

SCHEDULE 2

The Constitution of the Turks and Caicos Islands

PART V

POWERS AND PROCEDURE OF HOUSE OF ASSEMBLY

Power to make laws

59. Subject to this Constitution, the Governor with the advice and consent of the House of Assembly may make laws for the peace, order and good government of the Islands.

Standing Orders of House of Assembly

60.—(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 61) and for the proceedings and conduct of business before any such committees.

Standing Committees

61.—(1) The House of Assembly shall establish at least two Standing Committees of the House, 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 32(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;
- (c) to report upon its activities to the House of Assembly.

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

(7) Subject to the foregoing provisions of this section, Standing Orders shall provide for the composition and functions of, and proceedings and conduct of business before, Standing Committees.

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Oaths by members of House of Assembly

62. 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 Deputy Speaker may take place before the members of the House make such oath.

Presiding in House of Assembly

63.—(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 member of the Cabinet) 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

64.—(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 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 if, but not unless, in the case of the Speaker, he or she is an elected or appointed member.

Validity of proceedings

65. 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 any proceedings in the House shall be valid notwithstanding that some person who was not entitled to do so voted or otherwise took part in the proceedings of the House.

Quorum

66.—(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

67.—(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 upon the recommendation of a Minister, the House of Assembly shall not—

- (a) proceed upon 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

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altering any such charge otherwise than by reducing it, or for compounding or remitting any debt due to the Islands; or

- (b) proceed upon 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 aforesaid.

Governor's reserved power

68.—(1) If the Governor considers it urgently necessary, for the purpose of securing compliance with an international obligation, that any bill introduced, or any motion to which this section applies proposed, in the House of Assembly should have effect, then, if the House fails to pass the bill or carry the motion within such time and in such form as the Governor thinks fit, and notwithstanding any provisions of this Constitution or any other law or any Standing Orders, the Governor may declare that such bill or motion shall have effect as if it had been passed or carried by the House, either in the form in which it was introduced or proposed or with such amendments as the Governor thinks fit which have been moved or proposed in the House or any committee of the House; and such bill or motion shall be deemed thereupon to have been so passed or carried, and the provisions of this Constitution and, in particular, the provisions relating to assent to bills and disallowance of laws, shall have effect accordingly.

(2) The Governor shall not make any declaration under this section except in accordance with the following conditions—

- (a) the question whether the declaration should be made shall first be submitted in writing by the Governor to the Cabinet and if, upon the question being so submitted to it, the Cabinet advises the Governor that the declaration should be made, the Governor may make the declaration;
- (b) if, when the question whether the declaration should be made is submitted to it as aforesaid, the Cabinet does not, within such time as the Governor thinks reasonable and expedient, advise the Governor that the declaration should be made, then the Governor may submit the said question to a Secretary of State and may make the declaration if, upon the question being so submitted to him, a Secretary of State authorises the Governor to make the declaration.

(3) If any member of the Cabinet so desires, he or she may, within thirty days of the date of the making of a declaration under this section, submit to the Governor a statement in writing of his or her comments on the making of such declaration, and the Governor shall forward such statement, or a copy of it, as soon as practicable to a Secretary of State.

(4) This section applies to any motion—

- (a) relating to or for the purposes of a bill;
- (b) proposing or amending a resolution which, if passed by the House of Assembly, would have the force of law; or
- (c) proposing or amending a resolution upon which the coming into force or continuance in force of any subsidiary instrument depends.

(5) For the purposes of this section, a bill shall be validly introduced, and a motion shall be validly proposed, if it is introduced or proposed by any one member of the House of Assembly.

(6) The powers conferred upon the Governor by subsections (1) and (2) shall be exercised by the Governor in his or her discretion.

Assent to bills

69.—(1) A bill shall not become a 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 under Her Majesty's Sign Manual and Signet or 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—

- (a) any bill which in his or her judgement is in any way repugnant to, or inconsistent with, this Constitution; and
- (b) any bill which determines or regulates the privileges, immunities or powers of the House of Assembly or of its members,

unless he or she has been authorised by a Secretary of State to assent to it.

Return of bills by Governor

70. The Governor 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

71.—(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

72. A law made under section 59 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.