

SCHEDULE 2

The Constitution of the Cayman Islands

PART IV

THE LEGISLATURE

Composition of the Legislature and power to make laws

59.—(1) There shall be a Legislature of the Cayman Islands which shall consist of Her Majesty and a Legislative Assembly.

(2) Subject to this Constitution, the Legislature may make laws for the peace, order and good government of the Cayman Islands.

The Legislative Assembly

60.—(1) The Legislative Assembly shall consist of—

- (a) the Speaker;
- (b) eighteen elected members, who shall be persons qualified for election in accordance with this Constitution and elected in the manner provided for in a law enacted for the purposes of section 93; and
- (c) the Deputy Governor and the Attorney General, *ex officio*.

(2) A law made under section 59(2) may increase the number of elected members of the Legislative Assembly; but no such law shall come into force—

- (a) unless an order by the Governor providing for the electoral districts and their boundaries to take account of the additional elected members in accordance with section 89 has been made; and
- (b) until the dissolution of the Legislative Assembly next following the enactment of such law.

(3) No member of the Legislative Assembly shall be permitted to take part in the proceedings of the Assembly, other than proceedings necessary for the purposes of this subsection or the election of a Speaker, until he or she has made and subscribed before the Assembly oaths of allegiance and for the due execution of his or her office in the forms set out in the Schedule to this Constitution.

Qualifications for elected membership of the Legislative Assembly

61.—(1) Subject to section 62, a person shall be qualified to be elected as a member of the Legislative Assembly if, and shall not be qualified to be so elected unless—

- (a) he or she is a Caymanian; and
- (b) he or she has attained the age of 21 years; and
- (c) he or she is, at the date of his or her nomination for election, domiciled and resident in the Cayman Islands; and
- (d) he or she is a qualified citizen; and either
- (e) he or she was born in the Cayman Islands, or was born outside the Cayman Islands in the circumstances mentioned in subsection (2)(b), has resided in the Cayman Islands for a period of not less than seven years immediately preceding the date of his or her nomination for election and, subject to subsection (3), the number of days on which he or she was absent from the Cayman Islands in that period does not exceed 400; or

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- (f) if he or she was born outside the Cayman Islands, has resided in the Cayman Islands for a period or periods amounting to not less than fifteen years out of the twenty years immediately preceding the date of his or her nomination for election, and, subject to subsection (3), in the seven years immediately preceding the date of his or her nomination for election the number of days on which he or she was absent from the Cayman Islands does not exceed 400.

(2) For the purposes of subsection (1)(d), a qualified citizen is a British overseas territories citizen by virtue of a connection with the Cayman Islands, who either—

- (a) at the date of his or her nomination for election possesses no other citizenship and is pursuing no claim to any other citizenship for which he or she may be eligible; or
- (b) was born outside the Cayman Islands, has or had at least one parent or grandparent who was born in the Cayman Islands and is a Caymanian (or if deceased would if alive have been a Caymanian at the date of nomination for election), and who at the date of his or her nomination for election possesses no other citizenship save for any right he or she may have to some other citizenship by virtue of his or her birth outside the Cayman Islands;

and in this subsection the words “other citizenship” do not include British citizenship acquired by virtue of the British Overseas Territories Act 2002(1).

(3) In ascertaining whether a person has been absent from the Cayman Islands for the purposes of subsection (1)(e) or (f), any period of absence by reason of the following shall be disregarded—

- (a) the performance of duty on behalf of the Government;
- (b) attendance as a student at any educational establishment;
- (c) attendance as a patient at any hospital, clinic or other medical institution;
- (d) employment as a seaman aboard an ocean-going vessel; or
- (e) employment as a crew member on any aircraft.

Disqualifications for elected membership

62.—(1) No person shall be qualified to be elected as a member of the Legislative Assembly who—

- (a) is, by virtue of his or her own act, under any acknowledgement of allegiance, obedience or adherence to a foreign power or state;
- (b) holds, or is acting in, any public office;
- (c) has been adjudged or otherwise declared bankrupt under any law in force in any part of the Commonwealth or the United States of America and has not been discharged;
- (d) is a person certified to be insane or otherwise adjudged to be of unsound mind under any law in force in the Cayman Islands;
- (e) subject to subsection (2), is serving or has served a sentence of imprisonment (by whatever name called) exceeding twelve months imposed on him or her by a court in any country or substituted by competent authority for some other sentence imposed on him or her by such a court, or is under such a sentence of imprisonment the execution of which has been suspended, or has been convicted by any court in any country of an offence involving dishonesty;
- (f) is disqualified for election by any law in force in the Cayman Islands by reason of his or her holding, or acting in, any office the functions of which involve—
 - (i) any responsibility for, or in connection with, the conduct of any election; or

(1) 2002 c.8.

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- (ii) any responsibility for the compilation or revision of any electoral register;
 - (g) is a party to, or a partner in a firm or a director or manager of a company which is a party to, any contract with the Government for or on account of the public service and has not, within the period of one month immediately preceding the date of an election in which he or she is a candidate, caused to be published a Government Notice setting out the nature of such contract and his or her interest, or the interest of any such firm or company, in it; or
 - (h) is disqualified for membership of the Assembly by any law in force in the Cayman Islands relating to offences connected with elections.
- (2) For the purposes of subsection (1)(e) and section 63(g)—
- (a) where a person is serving two or more sentences of imprisonment that are required to be served consecutively he or she shall, throughout the whole time during which he or she so serves, be regarded as serving a sentence exceeding twelve months if (but not unless) any one of those sentences exceeds that term; and
 - (b) no account shall be taken of a sentence of imprisonment imposed as an alternative to or in default of the payment of a fine.

Tenure of office of elected members

- 63.** The seat of an elected member of the Legislative Assembly shall become vacant—
- (a) upon a dissolution of the Assembly;
 - (b) if he or she is absent from the sittings of the Assembly for such period and in such circumstances as may be prescribed in the Standing Orders of the Assembly;
 - (c) if he or she ceases to be a Caymanian;
 - (d) if he or she ceases to be resident in the Cayman Islands;
 - (e) if he or she resigns his or her seat by writing under his or her hand addressed to the Governor;
 - (f) if he or she becomes a party to any contract with the Government for or on account of the public service, or if any firm in which he or she is a partner or any company of which he or she is a director or manager becomes a party to any such contract, or if he or she becomes a partner in a firm or a director or manager of a company which is a party to any such contract; but if in the circumstances it appears to it to be just to do so, the Assembly may exempt any elected member from vacating his or her seat under this paragraph if the member, before or as soon as practicable after becoming a party to the contract, or before or as soon as practicable after becoming otherwise interested in the contract (whether as a partner in a firm or as a director or manager of a company), discloses to the Assembly or, if that is impracticable, to the Clerk of the Assembly the nature of the contract and his or her interest or the interest of the firm or company in it; or
 - (g) subject to section 64, if any circumstances arise that, if he or she were not a member of the Assembly, would cause him or her to be disqualified for election to it by virtue of any provision of section 62(1) other than paragraph (g).

Delay in vacation of seat to allow for an appeal

64.—(1) If circumstances such as are referred to in section 63(g) arise because a member is adjudged or declared bankrupt, is certified insane or adjudged of unsound mind, is under sentence of imprisonment, is convicted of an offence involving dishonesty or is convicted of an offence relating to elections, and it is open to the member to appeal against the decision (either with or without the leave of a court or other authority), he or she shall forthwith cease to perform his or her functions as a member of the Legislative Assembly, but, subject to subsection (2), he or she shall not vacate

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his or her seat until the expiration of a period of 30 days thereafter; but the Governor may, at the request of the member, extend that period to enable the member to pursue any appeal against the decision, save that extensions of time exceeding in the aggregate 150 days shall not be given without the approval of the Assembly.

(2) If, on the determination of any appeal, such circumstances as aforesaid continue to exist and no further appeal is open to the member, or if for any reason, including the refusal of leave to appeal or the expiration of any time for entering an appeal, it ceases to be open to the member to appeal, he or she shall forthwith vacate his or her seat.

(3) If at any time before the member vacates his or her seat such circumstances as aforesaid cease to exist, his or her seat shall not become vacant on the expiration of the period referred to in subsection (1) and he or she may resume the performance of his or her functions as a member.

Speaker and Deputy Speaker

65.—(1) At the first sitting of the Legislative Assembly after a general election, and as soon as practicable after a vacancy occurs in the relevant office otherwise than on a dissolution of the Assembly, the elected members of the Assembly shall by a majority vote elect—

- (a) a Speaker from among the elected members of the Assembly, or persons who are qualified to be elected as members of the Assembly, other than Ministers; and
- (b) a Deputy Speaker from among the elected members of the Assembly other than Ministers;

and the election of the Speaker and the Deputy Speaker shall take precedence over any other business of the Assembly.

(2) A person shall vacate the office of Speaker or Deputy Speaker—

- (a) upon a dissolution of the Legislative Assembly;
- (b) if he or she informs the Assembly, by writing addressed to the Assembly and received by the Clerk of the Assembly, that he or she resigns his or her office;
- (c) in any circumstances which, in the case of the Speaker, would cause him or her to vacate his or her seat as, or if he or she were, a member of the Assembly, or, in the case of the Deputy Speaker, if he or she ceases to be an elected member of the Assembly;
- (d) if, on the date of his or her election as Speaker or Deputy Speaker, he or she is a party to, or a partner in a firm or a director or manager of a company which is a party to, any contract with the Government or if, on any date after such election he or she or a firm in which he or she is a partner or a company of which he or she is a director or manager becomes a party to any such contract or he or she becomes a partner in a firm or a director or manager of a company which is a party to any such contract, and he or she does not, before the expiration of 30 days from the date in question, disclose to the Assembly or, if that is impracticable, to the Clerk of the Assembly in writing the nature of such contract and his or her interest, or the interest of such a firm or company, in it and the Assembly does not exempt him or her from vacating his or her office under this paragraph;
- (e) if he or she becomes a Minister; or
- (f) on the passing, by the votes of two-thirds of the elected members of the Assembly, of a motion expressing no confidence in him or her as Speaker or Deputy Speaker, as the case may be.

(3) If the office of Speaker or Deputy Speaker becomes vacant, the Legislative Assembly shall elect another Speaker or Deputy Speaker fulfilling the requirements of subsection (1)(a) and (b).

Determination of questions as to membership of the Legislative Assembly

66.—(1) Any question whether a person has been validly elected as a member of the Legislative Assembly, or whether an elected member of the Assembly has vacated his or her seat in it, shall be determined by the Grand Court, whose decision shall be final and not subject to any appeal.

(2) An application to the Grand Court for the determination of any question whether a person has been validly elected as a member of the Legislative Assembly may be made by—

- (a) a person who voted or had the right to vote at the election to which the application relates;
- (b) a person claiming to have had the right to be returned at such election;
- (c) a person alleging himself or herself to have been a candidate at such election; or
- (d) the Attorney General.

(3) An application to the Grand Court for the determination of any question whether an elected member of the Legislative Assembly has vacated his or her seat in it may be made by—

- (a) any elected member of the Assembly; or
- (b) the Attorney General.

(4) If any application referred to in subsection (2) or (3) is made by a person other than the Attorney General, the Attorney General may intervene and may then appear or be represented in the proceedings.

(5) A law enacted by the Legislature may make provision with respect to—

- (a) the time within which, the circumstances and manner in which and the imposition of conditions under which, any application may be made to the Grand Court for the determination of any question under this section;
- (b) the powers, practice and procedure of the Grand Court in relation to any such application.

(6) In the exercise of the powers conferred on him or her by this section and section 67, the Attorney General shall not be subject to the direction or control of any other person or authority.

Penalty for sitting or voting in the Legislative Assembly when unqualified

67.—(1) Any person who sits or votes in the Legislative Assembly knowing or having reasonable grounds for knowing that he or she is not entitled to do so shall be liable to a penalty not exceeding 500 dollars for each day on which he or she so sits or votes.

(2) Any such penalty shall be recoverable as a debt by civil action in the Grand Court at the suit of the Attorney General.

Leader of the Opposition

68.—(1) There shall be a Leader of the Opposition who shall be appointed by the Governor.

(2) The Governor shall appoint as the Leader of the Opposition—

- (a) the elected member of the Legislative Assembly recommended by a majority of the elected members of the Assembly who are members of any opposition political party whose numerical strength in the Assembly is greater than that of any other opposition political party;
- (b) if it appears to the Governor that there is no such party but that there is an elected member of the Assembly who would be acceptable as Leader of the Opposition to a majority of the members of the Assembly in opposition to the Government, that member; or
- (c) if it appears to the Governor that there is no such person, then the Governor shall appoint as Leader of the Opposition that person who in his or her opinion would be acceptable to the greatest number of members of the Assembly in opposition to the Government.

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(3) If at any time between the polling in a general election and the next following dissolution of the Legislative Assembly the Governor is satisfied that, if the office of the Leader of the Opposition were then vacant, he or she would appoint to that office a person other than the person then holding it, the Governor shall revoke the appointment of the Leader of the Opposition.

(4) The office of the Leader of the Opposition shall also become vacant—

- (a) if for any reason other than a dissolution of the Legislative Assembly the holder of that office ceases to be a member of the Assembly;
- (b) when the Assembly first meets after a general election;
- (c) if the holder of that office becomes a member of the Cabinet; or
- (d) if the holder of that office resigns it by writing under his or her hand addressed to the Governor.

(5) The Governor, acting in accordance with the advice of the Leader of the Opposition, shall appoint a Deputy Leader of the Opposition from among the elected members of the Legislative Assembly in opposition to the Government.

(6) The office of Deputy Leader of the Opposition shall become vacant—

- (a) if his or her appointment is revoked by the Governor, acting in accordance with the advice of the Leader of the Opposition; or
- (b) in any of the circumstances specified in subsection (4)(a), (b), (c) and (d).

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

Power to provide for a referendum

69. A law enacted by the Legislature may make provision to hold a referendum amongst persons registered as electors in accordance with section 90, on a matter or matters of national importance, when so resolved by the majority of the elected members of the Assembly; but the question of whether the Cayman Islands should seek any amendment to this Constitution that may result in their independence shall be deemed to be a matter of national importance.

People-initiated referendums

70.—(1) Without prejudice to section 69, a law enacted by the Legislature shall make provision to hold a referendum amongst persons registered as electors in accordance with section 90 on a matter or matters of national importance that do not contravene any part of the Bill of Rights or any other part of this Constitution.

(2) Before a referendum under this section may be held—

- (a) there shall be presented to the Cabinet a petition signed by not less than 25 per cent of persons registered as electors in accordance with section 90;
- (b) the Cabinet shall settle the wording of a referendum question or questions within a reasonable time period as prescribed by law; and
- (c) the Cabinet shall make a determination on the date the referendum shall be held in a manner prescribed by law.

(3) Subject to this Constitution, a referendum under this section shall be binding on the Government and the Legislature if assented to by more than 50 per cent of persons registered as electors in accordance with section 90.

Standing Orders and committees

71.—(1) Subject to this Constitution, the Legislative Assembly may from time to time make, amend and revoke Standing Orders for the regulation and orderly conduct of its own proceedings and the dispatch of business, and for the passing, intituling and numbering of Bills and for their presentation to the Governor for assent; but no such Standing Orders or amendment or revocation of them shall have effect unless they have been approved by the Governor.

(2) Standing Orders must provide for fair procedures, adequate notice of Bills and motions, and a sufficient opportunity for members of the Legislative Assembly (including opposition members) to speak and otherwise participate in the proceedings of the Assembly.

(3) Standing Orders shall not be suspended or revoked without good reason.

(4) In any matter not provided for in Standing Orders, resort shall be had to the usage and practice of the House of Commons of the United Kingdom, which shall be followed as far as the same may be applicable to the Legislative Assembly and not inconsistent with Standing Orders nor with the practice of the Assembly.

(5) In cases of doubt, Standing Orders shall be interpreted in the light of the relevant usage and practice of the House of Commons, but no restriction which the House of Commons has introduced by standing order after the making of such Standing Orders shall be deemed to extend to the Legislative Assembly or its members until the Assembly has by Standing Orders provided for such restriction.

(6) Standing Orders shall make provision for the establishment of a Finance Committee of the Legislative Assembly to consider in detail the estimates of revenue and expenditure of the Cayman Islands laid before the Assembly by the Minister responsible for finance, and to examine and consider all financial Bills and such other matters relating to the finances of the Cayman Islands as may from time to time be referred to it by the Assembly and to report on them to the Assembly.

(7) The Finance Committee shall consist of all the elected members of the Legislative Assembly and shall be chaired by the Minister responsible for finance.

(8) Standing Orders may also establish one or more other standing committees of the Legislative Assembly, each of which may be charged with responsibility for monitoring the conduct of business of the Government for which responsibility has been assigned to a Minister under section 54.

(9) The composition of all such standing committees shall, so far as possible, reflect proportionately the numerical strength of all political parties or groups making up the elected membership of the Legislative Assembly.

(10) Any standing committee so established shall have power to summon any Minister, the Deputy Governor, the Attorney General or any public officer of a department of Government for which a Minister is responsible to appear before it, and to require any Minister or other person so summoned to answer questions and provide information about the conduct of business of the Government by the Minister or department concerned or, as the case may be, by the Deputy Governor or the Attorney General, and to report on its activities to the Legislative Assembly.

Presiding in the Legislative Assembly

72. At sittings of the Legislative Assembly there shall preside—

- (a) the Speaker; or
- (b) in the absence of the Speaker, the Deputy Speaker; or
- (c) in the absence of the Speaker and the Deputy Speaker, such one of the elected members other than a Minister as may be elected by the elected members.

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The Legislative Assembly may transact business notwithstanding vacancies

73. The Legislative Assembly shall not be disqualified for the transaction of business by reason of any vacancy in its membership (including any vacancy not filled when the Assembly is first constituted or is reconstituted at any time) and any proceedings in it shall be valid even though some person who was not entitled to do so sat or voted in the Assembly or otherwise took part in those proceedings.

Quorum

74.—(1) If at any sitting of the Legislative Assembly a quorum is not present and any member of the Assembly who is present objects on that account to the transaction of business and, after such interval as may be prescribed in Standing Orders, the person presiding at the sitting ascertains that a quorum is still not present, he or she shall adjourn the Assembly.

(2) For the purposes of this section a quorum shall consist of a majority of the elected members of the Legislative Assembly in addition to the person presiding.

Voting

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

(2) The Speaker or other member presiding shall not vote unless on any question the votes are equally divided, in which case he or she shall have and exercise a casting vote.

(3) The Deputy Governor and the Attorney General shall not be entitled to vote.

Summoning of persons to assist the Legislative Assembly

76. The Speaker or other person presiding may, when in his or her opinion the business before the Legislative Assembly makes it desirable, summon any person to a meeting of the Assembly even though that person is not a member of the Assembly.

Introduction of Bills

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

(2) Standing Orders shall require that, except in a case of emergency, every Bill introduced by the Government shall be published at least 21 days before the commencement of the meeting at which it is scheduled to be introduced.

(3) Except on the recommendation of the Minister responsible for finance, the Legislative Assembly shall not—

- (a) proceed upon any Bill (including any amendment to a Bill) which, in the opinion of the Speaker, makes provision for imposing or increasing any tax, for imposing or increasing any charge on the revenues or other funds of the Cayman Islands, for altering any such charge otherwise than by reducing it, or for compounding or remitting any debt due to the Cayman Islands;
- (b) except in the case of a motion proposing a resolution under section 69, proceed upon any motion (including any amendment to a motion) the effect of which, in the opinion of the person presiding in the Assembly, is that provision would be made for any of the purposes aforesaid; or

- (c) receive any petition which, in the opinion of the person presiding in the Assembly, requests that provision be made for any of the purposes aforesaid.

Assent to Bills

78.—(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 or her 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.

(2) When a Bill is presented to the Governor for his or her assent, he or she shall, subject to this Constitution and any instructions addressed to him or her by Her Majesty through a Secretary of State, declare that he or she assents or refuses to assent to it or that he or she reserves the Bill for the signification of Her Majesty's pleasure; but, unless he or she has been authorised by a Secretary of State to assent to it, the Governor shall reserve for the signification of Her Majesty's pleasure any Bill which appears to him or her, acting in his or her discretion—

- (a) to be in any way repugnant to, or inconsistent with, this Constitution;
- (b) to determine or regulate the privileges, immunities or powers of the Legislative Assembly or of its members;
- (c) to be inconsistent with any obligation of Her Majesty or of Her Majesty's Government in the United Kingdom towards any other State or any international organisation;
- (d) to be likely to prejudice the Royal prerogative;
- (e) to affect any matter for which the Governor is responsible under section 55; or
- (f) to affect the integrity or independence of the public service or of the administration of justice.

(3) Before refusing assent to any Bill, the Governor shall explain to the members of the Legislative Assembly why he or she proposes to do so, if necessary in confidence, and shall allow those members the opportunity to submit their views on the matter in writing to a Secretary of State.

Return of Bills by the Governor

79.—(1) Where the Governor decides to return any Bill to the Legislative Assembly when it is presented for his or her assent, he or she shall do so within 60 days of receiving it, transmitting with it any amendments which he or she may recommend and the reasons for them, and the Assembly shall consider such recommendation.

(2) The Governor shall inform the Speaker as soon as practicable that he or she intends to return a Bill in pursuance of subsection (1).

Disallowance of laws

80.—(1) Any law assented to by the Governor may be disallowed by Her Majesty through a Secretary of State; but no law shall be disallowed until the expiration of a reasonable period notified by a Secretary of State to the Governor with an explanation of the difficulties perceived by the Secretary of State, and the Governor shall forthwith advise the Speaker of that period and those difficulties in order to give the Legislative Assembly an opportunity to reconsider the law in question.

(2) Whenever any law has been disallowed by Her Majesty the Governor shall cause notice of such disallowance to be published by Government Notice and the law shall be annulled with effect from the date of such publication.

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(3) Section 16(1) of the Interpretation Act 1978⁽²⁾ 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.

Governor's reserved power

81. If the Governor considers that the enactment of legislation is necessary or desirable with respect to or in the interests of any matter for which he or she is responsible under section 55 but, after consultation with the Premier, it appears to the Governor that the Cabinet is unwilling to support the introduction into the Legislative Assembly of a Bill for the purpose or that the Assembly is unlikely to pass a Bill introduced into it for the purpose, the Governor may, with the prior approval of a Secretary of State, cause a Bill for the purpose to be published in a Government Notice and may (notwithstanding that the Bill has not been passed by the Assembly) assent to it on behalf of Her Majesty; but the Bill shall be so published for at least 21 days prior to assent unless the Governor certifies by writing under his or her hand that the matter is too urgent to permit such delay in the giving of assent and so informs a Secretary of State.

Privileges of the Legislative Assembly and its members

82. A law made under this Constitution may determine and regulate the privileges, immunities and powers of the Legislative Assembly and its members, but no such privileges, immunities or powers shall exceed those of the House of Commons of the United Kingdom or of its members.

Sessions of the Legislative Assembly

83.—(1) Subject to this Constitution, the sessions of the Legislative Assembly shall be held at such places and begin at such times as the Governor may from time to time by proclamation appoint.

(2) There shall be at least one session of the Legislative Assembly in every calendar year.

Prorogation and dissolution

84.—(1) The Governor, acting after consultation with the Premier, and by proclamation, may prorogue the Legislative Assembly, and shall do so annually.

(2) The Governor, acting after consultation with the Premier, may at any time, by proclamation, dissolve the Legislative Assembly.

(3) The Governor shall dissolve the Legislative Assembly at the expiration of four years from the date when the Assembly first meets after any general election unless it has been sooner dissolved pursuant to this Constitution.

Recalling dissolved Legislative Assembly

85. If, between a dissolution of the Legislative Assembly and the date on which the next ensuing general election is held, a matter arises of a nature and urgency which in the opinion of the Governor makes it necessary for the Assembly to be recalled, the Governor may, acting after consultation with the Premier, summon the Assembly that has been dissolved and that Assembly shall thereupon be deemed (except for the purposes of section 86(1)) not to have been dissolved, but shall be deemed (except as aforesaid) to be dissolved on the date on which the next ensuing general election is held.

(2) 1978 c.30.

General elections and bye-elections

86.—(1) A general election of members of the Legislative Assembly shall be held at such time within two months after every dissolution of the Assembly as the Governor shall appoint by proclamation published in a Government Notice.

(2) Whenever any person vacates his or her seat as a member of the Legislative Assembly for any reason other than its dissolution, an election to fill the vacancy shall be held within two months after the occurrence of the vacancy, unless the Assembly is sooner dissolved or the date on which the Assembly must be dissolved under section 84(3) is less than four months after the occurrence of the vacancy.

Public Accounts Committee

87.—(1) There shall be a Public Accounts Committee of the Legislative Assembly with power and responsibility to examine the public accounts of the Cayman Islands and the accounts and financial dealings of all authorities, offices and departments of Government, of all courts, and of all Government-owned companies.

(2) The members of the Committee, and any person authorised by it to act on its behalf, shall have access to all books, records, reports and other documents relating to the accounts referred to in subsection (1).

(3) The Committee shall receive reports from the Auditor General as provided in section 114(7).

(4) The Committee shall be re-elected as soon as practicable after the Legislative Assembly first meets following a general election.

Electoral Boundary Commission

88.—(1) An Electoral Boundary Commission shall be appointed from time to time at such time as the Governor, acting after consultation with the Premier and the Leader of the Opposition, may determine; but—

- (a) the first such Commission shall be appointed as soon as practicable after the date of commencement of this Constitution; and
- (b) each subsequent Commission shall be appointed not later than eight years after the last Commission submitted its report under section 89.

(2) An Electoral Boundary Commission shall consist of—

- (a) a Chairman who shall be appointed by the Governor, acting in his or her discretion;
- (b) one member appointed by the Governor, acting in accordance with the advice of the Premier; 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 an Electoral Boundary Commission if he or she is a member of the Legislative Assembly or a public officer.

(4) The Chairman of an Electoral Boundary Commission shall vacate his or her office—

- (a) on the day following the date of submission under section 89 of the report of the Commission;
- (b) if he or she becomes a member of the Legislative Assembly or a public officer; or
- (c) if the Governor, acting in his or her discretion, directs that he or she shall be removed from office for inability to discharge the functions of that office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour.

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- (5) Any other member of an Electoral Boundary Commission shall vacate his or her office—
- (a) on the day following the date of submission under section 89 of the report of the Commission; or
 - (b) if his or her appointment is revoked by the Governor, acting, in the case of a member appointed under subsection (2)(b), in accordance with the advice of the Premier or, in the case of a member appointed under subsection (2)(c), in accordance with the advice of the Leader of the Opposition.
- (6) An Electoral Boundary 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, an Electoral Boundary Commission shall invite views from members of the public and may seek such advice as it considers appropriate.
- (8) An Electoral Boundary 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 even though some person who was not entitled to do so took part in them, but 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, an Electoral Boundary Commission shall not be subject to the direction or control of any other person or authority.

Review and alteration of electoral district boundaries

89.—(1) An Electoral Boundary Commission shall, as soon as practicable after its appointment, review the boundaries of the electoral districts into which the Cayman Islands are divided and, taking into account the changes or proposed changes, if any, in the number of electoral districts or of elected members of the Legislative Assembly, shall submit a report to the Governor and the Legislative Assembly containing its recommendations for any changes in the number and boundaries of the electoral districts.

- (2) In preparing its report under this section the Commission shall—
- (a) take no account of the racial distribution of electors within the Cayman Islands;
 - (b) take into account the natural boundaries within the Cayman Islands;
 - (c) have regard to existing electoral districts; and
 - (d) subject to the foregoing provisions of this subsection, ensure that—
 - (i) so far as reasonably practicable, across all electoral districts there will be an equal ratio between the number of elected members of the Legislative Assembly representing each electoral district and the number of persons qualified to be registered as electors under section 90 in that district; but
 - (ii) Cayman Brac and Little Cayman shall (between these two islands) at all times return at least two members to the Legislative Assembly.
- (3) As soon as may be after the Commission has submitted a report under subsection (1), the Premier shall lay before the Legislative Assembly for its approval the draft of an order by the Governor for giving effect, whether with or without modifications, to the recommendations contained in the report, and that draft may make provision for any matters which appear to the Premier to be incidental to or consequential upon the other provisions of the draft.
- (4) Where any draft order laid under this section would give effect to any such recommendations with modifications, the Premier shall lay before the Legislative Assembly together with the draft a statement of the reasons for the modifications.

(5) If the motion for the approval of any draft order laid under this section is rejected by the Legislative Assembly or is withdrawn by leave of the Assembly, an amended draft shall be laid without undue delay by the Premier before the Assembly.

(6) If any draft order laid under this section is approved by resolution of the Legislative Assembly, the Premier shall submit it to the Governor who shall make an order (which shall be published in a Government Notice) in terms of the draft; and that order shall come into force for the determination of the boundaries of the electoral districts to which it relates upon the next dissolution of the Assembly after it is made.

(7) The question of the validity of any order by the Governor purporting to be made under this section and reciting that a draft of the order has been approved by the Legislative Assembly shall not be inquired into in any court.

Qualifications of electors

90.—(1) Subject to section 91, a person shall be entitled to be registered as an elector in one electoral district only, but he or she shall not be entitled to be registered as an elector for elections to the Legislative Assembly unless—

- (a) he or she was, on the day immediately preceding the date of commencement of this Constitution, entitled to be registered as an elector; or
- (b) he or she—
 - (i) is a Caymanian; and
 - (ii) has attained the age of eighteen years; and
 - (iii) is resident in the Cayman Islands at the date of registration; and
 - (iv) 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 date of registration; or
- (c) on the day of the issue of a writ ordering an election, he or she is otherwise qualified under paragraph (b) but has not attained the age of eighteen years, but he or she will attain that age on or before the polling day at the election.

(2) Any period of absence for any of the purposes specified in section 61(3) shall be disregarded in determining whether a person is or has been resident in the Cayman Islands for the purposes of this section.

Disqualifications of electors

91.—(1) A person shall not be entitled to be registered as an elector in any electoral district who—

- (a) subject to subsection (2), is serving a sentence of imprisonment (by whatever name called) exceeding twelve months imposed on him or her by a court in any country or substituted by competent authority for some other sentence imposed on him or her by such a court, or is under such a sentence of imprisonment the execution of which has been suspended;
- (b) is a person certified to be insane or otherwise adjudged to be of unsound mind under any law in force in the Cayman Islands; or
- (c) is disqualified for registration as an elector by any law in force in the Cayman Islands relating to offences connected with elections.

(2) For the purposes of subsection (1)(a)—

- (a) where a person is serving two or more sentences of imprisonment that are required to be served consecutively he or she shall, throughout the whole time during which he or she so serves, be regarded as serving a sentence exceeding twelve months if (but not unless) any one of those sentences exceeds that term;

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

- (b) no account shall be taken of a sentence of imprisonment imposed as an alternative to or in default of the payment of a fine; and
- (c) no account shall be taken of a sentence of imprisonment imposed by a court outside the Cayman Islands other than a sentence on conviction of an offence constituted by conduct which, if it occurred within the Cayman Islands, would constitute an offence punishable under the law of the Cayman Islands by imprisonment of twelve months or any greater punishment.

Right to vote at elections

92.—(1) Any person who is registered as an elector in an electoral district shall, while so registered, be entitled to vote at any election in that district for an elected member of the Legislative Assembly, unless he or she is prohibited from so voting by any law in force in the Cayman Islands—

- (a) because he or she is a returning officer; or
 - (b) because he or she has been concerned in any offence connected with elections.
- (2) No person shall vote at any election in any electoral district who—
- (a) is not registered as an elector in that district;
 - (b) has voted in another electoral district at the same election; or
 - (c) is for any reason unable to attend to vote in person (except so far as it may be provided by law that such persons may vote).

Law as to elections

93. Subject to this Constitution, a law enacted by the Legislature may provide for the election of members of the Legislative Assembly, including (without prejudice to the generality of the foregoing power) the following matters—

- (a) the registration of electors;
- (b) the ascertainment of the qualifications of electors and of candidates for election;
- (c) the division of the Cayman Islands into electoral districts for the purpose of elections;
- (d) the holding of elections;
- (e) the determination of any question whether any person has been validly elected as a member of the Assembly or whether the seat of any elected member in the Assembly has become vacant;
- (f) the definition and trial of offences connected with elections and the imposition of penalties for them, including the disqualification for membership of the Assembly, or for registration as an elector, or for voting at elections, of any person concerned in any such offence; and
- (g) the disqualification for election as members of the Assembly of persons holding or acting in any office the functions of which involve any responsibility for, or in connection with, the conduct of any election or the compilation or revision of any electoral register.