

1987 No. 1271

**CARIBBEAN AND NORTH ATLANTIC TERRITORIES**

**The Turks and Caicos Islands (Constitution) (Interim  
Amendment) (No. 2) Order 1987**

*Made* - - - - - *21st July 1987*  
*Laid before Parliament* *29th July 1987*  
*Coming into force* *20th August 1987*

At the Court at Buckingham Palace, the 21st day of July 1987

Present,

The Queen's Most Excellent Majesty in Council

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

1.—(1) This Order may be cited as the Turks and Caicos Islands (Constitution) (Interim Amendment) (No. 2) Order 1987 and shall be construed as one with the Turks and Caicos Islands (Constitution) Order 1976(b), which Order is hereinafter referred to as “the principal Order”.

Citation, construction and commencement.

(2) This Order and the principal Order may be cited together as the Turks and Caicos Islands (Constitution) Orders 1976 to 1987.

(3) This Order shall come into force on 20th August 1987.

2.—(1) Section 7(1)(b) of the principal Order shall be amended by inserting before the words “any person” the words “or on the recommendation of,”.

Amendment of section 7 of principal Order.

(2) Section 7 of the principal Order shall be amended by the insertion of the following new subsection (4)—

“(4) Where the Governor is by this Constitution or any other law directed to exercise any function after consultation with any person or authority he shall not be obliged to exercise that function in accordance with the advice of that person or authority.”.

3. Section 25(1)(e) of the principal Order shall be replaced by the following—

Amendment of section 25 of principal Order.

“(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;”.

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(a) 1962 c.19.

(b) S.I. 1976/1156, amended by S.I. 1979/919, 1982/1075, 1986/1157, 1987/934.

Modification of sections 58 and 59 of principal Order.

4. The exercise by the Governor of his powers of appointment under section 58 of the principal Order and of his powers of dismissal or suspension or to take disciplinary action under section 59 of the principal Order shall be subject to Part VIIA of that Order (as inserted by section 5 of this Order).

Insertion of new Parts VIIA and VIIB in principal Order.

5. The principal Order shall be amended by the insertion after Part VII of the new Parts VIIA and VIIB set out in the Schedule to this Order.

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

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## SCHEDULE

Section 5

### NEW PARTS VIIA AND VIIB OF PRINCIPAL ORDER

#### PART VIIA

#### THE PUBLIC SERVICE

#### PUBLIC SERVICE COMMISSION

Public Service Commission.

**59A.—**(1) There shall be a Public Service Commission for the Turks and Caicos Islands, which shall consist of a Chairman and two other members.

(2) The Chairman of the Public Service Commission shall be appointed by the Governor, acting in his discretion, and the other members shall be appointed by the Governor, acting after consultation with the Executive Council.

(3) The members of the Public Service Commission shall be appointed by instrument under the public seal for such period, not being less than two nor more than four years, as may be specified in their respective instruments of appointment.

(4) No person shall be qualified to be appointed as a member of the Public Service Commission if he is a public officer or if he is or has been within the preceding three years—

- (a) an elected or appointed member of the Legislative Council; or
- (b) the holder of any office in any political party.

(5) The office of a member of the Public Service Commission shall become vacant—

- (a) at the expiration of the period specified in the instrument by which he was appointed; or
- (b) if he resigns his office by writing under his hand addressed to the Governor; or
- (c) if he becomes an elected or appointed member of the Legislative Council, the holder of any office in any political party, or a public officer; or
- (d) 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.

(6) Whenever the office of the Chairman of the Public Service Commission is vacant or the holder thereof is for any reason unable to perform the functions of his office, such one of the other members of the Public Service Commission as the Governor, acting in his discretion, may appoint shall act in the office of the Chairman.

(7) If the office of a member of the Public Service Commission other than the Chairman is vacant or the holder thereof is acting as the Chairman or is for any other reason unable to perform the functions of his office, the Governor, acting after consultation with the Executive Council, may appoint a person who is qualified for appointment as a member of the Commission to act as a member of the Commission; and any person so appointed shall, subject to subsection (5) of this section, continue so to act until he is notified by the Governor, acting in his discretion, that the circumstances giving rise to the appointment have ceased to exist.

**59B.—(1)** Subject to the provisions of this Order, power to make appointments to public offices, and to remove or exercise disciplinary control over persons holding or acting in such offices, is vested in the Governor acting on the recommendation of the Public Service Commission.

Appointment,  
etc. of public  
officers.

(2) Whenever the Governor proposes to exercise any power under subsection (1) of this section otherwise than in accordance with the recommendation received from the Public Service Commission, he shall first refer that recommendation back to the Commission, once, for reconsideration and shall hold further consultations on the matter with the Commission, but shall thereafter exercise the power in his discretion.

(3) If the Governor, having consulted the Public Service Commission in the exercise of any power in accordance with subsection (1) of this section, receives no recommendation from the Commission within such time as the Governor, acting in his discretion, considers reasonable, he may exercise the power in his discretion forthwith.

(4) The Governor, acting after consultation with the Public Service Commission, may, by regulations published in the *Gazette*, delegate to any member of the Commission or any public officer, to such extent and subject to such conditions as may be prescribed in the regulations, any of the powers vested in him to make appointments to public offices and to remove or exercise disciplinary control over persons holding or acting in such offices.

(5) This section shall not apply to—

- (a) any office to which section 59C of this Order applies;
- (b) the offices of judge of the Supreme Court and judge of the Court of Appeal;
- (c) any office in the Police Force.

**59C.—(1)** Power to make appointments to the offices to which this section applies and to remove or exercise disciplinary control over persons holding or acting in such offices is vested in the Governor, acting in his discretion.

Particular  
offices.

(2) This section applies to the offices of Chief Secretary, Attorney General, Financial Secretary, Chief Auditor, Commissioner of Police and Magistrate.

**59D.** The Public Service Commission shall exercise the following additional functions—

- (a) the supervision of, and the provision of advice upon, the policies and programmes of the Government for the training of public officers at all levels;
- (b) the issue from time to time of guidelines on the conduct and ethics of the public service, and supervision of their observance;
- (c) the provision of advice of a general nature upon questions relating to the pay and conditions of service of public officers;
- (d) such other functions as may be conferred upon it by law or by regulations made by the Governor, acting after consultation with the Public Service Commission.

Additional  
functions of  
Public Service  
Commission.

**59E.** The Governor, acting after consultation with the Public Service Commission, may, by regulations published in the *Gazette*, make provision for—

- (a) the organisation of the work of the Commission and the manner in which it performs its functions;
- (b) consultation by the Commission with persons or authorities other than members of the Commission.

Regulations re-  
garding Public  
Service Com-  
mission.

#### PENSIONS

**59F.—(1)** Subject to the provisions of section 59H of this Order, the law applicable to the grant and payment to any officer, or to his widow, children, dependents or personal representatives, of any pension, gratuity or other like allowance (in this section and in the two next following sections referred to as “an award”) in respect of the service of that officer in a public office shall be that in force on the relevant day or any later law not less favourable to the person concerned.

Applicability of  
pensions law.

(2) For the purposes of this section the relevant day is—

- (a) in relation to an award granted before the appointed day, the day on which the award was granted;
- (b) in relation to an award granted or to be granted on or after the appointed day to or in respect of a person who was a public officer before that day, the day immediately before that day;
- (c) in relation to an award granted or to be granted to or in respect of a person who first becomes a public officer on or after the appointed day, the day on which he becomes a public officer.

(3) For the purposes of this section, in so far as the law applicable to an award depends on the option of the person to or in respect of whom it is granted or to be granted, the law for which he opts shall be taken to be more favourable to him than any other law for which he might have opted.

(4) In this section "the appointed day" means 20th August 1987.

Pensions, etc. charged on revenues of Islands.

**59G.** Awards granted under any law in force in the Islands shall be charged on and paid out of the revenues of the Islands.

Grant and withholding of pensions, etc.

**59H.—**(1) The power to grant any award under any pensions law in force in the Islands (other than an award to which, under that law, the person to whom it is payable is entitled as of right) and, in accordance with any provisions in that behalf contained in any such law, to withhold, reduce in amount or suspend any award payable under any such law is hereby vested in the Governor, acting in his discretion.

(2) In this section "pensions law" means any law relating to the grant to any person, or to the widow, children, dependents or personal representatives of that person, of an award in respect of the services of that person in a public office, and includes any instrument made under any such law.

## PART VIIB THE OMBUDSMAN

The Ombudsman.

**59I.—**(1) There shall be an Ombudsman for the Turks and Caicos Islands.

(2) The Ombudsman shall be appointed by the Governor, acting after consultation with the Executive Council, by instrument under the public seal.

(3) No person shall be qualified to be appointed as the Ombudsman if he is or has been within the preceding three years—

- (a) an elected or appointed member of the Legislative Council; or
- (b) the holder of any office in any political party.

(4) The office of the Ombudsman shall become vacant—

- (a) at the expiration of the period specified in the instrument by which he was appointed; or
- (b) if he resigns his office by writing under his hand addressed to the Governor; or
- (c) if he becomes an elected or appointed member of the Legislative Council or the holder of any office in any political party; or
- (d) 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, or for contravention of subsection (5) of this section.

(5) Subject to such exceptions as the Governor, acting in his discretion, may authorise in writing, the Ombudsman shall not hold any other office of emolument either in the public service or otherwise nor engage in any occupation for reward other than the duties of his office.

Functions of the Ombudsman.

**59J.—**(1) The Ombudsman shall have such functions and jurisdiction as may be prescribed by any law in force in the Islands.

(2) In the exercise of his functions, the Ombudsman shall not be subject to the direction or control of any other person or authority.

**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order amends the Constitution of the Turks and Caicos Islands relating to disqualifications of candidates for elections, and provides for the establishment of a Public Service Commission and an Ombudsman for the Islands.