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STATUTORY INSTRUMENTS

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**2011 No. 1681**

**The Turks and Caicos Islands Constitution Order 2011**

**Citation and commencement**

1.—(1) This Order may be cited as the Turks and Caicos Islands Constitution 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.—(1) In this Order—

“the appointed day” means the day appointed by the Governor under section 1(2);

“the Constitution” means the Constitution set out in Schedule 2;

“the existing Constitution” means the Constitution set out in Schedule 2 to the Turks and Caicos Islands Constitution Order 2006(1) as amended and supplemented by the Turks and Caicos Islands Constitution (Interim Amendment) Order 2009(2) and the Turks and Caicos Islands (Interim Amendment) (Amendment) Order 2010(3).

(2) Section 131 of the Constitution shall apply for the purposes of interpreting sections 1 to 14 of this Order and otherwise in relation to those sections as it applies for the purposes of interpreting and in relation to the Constitution.

**Revocations**

3. The instruments specified in Schedule 1 are revoked with effect from the appointed day.

**Establishment of Constitution**

4. Schedule 2 shall have effect as the Constitution of the Turks and Caicos Islands from the appointed day; but the Governor, acting in his or her discretion and with the prior approval of a Secretary of State, may by proclamation published in the *Gazette* provide that any provisions of the Constitution shall not come into force until such later day or days as he or she in like manner may appoint, and in that case such provisions shall come into force on the day or days so appointed.

**Existing laws**

5.—(1) Subject to this section, the existing laws shall have effect on and after the appointed day as if they had been made in pursuance of the Constitution and shall be read and construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with the Constitution.

(2) The Governor may, by regulations published in the *Gazette*, at any time within twelve months of the appointed day make such modifications or adaptations to any existing law as appear to the

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(1) [S.I. 2006/1913](#).

(2) [S.I. 2009/701](#).

(3) [S.I. 2010/2966](#).

Governor to be necessary or expedient for bringing that law into conformity with the Constitution or otherwise for giving effect or enabling effect to be given to the Constitution; and any existing law shall have effect accordingly from such day (not being earlier than the appointed day) as may be specified in such regulations.

(3) Regulations made under this section may be amended or revoked in relation to any existing law affected by them by any authority competent to amend or revoke that law.

(4) In this section “existing laws” means laws and instruments (other than Acts of the Parliament of the United Kingdom and instruments made under them) having effect as part of the law of the Turks and Caicos Islands immediately before the appointed day.

### **Existing offices and officers**

6.—(1) Any office (except those of member of the Advisory Council and member of the Consultative Forum) established by or under the existing Constitution and existing immediately before the appointed day shall on and after that day, so far as consistent with the Constitution, continue as if it had been established by or under the Constitution.

(2) Any person who immediately before the appointed day holds or is acting in any office continued by virtue of subsection (1) shall, on and after that day, continue to hold or act in that office as if he or she had been appointed to hold or act in it in accordance with or under the Constitution.

(3) Any person to whom subsection (2) applies who, before the appointed day, has made any oath or affirmation required to be made before assuming the functions of his or her office shall be deemed to have made any like oath or affirmation so required by the Constitution or any other law.

### **Chief Financial Officer**

7.—(1) Notwithstanding anything in the Constitution or any other law, the office of Chief Financial Officer shall continue on and after the appointed day to have the functions which had earlier been lawfully conferred on that office and which subsist immediately before that day, until such time as the Governor, acting in his or her discretion and with the prior approval of a Secretary of State, determines otherwise by notice published in the *Gazette*.

(2) Nothing in subsection (1) shall prevent additional functions being conferred on the office of Chief Financial Officer by the Governor, acting in his or her discretion, or by or under any Ordinance.

### **General election**

8.—(1) The Governor shall, by proclamation published in the *Gazette*, appoint a date for the holding of a general election to the House of Assembly, and such date shall be not later than 30 days after the appointed day.

(2) The period for nomination of candidates for election at the general election shall be closed not later than fifteen days before the date appointed under subsection (1).

### **Standing Orders**

9. The Standing Orders of the House of Assembly established by the existing Constitution in the form in which they were last in force before the appointed day shall, except as may be otherwise provided under section 63 of the Constitution, have effect on and after that day as if they had been made under that section as Standing Orders of the House of Assembly established by the Constitution, but they shall be read and construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with the Constitution.

### **Director of Public Prosecutions**

10. Until a person is appointed to the office of Director of Public Prosecutions in accordance with the Constitution, the Attorney General shall perform the functions of that office.

### **Pending legal proceedings**

11.—(1) Any cause, matter or appeal pending before the Supreme Court or any appeal or application pending before the Court of Appeal immediately before the appointed day may, on or after that day, be continued, determined or appealed against as if such cause, matter or appeal had been instituted or was pending before the Supreme Court, or such appeal or application made to the Court of Appeal, as the case may be, as those courts are respectively constituted by the Constitution.

(2) Any decree or order of the Supreme Court or the Court of Appeal given or made before the appointed day, in so far as it has not been fully executed or enforced, may be executed or enforced on or after that day as if it were a decree or order of the Supreme Court or the Court of Appeal, as the case may be, as those courts are respectively constituted by the Constitution.

### **Remuneration, allowances, terms and conditions of certain office-holders**

12.—(1) The remuneration, allowances, and terms and conditions of service payable or applicable immediately before the appointed day to each judge of the Supreme Court, each judge of the Court of Appeal and each magistrate shall, until it is otherwise provided under section 84 of the Constitution, continue to be payable or to apply to that judge or, as the case may be, that magistrate.

(2) The remuneration and allowances payable immediately before the appointed day to any person holding office as, or as a member of, any of the institutions protecting good governance shall, until it is otherwise provided under section 97 of the Constitution, continue to be payable to that person.

(3) The remuneration and allowances payable, immediately before the House of Assembly established by the existing Constitution was last dissolved before the appointed day, to the Speaker and the other members of that House of Assembly shall, until it is otherwise provided under section 124 of the Constitution, be payable to the Speaker and the other members of the House of Assembly established by the Constitution.

(4) The remuneration and allowances payable immediately before the appointed day to any person holding any office to which section 125 of the Constitution applies shall, until it is otherwise provided under that section, continue to be payable to that person.

### **Functions of Governor**

13. Where, prior to the general election referred to in section 8(1), the Governor is required by the Constitution to exercise a function after consultation with, or in accordance with the advice of, a body which does not exist or the holder of an office which is vacant, the Governor may exercise that function in his or her discretion if in the judgement of the Governor it is necessary or expedient to exercise that function before that body exists or that office is filled.

### **Power reserved to Her Majesty**

14. Her Majesty reserves to Herself power, with the advice and consent of Her Privy Council, to make laws for the peace, order and good government of the Turks and Caicos Islands.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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Clerk of the Privy Council