

SCHEDULE 2

The Constitution of the Turks and Caicos Islands

PART I

FUNDAMENTAL RIGHTS AND FREEDOMS OF THE INDIVIDUAL

Protection from discrimination

15.—(1) Subject to subsections (4), (5) and (8), no law shall make any provision which is discriminatory either of itself or in its effect.

(2) Subject to subsections (6), (8) and (9), no person shall be treated in a discriminatory manner by any person acting by virtue of any law or in the performance of the functions of any public office or any public authority.

(3) In this section, “discriminatory” means affording different treatment to different persons attributable wholly or mainly to their respective descriptions such as by race, national or social origin, political or other opinion, colour, religion, language, creed, association with a national minority, property, sex, birth or other status whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages which are not accorded to persons of another such description.

(4) Subsection (1) shall not apply to any law so far as that law makes provision—

- (a) for the appropriation of revenues or other funds of the Islands or for the imposition of taxation (including the levying of fees for the grant of licences);
- (b) with respect to the entry into or exclusion from, or the employment, engaging in any business or profession, movement or residence within, the Islands of persons who are not Belongers;
- (c) for the application, in the case of persons of any such description as is mentioned in subsection (3) (or of persons connected with such persons) of the law with respect to adoption, marriage, divorce, burial, devolution of property on death or other like matters that is the personal law applicable to persons of that description; or
- (d) whereby persons of any such description as is mentioned in subsection (3) may be subjected to any disability or restriction or may be accorded any privilege or advantage which, having regard to its nature and to special circumstances pertaining to those persons or to persons of any other such description, is reasonably justifiable in a democratic society.

(5) Nothing contained in any law shall be held to be inconsistent with or in contravention of subsection (1) to the extent that it requires a person to be a Belonger or to possess any other qualification (not being a qualification specifically relating to any such description as is mentioned in subsection (3)) in order to be eligible for appointment to any office in the public service or in a disciplined force or any office in the service of a local government authority or of a body corporate established directly by any law for public purposes.

(6) Subsection (2) shall not apply to anything which is expressly or by necessary implication authorised to be done by any such provision of law as is referred to in subsection (4) or (5).

(7) Subject to subsection (8), no person shall be treated in a discriminatory manner in respect of access to any of the following places to which the general public have access, namely, shops, hotels, restaurants, eating-houses, licensed premises, places of entertainment or places of resort.

(8) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision whereby

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persons of any such description as is mentioned in subsection (3) may be subjected to any restrictions on the rights and freedoms guaranteed by sections 8, 9, 10, 11, 12, 13 and 14, being such a restriction as is authorised by section 8(2)(a), 9(3), 10(5), 11(4), 12(2), 13(2) or 14(2)(a), as the case may be.

(9) Nothing in subsection (2) shall affect any discretion relating to the institution, conduct or discontinuance of civil or criminal proceedings in any court that is vested in any person by or under this Constitution or any other law.