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STATUTORY INSTRUMENTS

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**2011 No. 2719**

**CARIBBEAN AND NORTH  
ATLANTIC TERRITORIES**

**The Turks and Caicos Islands (Electoral  
District Boundary Commission) Order 2011**

*Made - - - - 16th November 2011*

*Laid before Parliament 23rd November 2011*

*Coming into force in accordance with section 1(2)*

At the Court at Buckingham Palace, the 16th day of November 2011

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by sections 5 and 7 of the West Indies Act 1962(1) and of all other powers enabling Her to do so, is pleased, by and with the advice of Her Privy Council, to order, and it is ordered, as follows:

**Citation and commencement**

1.—(1) This Order may be cited as the Turks and Caicos Islands (Electoral District Boundary Commission) Order 2011.

(2) This Order shall come into force on such day as the Governor, acting in his or her discretion, may appoint by proclamation published in the *Gazette*.

**Interpretation**

2. In this Order—

“Advisory Council” means the Advisory Council established by the Turks and Caicos Islands Constitution (Interim Amendment) Order 2009(2);

“*Gazette*” means the official *Gazette* of the Turks and Caicos Islands;

“Government” means the Government of the Turks and Caicos Islands;

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(1) 1962 c. 19.

(2) S.I. 2009/701.

“Governor” means the person for the time being appointed as Governor of the Turks and Caicos Islands, and includes any person for the time being lawfully performing the functions of the office of Governor;

“House of Assembly” means the House of Assembly established by the 2011 Constitution;

“the Islands” means the Turks and Caicos Islands;

“public officer” has the meaning ascribed to that term by section 131(1) of the 2011 Constitution;

“the 2011 Constitution” means the Constitution of the Turks and Caicos Islands set out in Schedule 2 to the Turks and Caicos Islands Constitution Order 2011(3).

### **Establishment of Electoral District Boundary Commission**

3.—(1) An Electoral District Boundary Commission (hereinafter referred to as “the Commission”) shall be appointed by the Governor as soon as practicable after the commencement of this Order.

(2) The Commission shall consist of—

- (a) a Chairman appointed by the Governor, acting in his or her discretion;
- (b) a member appointed by the Governor, acting in his or her discretion, from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in any part of the Commonwealth or Ireland or a court having jurisdiction in appeals from such a court; and
- (c) a member appointed by the Governor, acting after consultation with the Advisory Council.

(3) A person shall not be qualified to be appointed as a member of the Commission if he or she is a public officer.

(4) The Chairman or other member of the Commission shall vacate his or her office—

- (a) on the day following the submission of the report of the Commission under section 4;
- (b) if he or she becomes 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 his or her office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour.

(5) The Commission may regulate its procedure and, with the consent of the Governor acting in his or her discretion, may 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.

(6) For the purpose of the discharge of its functions, the Commission—

- (a) may invite views from members of the public;
- (b) shall consult the public about a draft of its report; and
- (c) may seek such advice as it considers appropriate.

(7) The Commission may act notwithstanding any vacancy in its membership (including any vacancy not filled when appointments of members are first made); but any decision of the Commission shall require the agreement of not less than two members of the Commission.

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

### **Functions of Electoral District Boundary Commission**

4.—(1) The Commission appointed under section 3 shall, as soon as practicable after its appointment, prepare and submit to the Governor a report recommending the boundaries of ten electoral districts into which the Islands should be divided with a view to each such electoral district returning one member to the House of Assembly.

(2) In determining its recommendations under subsection (1), the Commission shall ensure that the electoral districts contain, so far as is reasonably practicable, approximately equal numbers of persons regarded as qualified under section 5 to be registered as electors for the purposes of elections to the House of Assembly.

(3) As soon as may be after the Commission has submitted a report under subsection (1), the Governor, with the prior approval of a Secretary of State, shall enact an Ordinance giving effect, whether with or without modifications, to the recommendations contained in the report.

(4) An Ordinance enacted under subsection (3)—

- (a) may contain incidental or consequential provisions; and
- (b) shall have effect for the purpose of the first general election to be held in the Islands after the commencement of the 2011 Constitution and, unless lawfully amended or revoked after that election, for the purpose of each general election held in the Islands thereafter.

### **Qualifications for registration as an elector**

5.—(1) For the purposes of section 4(2) a person shall be regarded, subject to subsection (2), as qualified to be registered as an elector for the purposes of elections to the House of Assembly if—

- (a) he or she was lawfully registered, on the date of commencement of this Order, as an elector for the purposes of elections to the House of Assembly or to the previous House of Assembly; or
- (b) on the relevant date—
  - (i) he or she has attained the age of eighteen years; and
  - (ii) he or she is resident in the Islands and has been so resident for not less than twelve months, in the aggregate, out of the two years immediately preceding the relevant date, or he or she is a member of Her Majesty's Forces, a person working abroad on Government business or a student resident abroad in such circumstances as may be prescribed by Ordinance; and
  - (iii) he or she is a Turks and Caicos Islander.

(2) No person shall be regarded as qualified to be registered as an elector under subsection (1) who on the relevant date—

- (a) is a person certified to be insane or otherwise adjudged to be of unsound mind under any law in force in the Islands;
- (b) is serving a sentence of imprisonment (by whatever name called) for a term of at least 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
- (c) is disqualified by or under any law in force in the Islands from being registered as an elector by reason of having been convicted of an offence relating to elections.

(3) For the purposes of subsection (2)(b)—

- (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 of those sentences exceeds that term;

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(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.

(4) In this section—

“the relevant date” means such date as may be specified by the Commission in its report, which date shall be not earlier than the date on which the Commission was appointed and not later than the date of its report;

“Turks and Caicos Islander” means a person who has the status of Belonger or Turks and Caicos Islander under any law for the time being in force in the Islands.

*Judith Simpson*  
Clerk of the Privy Council

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order provides for the establishment of an Electoral District Boundary Commission in the Turks and Caicos Islands, and for the Commission to make recommendations on the boundaries of ten electoral districts for the purpose of elections to the House of Assembly established by the Constitution set out in Schedule 2 to the Turks and Caicos Islands Constitution Order 2011. It also provides for the Governor of the Islands to enact legislation to give effect to the Commission's recommendations, with or without modifications. These are necessary preparatory steps before the new Constitution can be brought into force and a general election held in the Islands.