

SCHEDULE 2

The Constitution of the Turks and Caicos Islands

PART IX

MISCELLANEOUS

Interpretation

99.—(1) In this Constitution, unless the context otherwise requires—

“appointed member” means a member of the House of Assembly appointed under section 45;

“Belonger” means a person who under the law in force in the Islands regulating immigration has the status of Belonger;

“Court of Appeal” means the Court of Appeal established by section 77;

“elected member” means a member of the House of Assembly elected in pursuance of section 43;

“functions” includes powers and duties;

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

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

“Governor” means the person for the time being appointed as Governor of the Islands, and includes any person performing the functions of the Governor in pursuance of section 23 and, to the extent to which a deputy appointed under section 24 is authorised to act, that deputy;

“high judicial office” means the office of judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or Ireland or a court having jurisdiction in appeals from such a court;

“high legal office” means the office of a Law Officer, Director of Public Prosecutions, or a person exercising the functions of principal legislative draftsman, in some part of the Commonwealth or Ireland;

“the Islands” means the Turks and Caicos Islands;

“law” includes any subsidiary instrument;

“meeting” means any sitting or sittings of the House of Assembly commencing when the House first meets after being summoned at any time and terminating when the House is adjourned *sine die* or at the conclusion of a session;

“member” in relation to the House of Assembly includes the Speaker or other person presiding over the House;

“Minister” means a person appointed as Premier or other Minister under section 27;

“Premier” means the person appointed as such under section 27(2);

“public office” means, subject to subsection (2), an office of emolument in the public service;

“public officer” means the holder of any public office, and includes a person appointed to act in any public office;

“public service” means the service of the Crown in a civil capacity in respect of the government of the Islands;

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“session” in relation to the House of Assembly means the sittings of the House commencing when the House first meets after its prorogation or dissolution at any time, and terminating when the House is next prorogued or dissolved without having been prorogued;

“sitting” in relation to the House of Assembly means a period during which the House is sitting continuously without adjournment, and includes any period during which the House is in committee;

“Standing Orders” means the Standing Orders of the House of Assembly made under section 60;

“subsidiary instrument” means any proclamation, regulation, order, rule or other like instrument having the force of law.

(2) For the purposes of this Constitution, a person shall not be considered as holding or acting in a public office by reason only that he or she—

- (a) is in receipt of any remuneration or allowance as a member of the House of Assembly, the Public Service Commission, the Judicial Service Commission or an Electoral District Boundary Commission;
- (b) is in receipt of a pension or other like allowance in respect of service under the Crown; or
- (c) is on leave of absence pending relinquishment of a public office;

and a provision in any law that a person shall not be disqualified for appointment or election as a member of the House of Assembly by reason of his or her holding or acting in any public office or class of public office specified in that law shall have effect as if it were included in this Constitution.

(3) Any person who has vacated his or her seat in the House of Assembly or has vacated any office constituted by or under this Constitution may, if qualified, again be appointed or elected as a member of that body or to that office, as the case may be, from time to time.

(4) Except where the context otherwise requires, a reference in this Constitution to the holder of an office by the term designating his or her office shall be construed as a reference to any person for the time being lawfully performing the functions of that office.

(5) Where the holder of any office constituted by or under this Constitution is on leave of absence pending the relinquishment of that office, the person or authority having power to make appointments to that office may appoint another person to that office; and where two or more persons concurrently hold the same office by virtue of an appointment made in pursuance of this subsection, the person last appointed shall, in respect of any function conferred on the holder of that office, be deemed to be the sole holder of that office.

(6) Where by this Constitution any person is directed, or power is conferred on any person or authority to appoint a person, to act in an office if the holder of that office is unable to perform the functions of that office, the validity of any performance of those functions by the person so directed or of any appointment made in exercise of that power shall not be called in question in any court on the ground that the holder of the office is not unable to perform the functions of the office.

(7) In this Constitution, unless it is otherwise provided or the context otherwise requires—

- (a) any reference to power to make appointments to any public office shall be construed as including a reference to power to make appointments on promotion and transfer, appointments on contract and appointments to act in an office during any period when it is vacant or the holder of that office is absent from the Islands or is for any other reason unable to perform the functions of the office;
- (b) any reference to power to remove a public officer from office shall be construed as including a reference to any power conferred by any law to require or permit that officer to retire from the public service and to any power or right to terminate a contract on which a person is employed as a public officer and to determine whether any such contract shall or shall not be renewed.

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(8) Any power conferred by this Constitution to make any subsidiary instrument or to give any instructions or directions or make any designation shall be construed as including a power exercisable in like manner to amend or revoke any such instrument, instructions, directions or designation.

(9) Where a person is required by this Constitution to make an oath he or she shall, if he or she so desires, be permitted to comply with that requirement by making an affirmation in the form provided for in the Schedule to this Constitution.

(10) For the purposes of this Constitution, the resignation of a member of the House of Assembly or the holder of any office constituted by this Constitution that is required to be addressed to any person shall, unless otherwise expressly provided, be deemed to have effect from the time at which it is received by that person.

(11) For the purposes of this Constitution, a person shall not be regarded as absent from the Islands or as unable to perform the functions of his or her office by reason only that he or she is in passage from one part of the Islands to another.