

**EXPLANATORY MEMORANDUM TO
THE TURKS AND CAICOS ISLANDS CONSTITUTION ORDER 2006**

2006 No. 1913

1. This explanatory memorandum has been prepared by the Foreign and Commonwealth Office and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 This instrument establishes a new Constitution of the Turks and Caicos Islands. The new Constitution sets out a modernised Chapter on fundamental rights and freedoms of the individual. It provides for a Governor as Her Majesty's representative in the Islands. It provides for a House of Assembly composed of elected and appointed members, and for a Cabinet and Ministers appointed from among the members of the House. It also provides for the judiciary, the public service and a Complaints Commissioner for the Islands.

2.2 This instrument revokes the Turks and Caicos Islands Constitution Order 1988 (as amended), to which the current Constitution is scheduled.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Background

4.1 The current Constitution of the Turks and Caicos Islands (TCI) is scheduled to The Turks and Caicos Islands Constitution Order 1988 (S.I. 1988 No. 247), as amended by The Turks and Caicos Islands Constitution (Amendment) Order 1993 (S.I. 1993 No. 1248) and The Turks and Caicos Islands Constitution (Amendment) Order 2002 (S.I. 2002 No. 2637). This instrument, which has a new Constitution for the Islands scheduled to it, will revoke and replace the 1988 Order, and the amending Orders. This instrument, like the 1988 Order, and the amending Orders, is made under sections 5 and 7 of the West Indies Act 1962. The Constitution is being replaced following constitutional negotiations between the UK Government and the TCI Government, which resulted in agreement to the Constitution scheduled to this instrument.

4.2 In 2002, the Chairman of the Foreign Affairs Committee and the Foreign Secretary agreed that, where appropriate, draft Orders on Overseas Territories' Constitutions would be shown to the Committee for information, if possible 28 days, before they were made. This instrument and an accompanying Memorandum were sent to the Committee on 5 June 2006.

5. Extent

5.1 This instrument applies to the Turks and Caicos Islands, the legislature of which has been consulted and supports the instrument.

6. European Convention on Human Rights

This Order though laid is not subject to any Parliamentary procedure. Therefore no statement is required.

7. Policy background

7.1 This instrument has the objective of providing a new, modernised, constitution for the Islands.

7.2 In its 1999 White Paper “Partnership for Progress and Prosperity - Britain and the Overseas Territories”, the UK Government noted that there was great diversity within the Overseas Territories in terms of their size, population, economic developments and other factors, but that there was “a degree of coherence and similarity in the constitutional and institutional arrangements in place for [the Territories’] government and administration”. The UK Government therefore encouraged individual Territories “to review their own structures and arrangements in line with the idea of a new modern partnership” with the United Kingdom. The TCI Government initiated a review of their Constitution, which subsequently led to negotiations with the UK Government on the terms of a possible new Constitution. A new Constitution was agreed between the UK and TCI Governments in October 2005.

7.3 The Constitution scheduled to this instrument was put out for public consultation in May 2006, as the UK Government wanted to be assured that it had the broad support of the people of the Islands. Following public meetings, media exposure, and a debate in the TCI Legislative Council, the UK Government were satisfied that such support existed among the people of the Islands, and FCO Ministers agreed that the instrument could be submitted to the Privy Council.

7.4 The changes reflected in the new constitution are politically important, as they provide for a greater degree of internal self-government of the Islands, and therefore reflect the more modern relationship which now exists between the UK and the Territory.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

9. Contact

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