

SCHEDULE 2
TO THE ORDER

THE CONSTITUTION OF THE TURKS AND CAICOS ISLANDS
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PART II
THE EXECUTIVE

Executive authority.

6.—(1) The executive authority of the Turks and Caicos Islands is vested in Her Majesty.

(2) Subject to the provisions of this Constitution, the executive authority of the Turks and Caicos Islands shall be exercised on behalf of Her Majesty by the Governor, either directly or through officers subordinate to him.

(3) Nothing in this section shall preclude persons or authorities other than the Governor from exercising such functions as are or may be conferred upon them by any law.

The Executive Council.

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

- (a) the Governor;
- (b) a Chief Minister appointed by the Governor in accordance with subsection (2) of this section;
- (c) four other Ministers appointed by the Governor, acting in accordance with the advice of the Chief Minister, from among the elected members of the Legislative Council; and
- (d) the Chief Secretary, the Attorney General and the Financial Secretary.

(2) The Governor, acting in his discretion, shall appoint as Chief Minister the leader of that political party represented in the Legislative Council which commands the support of a majority of the elected members of the Council or, if there is no party which commands such a majority, such one of the leaders of the parties represented in the Council as, in the judgment of the Governor, is most likely to command the support of a majority of the elected members of the Council.

(3) Appointments of the Chief Minister and the other Ministers shall be made by the Governor by instrument under the public seal.

(4) If occasion arises for making an appointment of any Minister between a dissolution of the Legislative Council and the polling in the next following general election, a person who was an elected member of the Legislative Council immediately before the dissolution may be appointed as a Minister as if he were still a member of the Legislative Council.

(5) The Governor shall, without delay, report to Her Majesty through a Secretary of State every appointment made under this section.

Oaths.

8. The members of the Executive Council, other than the Governor, shall each, before entering upon the duties of his office as such member, make before the Governor oaths of allegiance and for the due execution of his office in the forms set out in Schedule 1 to this Constitution.

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

Tenure of office by Chief Minister.

9.—(1) The Governor shall revoke the appointment of the Chief Minister if a motion that the Legislative Council should declare a lack of confidence in the Government of the Islands receives the affirmative vote of a majority of the elected members thereof:

Provided that before so revoking the Chief Minister’s appointment, the Governor shall consult the Chief Minister and if the Chief Minister so requests, the Governor, acting in his discretion, may dissolve the Legislative Council instead of revoking the appointment.

(2) The Chief Minister shall vacate his office if, after the polling in a general election and before the Legislative Council first meets thereafter, the Governor, acting in his discretion, informs him that he is about to appoint another person as Chief Minister.

Tenure of office by Ministers.

10.—(1) Any Minister shall vacate his office—

- (a) if he ceases to be a member of the Legislative Council for any reason other than a dissolution;
- (b) if he is not a member of the Legislative Council when it first meets after a general election;
- (c) if he resigns his office by writing under his hand addressed to the Governor; or
- (d) if he is absent from the Islands or absent from three consecutive meetings of the Executive Council without—
 - (i) in the case of the Chief Minister, having given the Governor prior notice of such absence; or
 - (ii) in the case of any other Minister, having obtained written permission for such absence from the Governor, acting in accordance with the advice of the Chief Minister.

(2) A Minister other than the Chief Minister shall also vacate his office if—

- (a) the Chief Minister vacates his office; or
- (b) his appointment is revoked by the Governor, acting in accordance with the advice of the Chief Minister, by instrument under the public seal.

Performance of functions of Chief Minister in certain events.

11.—(1) If the Chief Minister is unable, due to illness or his absence from the Islands, to perform the functions of his office, the Governor may authorise any other Minister to perform those functions.

(2) In exercising his powers under this section the Governor shall act in accordance with the advice of the Chief Minister unless, in the Governor’s judgment, it is impracticable to obtain the Chief Minister’s advice owing to his illness or absence, in which case he shall exercise the power acting in his discretion.

(3) Any authority given under this section shall be conferred by the Governor by instrument under the public seal, and may be revoked in like manner.

Assignment of responsibilities to members of Executive Council.

12.—(1) Subject to subsections (2), (3) and (4) of this section, the Governor, acting after full consultation with and on the advice of the Chief Minister, may by directions in writing assign to any member of the Executive Council responsibility for the conduct (subject to the provisions of this Constitution and of any other law) of any business of the Government of the Islands, including responsibility for the administration of any department of government.

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(2) In exercising his functions under subsection (1) of this section, the Governor shall act in accordance with the advice given to him by the Chief Minister unless he is instructed by a Secretary of State to do otherwise.

(3) A member of the Executive Council shall not be charged with responsibility under this section for any of the matters mentioned in section 13(1) of this Constitution.

(4) Responsibility for finance shall be assigned to the Financial Secretary.

(5) A member of the Executive Council charged with responsibility for any matter in pursuance of this section shall exercise his responsibility in accordance with the policies of the Government as determined by the Executive Council and in accordance with the principle of the collective responsibility of the members of the Executive Council for the policies and decisions of the Government.

(6) The Governor, acting in his discretion, may at any time call for any official papers or seek any official information or advice which is available to a member of the Executive Council with respect to any matter for which that member is charged with responsibility in pursuance of this section.

Governor's special responsibilities.

13.—(1) The Governor, acting in his discretion, shall be responsible for the conduct, subject to the provisions of this Constitution, of any business of the Government of the Islands with respect to the following matters—

- (a) defence;
- (b) external affairs;
- (c) internal security, including the Police Force;
- (d) the appointment of any person to any public office, the suspension, termination of appointment, dismissal or retirement of any public officer, or the taking of any 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 for which financial provision has been made, or the organisation of the public service in so far as it does not involve new financial provision:

Provided that the Governor, acting in his discretion, may assign to a member of the Executive Council responsibility for the conduct on behalf of the Governor of any business in the Legislative Council with respect to any of the said matters.

(2) The Governor, acting in his discretion, may by directions in writing delegate, with the prior approval of a Secretary of State, to the Chief Minister or any other Minister designated by him after consultation with the Chief Minister such responsibility for matters relating to external affairs or internal security as the Governor may think fit upon such conditions as he may impose.

(3) Where the Governor, acting in his discretion, determines that the exercise of any function conferred upon any other person or authority (other than the Legislative Council) would involve or affect any matter mentioned in subsection (1) of this section, he may, acting in his discretion, give directions as to the exercise of that function, and the person or authority concerned shall exercise the function in accordance with those directions.

Summoning of Executive Council.

14. The Executive Council shall be summoned by the Governor acting in his discretion:

Provided that the Governor shall summon the Council if requested to do so by four or more members.

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Proceedings in, and quorum of, Executive Council.

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

(2) In the absence of the Governor from any meeting of the Council, the Chief Secretary, the Attorney General or the Financial Secretary, in that order, shall preside at the meeting.

(3) No business shall be transacted at any meeting of the Council if there are less than five members present, including the person presiding, of whom three are Ministers.

(4) Subject to subsection (3) of this section, the 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 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 so to do took part in the proceedings.

Attendance of other persons at meetings.

16. The Governor, or any person presiding over a meeting of the Executive Council in his absence, may, acting in his discretion, summon any public officer or other person to a meeting of the Executive Council whenever the business before the Council renders the presence of that officer or other person desirable.

Powers of Attorney General.

17.—(1) The Attorney General shall have power, in any case in which he considers it desirable so to do—

- (a) to institute and undertake criminal proceedings against any person before any court in respect of any offence against any law in force in the Islands;
- (b) to take over and continue any such criminal proceedings that have been instituted by any other person or authority; and
- (c) to discontinue at any stage before judgment is delivered any such criminal proceedings instituted or undertaken by himself or any other person or authority.

(2) The powers of the Attorney General under subsection (1) of this section may be exercised by him in person or by officers subordinate to him acting under and in accordance with his general or special instructions.

(3) The powers conferred upon the Attorney General by subsection (1)(b) and (c) of this section shall be vested in him to the exclusion of any other person or authority:

Provided that where any other person or authority has instituted criminal proceedings, nothing in this subsection shall prevent the withdrawal of those proceedings by or at the instance of that person or authority at any stage before the person against whom the proceedings have been instituted has been charged before the court.

(4) For the purposes of this section, any appeal from any determination in any criminal proceedings before any court, or any case stated or question of law reserved for the purpose of any such proceedings, to any other court or to Her Majesty in Council shall be deemed to be part of those proceedings.

(5) In the exercise of the powers conferred upon him by this section, section 30(2) and section 31(2) of this Constitution the Attorney General shall not be subject to the direction or control of any other person or authority.