under this Constitution may determine and regulate the privileges, immunities and powers of the Assembly and its members, but no such privileges, immunities or powers shall exceed those of the Commons' House of Parliament of the United Kingdom or of the members thereof.

Privileges of  
Assembly  
and  
members.

**Sessions.** **46.**—(1) Subject to the provisions of this Constitution, the sessions of the Assembly shall be held at such places and begin at such times as the Governor may from time to time by Proclamation appoint.

(2) The first session of the Assembly shall begin within twelve months after the appointed day; and thereafter there shall be at least one session of the Assembly in every year, so however that there shall be an interval of less than twelve months between the last sitting in one session and the first sitting in the next session.

**Prorogation and dissolution.** **47.**—(1) The Governor may at any time, by Proclamation, prorogue or dissolve the Assembly.

(2) The Governor shall dissolve the Assembly at the expiration of four years from the date when the Assembly first meets after any general election unless it has been sooner dissolved.

**General elections.** **48.** There shall be a general election at such time within two months after every dissolution of the Assembly as the Governor shall by Proclamation appoint.

## PART V

### *Appeals from the Grand Court*

**Appeals to Court of Appeal for Jamaica; saving.** **49.**—(1) Subject to the provisions of this section, the Court of Appeal for Jamaica shall have such jurisdiction to hear and determine appeals (including reserved questions of law and cases stated) from the Grand Court of the Islands and, in connection with such appeals, such powers and authorities as may be conferred upon it by any law for the time being in force in the Islands.

(2) The foregoing subsection shall not apply to appeals relating to any matter in respect of which this Constitution or any other law provides that the decision of the Grand Court of the Islands is to be final.

## PART VI

### *Miscellaneous*

**Interpretation.** **50.**—(1) In this Constitution unless it is otherwise provided or required by the context—

“appointed day” means the date as from which this Constitution (other than Part II thereof) has effect under section 2 (1) of the Cayman Islands (Constitution) Order 1972 ;

“Assembly” means the Legislative Assembly of the Islands established by this Constitution ;

“functions” includes jurisdictions, powers and duties ;

“Government Notice” means a Cayman Islands Government Notice ;

“Governor” means the person for the time being holding the office of Governor of the Islands, and includes any person for the time being lawfully performing the functions of that office and, to the extent to which a deputy appointed under section 4 of this Constitution is authorised to act, that deputy ;

“the Islands” means the Cayman Islands ;

“law” includes any instrument having the force of law made in exercise of a power conferred by a law ;

“the Order of 1965” means the Cayman Islands (Constitution) Order 1965 as amended by subsequent Orders in Council ;

“public office” means, subject to the provisions of the next following subsection, an office of emolument in the public service ;

“public officer” means the holder of any public office, and includes a person appointed to act in any public office ;

“the public service” means the service of the Crown in a civil capacity in respect of the government of the Islands ;

“session” means the meetings of the Assembly commencing when the Assembly first meets after being constituted under this Constitution, or after its prorogation or dissolution at any time, and terminating when the Assembly is prorogued or is dissolved without having been prorogued ;

“sitting” means a period during which the Assembly is sitting continuously without adjournment and includes any period during which the Assembly is in committee.

(2) For the purposes of this Constitution, a person shall not be considered to hold a public office by reason only that he—

- (a) is in receipt of any remuneration or allowance as a member of the Executive Council or the Assembly ;
- (b) is in receipt of a pension or other like allowance in respect of service under the Crown ; or
- (c) holds an office the holder of which is declared by any law in force in the Islands not to be disqualified for election as a member of the Assembly.

(3) Any person who has vacated his seat in any body, or has vacated any office established by this Constitution may, if qualified, again be appointed or elected as a member of that body or to that office, as the case may be, from time to time.

(4) A reference in this Constitution to the holder of an office by the term designating his office shall be construed as a reference to any person for the time being lawfully performing the functions of that office.

(5) Without prejudice to the last foregoing subsection—

- (a) where the holder of any office constituted by or under this Constitution is on leave of absence pending the relinquishment of that office, the person or authority having power to make appointments to that office may appoint another person thereto ; and
- (b) where two or more persons concurrently hold the same office by virtue of the foregoing paragraph, the person last appointed shall in respect of any function conferred on the holder of that office be deemed to be the sole holder thereof.

(6) Any power conferred by this Constitution to make any Proclamation or order or to give any directions shall be construed as including a power exercisable in like manner to amend or revoke any such Proclamation, order or directions.

(7) Where a person is required by this Constitution to make an oath he shall if he so desires be permitted to comply with that requirement by making an affirmation in accordance with the provisions of the Schedule to this Constitution.

(8) For the purposes of this Constitution the resignation of a member of any body or holder of any office thereby established that is required to be addressed to any person shall, unless otherwise expressly provided, be deemed to have effect from the time at which it is received by that person.

(9) For the purposes of this Constitution a person shall not be regarded as absent from the Islands or as unable to perform any of his functions thereunder by reason only that he is in passage between any one of the Islands and another or from one part of any Island to another part.

Public Seal. **51.** The Governor shall keep and use the public seal for sealing all things that should pass that seal.

Grants of land. **52.** Subject to the provisions of any law for the time being in force in the Islands, the Governor or any person duly authorised by him in writing under his hand may, in Her Majesty's name and on Her behalf, make and execute under the public seal grants and dispositions of any land or other immovable property within the Islands that may be lawfully granted or disposed of by Her Majesty.

Governor's power of pardon. **53.** Subject to any Instructions given to him by Her Majesty under Her Sign Manual and Signet, the Governor may, in Her Majesty's name and on Her behalf—

- (a) grant to any person concerned in the commission of any offence for which he may be tried in the Islands, or to any person convicted of any offence under any law in force in the Islands, a pardon, either free or subject to lawful conditions ;
- (b) grant to any person so convicted a respite, either indefinite or for a specified period, of the execution of any sentence passed on him in respect of the conviction ;
- (c) substitute a less severe form of punishment for that imposed on any such person by any such sentence ; or
- (d) remit the whole or any part of any such sentence or of any penalty or forfeiture due to Her Majesty by reason of the conviction.

Offices and appointments. **54.** The Governor, in Her Majesty's name and on Her behalf, may constitute such offices for the Islands as may lawfully be constituted by Her Majesty and, subject to the provisions of any law in force in the Islands, may make appointments (including appointments on promotion and transfer) to any such office ; and any person so appointed shall, unless it is otherwise provided by any such law, hold office during Her Majesty's pleasure.

Discipline. **55.—(1)** Subject to the provisions of any law in force in the Islands, the Governor may for cause shown to his satisfaction dismiss or suspend from the exercise of his office any person holding a public office, or take such disciplinary action as may seem to him to be desirable.

(2) The reference in this section to the power to dismiss any person holding a public office shall be construed as including a reference to any power to require or permit a person to retire.

**56.**—(1) Subject to the provisions of this section, all offices and authorities established by or under the Order of 1965 and existing immediately before the appointed day shall on and after that day, so far as consistent with the provisions of this Constitution, continue as if they had been established by or under this Constitution; and any person who immediately before that day is holding or acting in any such office or as a member of any such authority shall on and after that day continue to hold or act in that office or to be such a member as if he had been appointed thereto or as the case may be elected as such in accordance with this Constitution and had made any oath thereby required. Existing offices and authorities.

(2) The provisions of this section shall be without prejudice to any powers conferred by or under this Constitution upon any person or authority to make provision for any matter, including (but without prejudice to the generality of the foregoing words) the establishment and abolition of offices, courts of law and authorities and the appointment, election or selection of persons to hold or act in any office or to be members of any court or authority and their removal from office.

**57.**—(1) All Acts, Ordinances, rules, regulations, orders and other instruments made under or having effect by virtue of the Order of 1965 and having effect as part of the law of the Islands immediately before the appointed day shall on and after the appointed day have effect as if they had been made under or by virtue of this Constitution. Existing laws.

(2) Subject to the provisions of the next following subsection, the existing laws shall on and after the appointed day be construed with such modifications, adaptations, qualifications and exceptions as are necessary to bring them into conformity with this Constitution.

(3) Subject to the provisions of this Constitution, the Governor may by regulations at any time within eighteen months from the appointed day make such amendments to any existing law as appear to him to be necessary or expedient for bringing that law into conformity with the provisions of this Constitution or otherwise for giving effect or enabling effect to be given to those provisions.

(4) In this section the expression “existing laws” means laws and instruments (other than Acts of the Parliament of the United Kingdom and instruments made thereunder) having effect as part of the law of the Islands immediately before the appointed day.

**58.** Her Majesty hereby reserves to Herself power, with the advice of Her Privy Council, to make laws for the peace, order and good government of the Islands. Power reserved to Her Majesty.

Sections  
1(3), 3(2),  
12 and 44.

## SCHEDULE TO THE CONSTITUTION

### FORMS OF OATHS AND AFFIRMATIONS

#### 1. *Oath of Allegiance*

I ..... do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, according to law. So help me God.

#### 2. *Oath for due execution of office*

I ..... do swear that I will well and truly serve Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, in the office (*here insert the description of the office*). So help me God.

3. *Affirmations.* In the forms above respectively set forth, for the word "swear" there shall be substituted the words "solemnly and sincerely affirm and declare", and the words "So help me God" shall be omitted.

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### EXPLANATORY NOTE

*(This Note is not part of the Order.)*

This Order, which is made under section 5 of the West Indies Act 1962, confers a new constitution on the Cayman Islands, and supersedes the Cayman Islands (Constitution) Order 1965, which is revoked.

The Constitution contains provision with regard to the office of Governor, the Executive Council, the Legislature and appeals from the Grand Court.

While the constitution requires the Governor, in general, to exercise his functions in accordance with the advice of the Executive Council, it provides for him to be responsible in his discretion for defence, external affairs, internal security, the police and certain matters relating to the public service.

Provision is made for the assignment of responsibility for business or departments of the Government to members of the Executive Council.

The composition of the Legislative Assembly is altered by abolition of the three seats of nominated members.

There is provision whereby a Speaker can be appointed by the Governor if the Legislative Assembly resolve that such an appointment be made.

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