

## SCHEDULE 2

### The Constitution of the Cayman Islands

## PART V

### THE JUDICATURE

#### Other matters

#### **Functions of Judicial and Legal Services Commission**

**106.**—(1) Power to make appointments to the offices to which this section applies, and to remove and to exercise disciplinary control over persons holding or acting in such offices, shall vest in the Governor, acting in accordance with the advice of the Judicial and Legal Services Commission; but the Governor, acting in his or her discretion, may act otherwise than in accordance with that advice if he or she determines that compliance with that advice would prejudice Her Majesty's service.

(2) Before exercising the powers vested in the Governor by subsection (1) the Governor may, acting in his or her discretion, once refer the advice of the Judicial and Legal Services Commission back to the Commission for reconsideration by it.

(3) If the Judicial and Legal Services Commission, having reconsidered its original advice under subsection (2), substitutes for it different advice, subsection (2) shall apply to that different advice as it applies to the original advice.

(4) This section applies to the offices of—

- (a) Chief Justice and other judge of the Grand Court;
- (b) President of the Court of Appeal and other judge of the Court of Appeal;
- (c) Attorney General;
- (d) Director of Public Prosecutions;
- (e) Magistrate;
- (f) such other offices in the public service, for appointment to which persons are required to possess legal qualifications, as may be prescribed by any law enacted by the Legislature.

(5) No member of the Judicial and Legal Services Commission shall participate in any proceedings of the Commission which affect him or her personally.

(6) In cases where the Judicial and Legal Services Commission conducts an inquiry under section 96(4) or 101(4), the President of the Court of Appeal and any current judge of the Grand Court who is a member of the Commission shall not participate in that inquiry other than as a witness.

(7) A person holding the office of Attorney General, Director of Public Prosecutions or Magistrate may only be removed from office for inability to discharge the functions of his or her office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour.

(8) Where the issue of the removal from office of any person holding one of the offices mentioned in subsection (4)(c), (d), (e) or (f) has been referred to the Judicial and Legal Services Commission, the Governor may, acting after consultation with the Commission, suspend that person from performing the functions of his or her office pending the outcome of the referral.

(9) Any suspension, removal or disciplinary action taken under this section shall be carried out in accordance with the highest appropriate standards of procedural fairness.

(10) The Judicial and Legal Services Commission shall—

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

- (a) draw up a code of conduct for the judiciary and a procedure for dealing with complaints;  
and
  - (b) have such other functions as may be conferred on it by a law enacted by the Legislature.
- (11) Subject to subsection (6), this section is without prejudice to sections 96 and 101.