

SCHEDULE 2

The Constitution of the Turks and Caicos Islands

PART IV

THE LEGISLATURE

Powers and procedure

Power to make laws

62. Subject to this Constitution, the Legislature may make laws for the peace, order and good government of the Islands.

Standing Orders of House of Assembly

63.—(1) Subject to this Constitution and to any Instructions under Her Majesty's Sign Manual and Signet, the House of Assembly 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 House of Assembly (in addition to the Standing Committees to be established under section 64) and for the proceedings and conduct of business before any such committee.

Standing Committees

64.—(1) The House of Assembly shall establish at least two Standing Committees of the House (in addition to the Appropriations Committee and the Public Accounts Committee established by this Constitution), 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 36(1).

(2) Each Standing Committee shall consist of members of the House of Assembly 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 House of Assembly.

(4) At least one Standing Committee shall be presided over by a member of the House of Assembly 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; and
- (c) to report on its activities to the House of Assembly.

(6) The House of Assembly shall publish reports submitted to it under subsection (5)(c).

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(7) Subject to 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 House of Assembly

65. No member of the House of Assembly shall be permitted to take part in the proceedings of the House, other than proceedings necessary for the purposes of this section, until he or she has made and subscribed before the House an oath of allegiance in the form set out in the Schedule to this Constitution; but the election of a Speaker and a Deputy Speaker may take place before the members of the House make such oath.

Sessions of House of Assembly

66.—(1) The sessions of the House of Assembly shall be held at such times and places as the Governor may appoint by proclamation published in the *Gazette*; but there shall be at least one session in every year and a session shall be appointed to commence within two weeks after any general election.

(2) When the House of Assembly is in session, the Speaker shall call meetings of the House of Assembly so that there are at least nine meetings in each calendar year and any meeting shall be held within six weeks of the end of the previous meeting.

Presiding in House of Assembly

67.—(1) The Speaker or, in his or her absence, the Deputy Speaker or, if they are both absent, an elected or appointed member of the House of Assembly (not being a Minister) elected by the elected and appointed members of the House, shall preside in the House.

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

Voting

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

(2) The person 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.

Validity of proceedings

69. The House of Assembly shall not be disqualified for the transaction of any business by reason of any vacancy in its membership (including any vacancy not filled when the House is first constituted or is reconstituted at any time) and the validity of the transaction of business in the House shall not be affected by reason only of the fact that some person who was not entitled to do so voted or otherwise took part in the proceedings of the House.

Quorum

70.—(1) A quorum of the House of Assembly shall be eight members not including the person presiding, of whom five are elected members.

(2) If at any sitting of the House of Assembly 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 House is still not present, the House shall be adjourned.

Introduction of bills, etc

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

(2) Except on the recommendation of the Government signified by a Minister or by the Governor, acting in his or her discretion, the House of Assembly shall not—

- (a) proceed on any bill (including any amendment to a bill) which, in the opinion of the person presiding in the House, 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 on any motion (including any amendment to a motion) the effect of which, in the opinion of the person presiding in the House, is that provision would be made for any of the purposes mentioned in paragraph (a).

Governor's reserved power

72.—(1) If the Governor considers that the enactment of legislation is necessary or desirable—

- (a) for the purpose of securing compliance with an international obligation;
- (b) to ensure compliance with the Statement of Governance Principles for the time being in effect;
- (c) to ensure that sufficient funds have been appropriated, within four months of the commencement of each financial year, for the effective operation of committees of the House of Assembly, the courts, the Attorney General's Chambers, and each institution protecting good governance; or
- (d) to give effect, with or without modifications, to the recommendations contained in a report of an Electoral District Boundary Commission,

but, after consultation with the Premier, it appears to the Governor that the Cabinet is unwilling to support the introduction into the House of Assembly of a bill for the purpose or that the House 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 the *Gazette* and may (notwithstanding that the bill has not been passed by the House) 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.

(2) If any member of the Cabinet so desires, he or she may, within 30 days of the publication of a bill under subsection (1), submit to the Governor a statement in writing of his or her comments on such publication, and the Governor shall forward such statement, or a copy of it, as soon as practicable to a Secretary of State.

(3) The powers conferred on the Governor by subsection (1) shall be exercised by the Governor in his or her discretion.

Assent to bills

73.—(1) A bill shall not become law until—

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- (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 published in the *Gazette*.

(2) When a bill is presented to the Governor for his or her assent, the Governor shall, subject to this Constitution and to 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 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 be in any way inconsistent with the Statement of Governance Principles for the time being in effect;
- (c) to be in any way inconsistent with any international obligation;
- (d) to affect any matter for which the Governor is responsible under section 37;
- (e) to affect the integrity or independence of the public service, of the administration of justice or of any institution protecting good governance; or
- (f) to determine or regulate the privileges, immunities or powers of the House of Assembly or of its members,

unless the Governor has been authorised by a Secretary of State to assent to it.

(3) Subsection (2) is without prejudice to section 116(4).

Return of bills by Governor

74. The Governor, acting in his or her discretion, may return to the House of Assembly any bill presented to him or her for his or her assent, transmitting with it any amendments which he or she may recommend, and the House shall deal with such recommendation.

Disallowance of laws

75.—(1) Any law to which the Governor has given his or her 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⁽¹⁾ 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, immunities and powers of House of Assembly

76. An Ordinance may determine and regulate the privileges, immunities and powers of the House of Assembly and of its members, but no such privileges, immunities or powers shall exceed those of the Commons House of Parliament of the United Kingdom or of its members.

(1) 1978 c.30.