

SCHEDULE 2

The Constitution of the Cayman Islands

PART I

BILL OF RIGHTS, FREEDOMS AND RESPONSIBILITIES

Non-discrimination

16.—(1) Subject to subsections (3), (4), (5) and (6), government shall not treat any person in a discriminatory manner in respect of the rights under this Part of the Constitution.

(2) In this section, “discriminatory” means affording different and unjustifiable treatment to different persons on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, age, mental or physical disability, property, birth or other status.

(3) No law or decision of any public official shall contravene this section if it has an objective and reasonable justification and is reasonably proportionate to its aim in the interests of defence, public safety, public order, public morality or public health.

(4) Subsection (1) shall not apply to any law so far as that law makes provision—

- (a) for the appropriation of revenues or other funds of the Cayman Islands or for the imposition of taxation (including the levying of fees for the grants of licences);
- (b) with respect to the entry into or exclusion from, or the employment, engaging in any business or profession, movement or residence within, the Cayman Islands of persons who are not Caymanian;
- (c) for the application, in the case of persons of any such description of grounds as is mentioned in subsection (2) (or of persons connected with such persons), of the law with respect to adoption, marriage, divorce, burial, devolution of property on death or other like matters that is the personal law applicable to persons of that description; or
- (d) whereby persons of any such description of grounds as is mentioned in subsection (2) may be subjected to any disability or restriction or may be accorded any privilege or advantage which, having regard to its nature and to special circumstances pertaining to those persons or to persons of any other such description, is objectively and reasonably justifiable in a democratic society and there is a reasonable proportionality between the means employed and the purpose sought to be realised.

(5) Nothing in any law shall be held to contravene subsection (1) to the extent that it requires a person to be a Caymanian, or to possess any other qualification (not being a qualification specifically relating to any such description of grounds as is mentioned in subsection (2)) in order to be eligible for appointment to any office in the public service or in a disciplined force or any office in the service of a local government authority or of a body corporate established directly by any law for public purposes.

(6) Subsection (1) shall not apply to anything which is expressly or by necessary implication authorised to be done by any such provision of law as is referred to in subsection (3), (4) or (5).

(7) Subsection (1) is without prejudice to any restriction on the rights and freedoms guaranteed by section 9, 10, 11, 12, 13 or 14 if that restriction would, in accordance with that section, be a restriction authorised for the purposes of that section on the ground that—

- (a) the provision by or under which it is imposed is reasonably required in the interests of a matter, or for the purpose, specified in that section; and

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- (b) the provision and the restriction imposed under it are reasonably justifiable in a democratic society.