

SCHEDULE 2  
TO THE ORDER

THE CONSTITUTION OF THE TURKS AND CAICOS ISLANDS  
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PART IV

POWERS AND PROCEDURE OF THE LEGISLATIVE COUNCIL

**Power to make laws.**

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

**Standing Orders of Legislative Council.**

**36.**—(1) Subject to the provisions of this Constitution and of any Instructions under Her Majesty's Sign Manual and Signet, the Legislative Council may make, amend and revoke Standing Orders for the regulation and orderly conduct of its own proceedings, and for the passing, intituling and numbering of Bills and their presentation to the Governor for assent, but such Standing Orders shall not have effect until approved by the Governor.

(2) Standing Orders made under this section may provide for the establishment of committees of the Council (in addition to the Standing Committees to be established under section 37 of this Constitution) and for the proceedings and conduct of business before any such committees.

**Standing Committees.**

**37.**—(1) The Legislative Council shall establish at least two Standing Committees of the Council, each of which shall be charged with responsibility for monitoring the conduct of business of the Government for which responsibility has been assigned to a Minister or Ministers under section 12(1) of this Constitution.

(2) Each Standing Committee shall consist of members of the Legislative Council who are not Ministers.

(3) The composition of each Standing Committee shall, so far as possible, ensure that the representation of political parties in the Committee is proportionate to the numerical strength of those parties in the Legislative Council.

(4) At least one Standing Committee shall be presided over by a member of the Legislative Council in opposition to the Government.

(5) Each Standing Committee shall have power—

- (a) to summon any Minister, or any public officer of a department of government for which a Minister is responsible, to appear before it;
- (b) subject to any law or Standing Orders, to require any person so summoned to answer questions and provide information about the conduct of business of the Government by the Minister or department concerned;
- (c) to report upon its activities to the Legislative Council.

(6) The Legislative Council shall publish reports submitted to it under subsection (5)(c) of this section.

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(7) Subject to the foregoing provisions of this section, Standing Orders shall provide for the composition and functions of, and proceedings and conduct of business before, Standing Committees.

**Oaths by members of Legislative Council.**

**38.** No member of the Legislative Council shall be permitted to take part in the proceedings of the Council, other than proceedings necessary for the purposes of this section, until he has made and subscribed before the Council an oath of allegiance in the form set out in Schedule 1 to this Constitution:

Provided that the election of a Speaker and Deputy Speaker may take place before the members of the Council make such oath.

**Presiding in Legislative Council.**

**39.**—(1) The Speaker or, in his absence, the Deputy Speaker or, if they are both absent, an elected or appointed member of the Legislative Council (not being a member of the Executive Council) elected by the elected and appointed members of the Legislative Council, shall preside in the Legislative Council.

(2) References in this section to absence of the Speaker or the Deputy Speaker shall include circumstances in which either office is vacant.

**Voting.**

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

(2) The person presiding shall not vote unless on any question the votes are equally divided in which case he shall have and exercise a casting vote if, but not unless, in the case of the Speaker, he is an elected or appointed member.

**Validity of proceedings.**

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

**Quorum.**

**42.**—(1) A quorum of the Legislative Council shall be eight members not including the person presiding, of whom five are elected members.

(2) If at any sitting of the Council any member who is present draws the attention of the person presiding at the sitting to the absence of a quorum and, after such interval as may be prescribed in Standing Orders, the person presiding at the sitting ascertains that a quorum of the Council is still not present, the Council shall be adjourned.

### **Introduction of bills, etc.**

**43.**—(1) Subject to the provisions of this Constitution and of Standing Orders, any member may introduce any bill or propose any motion for debate in, or may present any petition to, the Legislative Council, and the same shall be debated and disposed of according to the Standing Orders.

(2) Except upon the recommendation of the Governor, signified by a member of the Executive Council, the Legislative Council shall not—

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

### **Governor's reserved power.**

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

- (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);
- (b) in the interests of any matter mentioned in section 13(1) of this Constitution; or
- (c) in order to secure detailed control of the finances of the Islands during such time as the Islands are receiving financial assistance from Her Majesty's Exchequer in the United Kingdom, for the purpose of balancing the annual budget or otherwise, upon condition that such control should be exercisable by Her Majesty's Government in the United Kingdom,

that any bill introduced, or any motion to which this section applies proposed, in the Legislative Council should have effect, then, if the Council fails to pass the bill or carry the motion within such time and in such form as the Governor thinks fit, and notwithstanding any provisions of this Constitution or any other law or any Standing Orders, the Governor may declare that such bill or motion shall have effect as if it had been passed or carried by the Council, 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 Council or any committee thereof; and such bill or 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.

(2) The Governor shall not make any declaration under this section except in accordance with the following conditions—

- (a) the question whether the declaration should be made shall first be submitted in writing by the Governor to the Executive Council and if, upon the question being so submitted to it, the Executive Council advises him that the declaration should be made, the Governor may make the declaration;
- (b) if, when the question whether the declaration should be made is submitted to it as aforesaid, the Executive Council does not, within such time as the Governor thinks reasonable and expedient, advise him that the declaration should be made, then—
  - (i) the Governor may submit the said question to a Secretary of State and may make the declaration if, upon the question being so submitted to him, a Secretary of State authorises the Governor to make the declaration; or

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- (ii) the Governor may make the declaration without submitting the said question to a Secretary of State if, in the Governor's judgment, urgent necessity requires that the declaration be made without obtaining the authority of a Secretary of State; in which case he shall, at the time of making the declaration, certify in writing that urgent necessity requires that the declaration be made without obtaining such authority.
- (a) (3) (a) Whenever the Governor, in accordance with subsection (2)(b) of this section, submits to a Secretary of State the question whether a declaration should be made, or makes a declaration without submitting the said question to a Secretary of State, he shall inform the Executive Council in writing of his reasons for so doing.
- (b) Whenever the Governor makes a declaration under this section, other than a declaration made with the authority of a Secretary of State, he shall forthwith report to a Secretary of State the making of, and the reasons for, the declaration and, in the case of a declaration made in accordance with subsection (2)(b)(ii) of this section, the grounds of urgency.
- (4) If any member of the Executive Council so desires, he may, within thirty days of the date of the making of a declaration under this section, submit to the Governor a statement in writing of his comments on the making of such declaration, and the Governor shall forward such statement, or a copy thereof, as soon as practicable to a Secretary of State.
- (5) Any declaration made under this section that relates to a motion may be revoked by a Secretary of State, and the Governor shall cause notice of such revocation to be published in the *Gazette*; and from the date of such publication any motion which has effect by virtue of the declaration shall cease to have effect, and section 16(1) of the Interpretation Act 1978(1) shall apply to the revocation as it applies to the repeal of an Act of Parliament.
- (6) This section applies to any motion—
  - (a) relating to or for the purposes of a bill;
  - (b) proposing or amending a resolution which, if passed by the Legislative Council, would have the force of law; or
  - (c) proposing or amending a resolution upon which the coming into force or continuance in force of any subsidiary instrument depends.
- (7) The powers conferred upon the Governor by subsections (1) and (2) of this section shall be exercised by him in his discretion.

#### **Assent to bills.**

- 45.—**(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 published in the *Gazette*.
- (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

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(1) 1978 c. 30.

(b) any bill which determines or regulates the privileges, immunities or powers of the Legislative Council or of its members,  
unless he has been authorised by a Secretary of State to assent to it.

**Return of bills by Governor.**

**46.** The Governor may return to the Legislative Council any bill presented to him for his assent, transmitting therewith any amendments which he may recommend, and the Council shall deal with such recommendation.

**Disallowance of laws.**

**47.—(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 in the *Gazette* and the law shall be annulled with effect from the date of the publication of that notice.

(3) Section 16(1) of the Interpretation Act 1978 shall apply to the annulment of any law under this section as it applies 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.

**Privileges, etc. of Legislative Council.**

**48.** A law made under section 35 of this Constitution may determine and regulate the privileges and powers of the Legislative Council and the members thereof, 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.