

SCHEDULE 2

The Constitution of the Cayman Islands

PART VIII

INSTITUTIONS SUPPORTING DEMOCRACY

Human Rights Commission

116.—(1) There shall be in and for the Cayman Islands a Human Rights Commission (referred to in this section as “the Commission”).

(2) The Commission’s primary responsibility shall be promoting understanding and observance of human rights in the Cayman Islands.

(3) The Commission shall consist of a Chairman and four other members appointed by the Governor, acting after consultation with the Premier and the Leader of the Opposition, at least two of whom shall be experienced lawyers.

(4) In the exercise of their functions, the Commission and its members shall not be subject to the direction or control of any other person or authority.

(5) The Commission shall replace the Human Rights Committee.

(6) The Commission shall have power to—

- (a) receive and investigate complaints of breaches or infringements of any right or freedom contained in the Bill of Rights or international human rights treaties that have been extended to the Cayman Islands, and investigate such possible breaches or infringements on its own initiative;
- (b) provide advice to persons who consider that their rights or freedoms have been infringed;
- (c) provide a forum for dealing with complaints by mediation or conciliation or by making recommendations;
- (d) issue guidance on procedures for dealing with any complaints of breaches or infringements of rights and freedoms;
- (e) contribute to public education about human rights;
- (f) issue reports relating to human rights issues on its own initiative;
- (g) undertake such other functions, for the purpose of fulfilling its primary responsibility under subsection (2), as may be conferred on it by a law enacted by the Legislature.

(7) The Commission shall have no power to—

- (a) represent or provide representation to parties to litigation;
- (b) act in a judicial capacity or make binding determinations as to whether any right or freedom contained in the Bill of Rights or any international human rights treaty or instrument has been breached;
- (c) compel any person to do anything against his or her will;

but any public official to which the Commission addresses a recommendation must respond in writing within a reasonable time, and such responses shall be published by the Commission unless there is a good reason to withhold publication.

(8) The Commission shall make an annual report to the Legislative Assembly about its activities.

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(9) Further provision relating to the establishment and operation of the Commission may be made by the Legislature, but such legislation shall not derogate from any provision of this section.

(10) Nothing contained in or done pursuant to this section or any law made under subsection (9) shall—

- (a) oblige a person to refer any complaint of a breach or infringement of any right or freedom referred to in the Bill of Rights to the Commission; or
- (b) prevent a person from seeking redress directly from the Grand Court in relation to any breach or infringement of a right or freedom referred to in the Bill of Rights, and the fact that such person had previously sought the assistance of the Commission with respect to such breach or infringement shall not prejudice any legal action.

Commission for Standards in Public Life

117.—(1) There shall be in and for the Cayman Islands a Commission for Standards in Public Life (referred to in this section as “the Commission”).

(2) The Commission shall consist of a Chairman and not less than two nor more than four other members, who shall be appointed by the Governor, acting after consultation with the Premier and the Leader of the Opposition, and who shall be people of the highest integrity with knowledge of practice in the private or public sector.

(3) At least one member of the Commission shall be a chartered or certified accountant of at least ten years’ experience.

(4) At least one member of the Commission shall be a legal practitioner who has practised in the Commonwealth for at least ten years.

(5) A person shall not be appointed as a member of the Commission if—

- (a) he or she is a member of the Legislative Assembly;
- (b) he or she holds, or has at any time during the preceding three years held, a public office;
- (c) he or she has at any time during the preceding five years held office in a political party; or
- (d) he or she is not a Caymanian.

(6) The office of a member of the Commission shall become vacant—

- (a) at the expiration of four years from the date of his or her appointment;
- (b) if the member is absent from three consecutive meetings of the Commission, unless the absence is approved by the Governor;
- (c) if the member resigns office by writing under his or her hand addressed to the Governor;
- (d) if the member is removed from office by the Governor for inability to discharge the functions of his or her office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour; or
- (e) if the member with his or her consent is nominated for election to the Legislative Assembly or is appointed to any public office.

(7) If the office of a member of the Commission is vacant or a member is for any reason unable to perform the functions of his or her office, the Governor, acting in accordance with subsection (2), may appoint a person who is qualified for appointment as a member of the Commission to act as a member of the Commission, and any person so appointed shall, subject to subsection (6), continue so to act until the expiration of his or her term of office.

(8) In the exercise of their functions, the Commission and its members shall not be subject to the direction or control of any other person or authority.

(9) The functions of the Commission shall be—

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- (a) to assist in the setting of the highest standards of integrity and competence in public life in order to ensure the prevention of corruption or conflicts of interest;
- (b) to monitor standards of ethical conduct in the Legislative Assembly, the Cabinet, and on the part of public authorities and public officers;
- (c) to supervise the operation of registers of interest and to investigate breaches of established standards;
- (d) to review and establish procedures for awarding public contracts;
- (e) to review and establish procedures for appointing members to public authorities, and the terms of their appointment;
- (f) to recommend codes of conduct to prevent any Minister, public authority or public officer employing their power for any personal benefit or advantage, and to recommend legislation to provide appropriate sanctions;
- (g) to report to the Legislative Assembly at regular intervals, and at least every six months; and
- (h) to exercise such other functions as may be prescribed by a law enacted by the Legislature.

Constitutional Commission

118.—(1) There shall be in and for the Cayman Islands a Constitutional Commission.

(2) The Constitutional Commission shall consist of a Chairman and two other members appointed by the Governor, acting after consultation with the Premier and the Leader of the Opposition, at least one of whom shall be an experienced lawyer.

(3) The functions of the Constitutional Commission shall be—

- (a) to advise the Government on questions concerning constitutional status and development in the Cayman Islands;
- (b) to publish reports, discussion papers, information papers and other documents on constitutional matters affecting the Cayman Islands;
- (c) to promote understanding and awareness of this Constitution and its values; and
- (d) to exercise such other functions as may be prescribed by a law enacted by the Legislature.

(4) In the exercise of their functions, the Constitutional Commission and its members shall not be subject to the direction or control of any other person or authority.

(5) Subject to this Constitution, further provision relating to the establishment and operation of the Constitutional Commission may be made by the Legislature.

Advisory District Councils

119. Subject to this Constitution, a law enacted by the Legislature shall provide for the establishment, functions and jurisdiction of Councils for each electoral district to operate as advisory bodies to the elected members of the Legislative Assembly.

Complaints Commissioner

120.—(1) Subject to this Constitution, a law enacted by the Legislature may make provision for the office, functions and jurisdiction of a Complaints Commissioner, otherwise called an Ombudsman.

(2) The Complaints Commissioner shall be appointed by the Governor, acting after consultation with the Premier and the Leader of the Opposition, by instrument under the public seal.

(3) No person shall be qualified to be appointed as Complaints Commissioner if he or she is or has been within the preceding three years—

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- (a) an elected member of the Legislative Assembly; or
 - (b) the holder of any office in any political party.
- (4) The office of the Complaints Commissioner shall become vacant—
- (a) at the expiration of the period specified in the instrument by which he or she was appointed;
 - (b) if he or she resigns office by writing under his or her hand addressed to the Governor;
 - (c) if he or she becomes an elected member of the Legislative Assembly or the holder of any office in any political party; or
 - (d) 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 the office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour, or for contravention of subsection (5).
- (5) Subject to such exceptions as the Governor, acting in his or her discretion, may authorise by directions in writing, the Complaints Commissioner shall not hold any other office of emolument either in the public service or otherwise nor engage in any occupation for reward other than the duties of his or her office.
- (6) In the exercise of his or her functions, the Complaints Commissioner shall not be subject to the direction or control of any other person or authority.

Register of Interests

121.—(1) There shall be for the Cayman Islands a Register of Interests, which shall be maintained by the Commission for Standards in Public Life.

(2) It shall be the duty of any person to whom this section applies to declare to the Commission for Standards in Public Life, for entry in the Register of Interests, such interests, assets, income and liabilities of that person, or of any other person connected with him or her, as may be prescribed by law.

(3) A person shall make a declaration under subsection (2) upon assuming the functions of his or her office and at such intervals thereafter (being no longer than twelve months) as may be prescribed by law.

(4) This section applies to all members of the Legislative Assembly and the holders of such other offices (except that of the Governor) as may be prescribed by law.

(5) A law enacted by the Legislature shall make provision for giving effect to this section, including the sanctions which may be imposed for a failure to comply with subsection (2) or (3) and, notwithstanding any provision of Part IV of this Constitution, the sanctions which may be imposed may include the suspension of a member of the Legislative Assembly from sitting in it for such period as may be prescribed in such a law.

Freedom of information

122. A law enacted by the Legislature shall provide for a right of access to information held by public authorities, for the conditions for the exercise of that right, and for restrictions and exceptions to that right in the interests of the security of the Cayman Islands or the United Kingdom, public safety, public order, public morality or the rights or interests of individuals.