

2003 No. 1515

**CARIBBEAN AND NORTH ATLANTIC
TERRITORIES**

**The Cayman Islands (Constitution) (Amendment) Order
2003**

Made - - - - 12th June 2003

Laid before Parliament 24th June 2003

Coming into force in accordance with section 1(4)

At the Court at Buckingham Palace, the 12th day of June
2003

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers conferred upon Her by sections 5 and 7 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:

Citation, construction and commencement

1.—(1) This Order may be cited as the Cayman Islands (Constitution) (Amendment) Order 2003 and shall be construed as one with the Cayman Islands (Constitution) Order 1972(b) (hereinafter referred to as “the principal Order”).

(2) The principal Order and this Order may be cited together as the Cayman Islands (Constitution) Orders 1972 to 2003.

(3) In this Order, “the Constitution” means the Constitution set out in Schedule 2 to the principal Order.

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

Recommendations for single-member constituencies

2. The following new sections are inserted in the Constitution after section 28.

“Electoral Boundary Commission

28A.—(1) An Electoral Boundary Commission (hereinafter referred to as “the Commission”) shall be appointed by the Governor as soon as practicable after this section comes into force.

(a) 1962 c. 19.

(b) S.I. 1972/1101, amended by S.I. 1984/126, 1987/2199, 1992/226, 1993/3143.

- (2) The Commission shall consist of—
- (a) a Chairman who shall be appointed by the Governor, acting in his discretion;
 - (b) one member appointed by the Governor, acting in accordance with the advice of the Leader of Government Business; and
 - (c) one member appointed by the Governor, acting in accordance with the advice of the Leader of the Opposition.
- (3) A person shall not be qualified to be appointed as the Chairman of the Commission if he is a member of the Legislative Assembly or a public officer.
- (4) The Chairman of the Commission shall vacate his office—
- (a) on the day following the date of submission under section 28B(1) of this Constitution of the report of the Commission;
 - (b) if he becomes a member of the Legislative Assembly or a public officer;
 - (c) 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.
- (5) Any other member of the Commission shall vacate his office—
- (a) on the day following the date of submission under section 28B(1) of this Constitution of the report of the Commission;
 - (b) in the case of the member appointed under subsection (2)(b) of this section, if his appointment is revoked by the Governor, acting in accordance with the advice of the Leader of Government Business;
 - (c) in the case of the member appointed under subsection (2)(c) of this section, if his appointment is revoked by the Governor, acting in accordance with the advice of the Leader of the Opposition.
- (6) The Commission may regulate its own procedure and, with the consent of the Governor, confer powers and impose duties on any public officer or on any authority of the Government for the purpose of the discharge of its functions.
- (7) For the purpose of the discharge of its functions, the Commission shall invite views from members of the public and may seek such advice as it considers appropriate.
- (8) The Commission may act notwithstanding any vacancy in its membership (including any vacancy not filled when appointments of members are first made) and its proceedings shall be valid notwithstanding that some person who was not entitled so to do took part therein:
- Provided that any decision of the Commission shall require the concurrence of not less than two members of the Commission.
- (9) In the exercise of its functions under this Constitution, the Commission shall not be subject to the direction or control of any other person or authority.

Functions of Electoral Boundary Commission

28B.—(1) The Commission appointed under section 28A of this Constitution shall, as soon as practicable after its appointment, prepare and submit to the Governor a report recommending the boundaries of seventeen electoral constituencies into which the Cayman Islands should be divided with a view to each such constituency returning one member to the Legislative Assembly.

- (2) In preparing its report under subsection (1) of this section the Commission shall—
- (a) take no account of the racial distribution of electors within the Cayman Islands;
 - (b) take account of the natural boundaries within the Cayman Islands;
 - (c) have regard to existing electoral districts;
 - (d) subject to the foregoing provisions of this subsection, ensure that—
 - (i) the electoral constituencies shall contain, so far as is reasonably practicable, equal numbers of persons qualified to be registered as electors, and

- (ii) Cayman Brac and Little Cayman shall (between these two islands) return at least two members to the Assembly.
- (3) For the purposes of subsection (2)(d)(i) of this section a person shall be regarded as qualified to be registered as an elector if, on the relevant date—
 - (a) he is entitled to be registered as an elector under section 25 of this Constitution; or
 - (b) he fulfils all of the following conditions, that is to say—
 - (i) he is a Caymanian;
 - (ii) he has attained the age of eighteen years;
 - (iii) he is resident in the Cayman Islands; and
 - (iv) he has been resident in the Cayman Islands for a period or periods amounting to not less than two years out of the four years immediately preceding the relevant date; and
 - (c) he is not disqualified for registration as an elector by virtue of section 26 of this Constitution.
- (4) For the purposes of subsection (3) of this section—
 - (a) “the relevant date” is the date on which the Commission is appointed by the Governor under section 28A of this Constitution;
 - (b) “Caymanian” means a person who possesses Caymanian status and British overseas territories citizenship or British citizenship by virtue of a connection with the Cayman Islands;
 - (c) any period of absence for any of the purposes specified in section 18(3) of this Constitution shall be disregarded in determining whether a person is or has been resident in the Cayman Islands.
- (5) The Governor shall forthwith transmit to a Secretary of State a report submitted to him by the Commission under subsection (1) of this section, together with the record of any debate in the Legislative Assembly on that report including any motion approved by the Assembly in relation to the report.”.

Leader of Government Business

3. The following new section is inserted in the Constitution after section 5.

“Leader of Government Business

5A.—(1) The Governor shall appoint as the Leader of Government Business the Minister who in the opinion of the Governor is the leader in the Legislative Assembly of the party which commands the support of a majority of the elected members of the Assembly, or if there is no such party, the Minister who in the opinion of the Governor has the support of the majority of the elected members of the Assembly.

(2) The Leader of Government Business shall vacate his office if—

- (a) he ceases to be a Minister in accordance with section 6 of this Constitution; or
- (b) the Governor, acting in his discretion, revokes his appointment on the ground that he is about to appoint another person as the Leader of Government Business in accordance with subsection (1) of this section.”.

Leader of the Opposition

4. The following new section is inserted in the Constitution after section 24.

“Leader of the Opposition

24A.—(1) The Governor shall appoint as the Leader of the Opposition—

- (a) the elected member of the Legislative Assembly who, in the opinion of the Governor, is the leader in the Assembly of any opposition party whose numerical strength in the Assembly is greater than that of any other opposition party; or

(b) if it appears to the Governor that there is no such party but an elected member of the Assembly would be acceptable as Leader of the Opposition to a majority of the members of the Assembly in opposition to the Government, that member.

(2) Whenever the office of Leader of the Opposition is vacant by reason of the fact that the Governor is of the opinion that there is no member of the Assembly whom he can appoint thereto in accordance with subsection (1) of this section, the functions conferred on the Governor by section 28A(2)(c) and (5)(c) of this Constitution shall be exercised by him in accordance with such advice as may be given to him jointly by the leaders in the Assembly of the opposition parties whose numerical strength in the Assembly is greatest.

(3) The Leader of the Opposition shall vacate his office if the Governor, acting in his discretion, revokes his appointment on the ground that he is about to appoint another person as Leader of the Opposition in accordance with subsection (1) of this section.

(4) In this section “opposition party” includes a group of members of the Assembly in opposition to the Government who are prepared to support one of their number as their leader.”.

Cabinet

5.—(1) The Executive Council is hereby renamed the Cabinet, and accordingly all references to the Executive Council in the Constitution and in the existing laws shall be replaced by references to the Cabinet, and cognate expressions shall be construed accordingly.

(2) In this section “existing laws” means laws and instruments (other than Acts of the Parliament of the United Kingdom and instruments made thereunder) having effect as part of the law of the Cayman Islands immediately before the coming into force of this Order.

A K Galloway
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Constitution of the Cayman Islands to enable an Electoral Boundary Commission to make recommendations on the establishment of seventeen single-member constituencies for elections to the Legislative Assembly. It also formally establishes the offices of Leader of Government Business and Leader of the Opposition, and renames the Executive Council as the Cabinet.

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