
STATUTORY INSTRUMENTS

2009 No. 1379

The Cayman Islands Constitution Order 2009

Citation and commencement

1.—(1) This Order may be cited as the Cayman Islands Constitution Order 2009.

(2) This Order shall come into force on such day as the Governor, acting in his or her discretion, shall appoint by proclamation published in a Government Notice.

Interpretation

2.—(1) In this Order—

“the appointed day” means the day appointed by the Governor under section 1(2);

“the Constitution” means the Constitution set out in Schedule 2;

“the former Constitution” means the Constitution established by the Cayman Islands (Constitution) Order 1972(1);

“the Legislative Assembly” means the Legislative Assembly established by the Constitution;

“the former Legislative Assembly” means the Legislative Assembly established by the former Constitution.

(2) Section 124 of the Constitution shall apply for the purposes of interpreting sections 1 to 9 of this Order and otherwise in relation to them as it applies for the purposes of interpreting and in relation to the Constitution.

Revocations

3. The instruments specified in Schedule 1 are revoked with effect from the appointed day.

Establishment of Constitution

4.—(1) Subject to subsections (2), (3), (4) and (5), Schedule 2 shall have effect as the Constitution of the Cayman Islands from the appointed day.

(2) Part I of the Constitution shall have effect from the day three years after the appointed day; but section 6(2) and (3) of the Constitution shall have effect from the day four years after the appointed day.

(3) Until the Legislative Assembly is next dissolved after the appointed day—

(a) section 44(1)(b) of the Constitution shall have effect as if the reference to “six other Ministers” were a reference to “four other Ministers”;

(b) section 44(2) of the Constitution shall have no effect;

(c) section 60(1)(b) of the Constitution shall have effect as if the reference to “eighteen elected members” were a reference to “fifteen elected members”;

(d) section 60(2) of the Constitution shall have no effect.

(4) Until the Judicial and Legal Services Commission has been constituted in accordance with section 105 of the Constitution, power to make appointments to the offices to which section 106 of the Constitution applies shall vest in the Governor, acting in his or her discretion.

(5) Until a person has been appointed to the office of Director of Public Prosecutions in accordance with section 106 of the Constitution or subsection (4) of this section, section 57 of the Constitution shall have effect as if the references to the Director of Public Prosecutions were references to the Attorney General.

Existing laws

5.—(1) Subject to this section, the existing laws shall have effect on and after the appointed day as if they had been made in pursuance of the Constitution and shall be read and construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with the Constitution.

(2) The Legislature may by law make such amendments to any existing law as appear to it to be necessary or expedient for bringing that law into conformity with the Constitution or otherwise for giving effect to the Constitution; and any existing law shall have effect accordingly from such day, not being earlier than the appointed day, as may be specified in the law made by the Legislature.

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

Existing offices and officers

6.—(1) Any office (except that of Chief Secretary) established by or under the former Constitution and existing immediately before the appointed day shall on and after that day, so far as is consistent with the Constitution, continue as if it had been established by or under the Constitution.

(2) Any person who immediately before the appointed day holds or is acting in any office continued by virtue of subsection (1) shall, on and after that day, continue to hold or act in that office as if he or she had been appointed to hold or act in it in accordance with or under the Constitution.

(3) Any person to whom subsection (2) applies who, before the appointed day, has made any oath required to be made before assuming the functions of his or her office shall be deemed to have made any like oath so required by the Constitution or any other law.

(4) The person who, immediately before the appointed day, holds the office of Leader of Government Business shall, on and after that day, hold the office of Premier in accordance with the Constitution.

Legislative Assembly

7.—(1) Any person (except the Chief Secretary and the Financial Secretary) who immediately before the appointed day is a member of the former Legislative Assembly shall on that day become a member of the Legislative Assembly, shall be deemed to have complied with section 60(3) of the Constitution, and shall hold his or her seat in accordance with the Constitution.

(2) The Standing Orders of the former Legislative Assembly as in force immediately before the appointed day shall, except as may be otherwise provided under section 71 of the Constitution, have effect on and after that day as if they had been made under that section, but they shall be read and construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with the Constitution.

(3) The Governor shall dissolve the Legislative Assembly not later than the expiration of four years from the date when the former Legislative Assembly first met after the last general election before the appointed day.

Electoral districts

8.—(1) As soon as practicable after the appointed day, and before the Legislative Assembly is dissolved in accordance with section 7(3), the Governor shall appoint an Electoral Boundary Commission in accordance with section 88 of the Constitution.

(2) The Commission so appointed shall, as soon as practicable and in accordance with section 89 of the Constitution, review the electoral district boundaries and submit a report to the Governor and the Legislative Assembly containing its recommendations for changes in the boundaries of the electoral districts with a view to the Legislative Assembly consisting of eighteen elected members.

Pending legal proceedings

9.—(1) Any cause, matter or appeal pending before the Grand Court or any appeal or application pending before the Court of Appeal immediately before the appointed day may, on and after that day, be continued, determined or appealed against as if such cause, matter or appeal had been instituted or was pending before the Grand Court, or such appeal or application made to the Court of Appeal, as the case may be, as those courts are respectively constituted by the Constitution.

(2) Any decree or order of the Grand Court or the Court of Appeal given or made before the appointed day, in so far as it has not been fully executed or enforced, may be executed or enforced on or after that day as if it were a decree or order of the Grand Court or the Court of Appeal, as the case may be, as those courts are respectively constituted by the Constitution.

(3) Any matter pending immediately before the appointed day before a tribunal appointed under section 49J(4) of the former Constitution may, on and after that day, be continued and reported upon as if the former Constitution were still in force, and after the tribunal has reported, section 96 of the Constitution shall have effect as if the matter had been referred to and considered by the Judicial and Legal Services Commission and as if the report of the tribunal were a report of the Judicial and Legal Services Commission under that section.

(4) Any judge of the Grand Court who immediately before the appointed day is suspended pursuant to section 49J(6) of the former Constitution shall, on and after that day, remain suspended from performing the functions of his or her office unless the Governor, acting in his or her discretion, revokes the suspension; but the suspension shall in any case cease to have effect—

- (a) if the tribunal appointed under section 49J(4) of the former Constitution advises the Governor that he or she should not request that the question of the removal of the judge be referred by Her Majesty to the Judicial Committee of Her Majesty's Privy Council; or
- (b) if the Judicial Committee advises Her Majesty that the judge ought not to be removed from office.

Judith Simpson
Clerk of the Privy Council