
STATUTORY INSTRUMENTS

2016 No. 780

**CARIBBEAN AND NORTH
ATLANTIC TERRITORIES**

The Cayman Islands Constitution (Amendment) Order 2016

Made - - - - 13th July 2016
Laid before Parliament 20th July 2016
Coming into force in accordance with article 1(3)

At the Court at Buckingham Palace, the 13th day of July 2016

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by sections 5 and 7 of the West Indies Act 1962⁽¹⁾ and of all other powers enabling Her to do so, is pleased, by and with the advice of Her Privy Council, to make the following Order:

Citation and commencement

- 1.—(1) This Order may be cited as the Cayman Islands Constitution (Amendment) Order 2016.
- (2) The Cayman Islands Constitution Order 2009⁽²⁾ and this Order shall be construed together as one and may be cited together as the Cayman Islands Constitution Orders 2009 to 2016.
- (3) This Order comes into force on such day as the Governor, acting in his or her discretion, shall appoint by proclamation published in a Government Notice.

Interpretation

2. In this Order, “the Constitution” means the Constitution set out in Schedule 2 to the Cayman Islands Constitution Order 2009.

Amendment of Constitution

- 3.—(1) Section 96 of the Constitution is amended by substituting for subsection (1) the following—

(1) 1962 c.19.
(2) S.I. 2009/1379.

“(1) Subject to this section and section 95(4), a judge of the Grand Court shall vacate his or her office when he or she attains the age of 70 years; but a judge who has attained the age of 70 years may continue in office for such period as may be necessary to enable him or her to deliver judgment or to do any other thing in relation to any proceeding commenced before him or her before he or she attained that age.”.

(2) Section 97(3) of the Constitution is deleted.

(3) Section 106 of the Constitution is amended by,—

(a) in subsection (1), deleting the words “and to exercise disciplinary control over”; and

(b) after subsection (1), inserting the following—

“(1A) Power to exercise disciplinary control over persons holding or acting in any offices mentioned in subsection (4)(c), (d) or (f) shall vest in the Governor, acting in accordance with the advice of the Judicial and Legal Services Commission; but the Governor, acting in his or her discretion, may act otherwise than in accordance with that advice if he or she determines that compliance with that advice would prejudice Her Majesty’s service.

(1B) Power to exercise disciplinary control over any person holding or acting in the office of—

(a) magistrate or judge of the Grand Court, other than the Chief Justice, shall vest in the Chief Justice; and

(b) judge of the Court of Appeal, other than the President, shall vest in the President of the Court of Appeal.”.

Transitional

4.—(1) Any person who, immediately before the commencement date, holds or is acting in the office of judge of the Grand Court shall, on and after that date, 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 as amended by this Order.

(2) Any person to whom subsection (1) applies who, before the commencement date, has made any oath required to be made before assuming the functions of his or her office shall be deemed to have made any like oath so required by the Cayman Islands Constitution Orders 2009 to 2016 or any other law.

(3) In this section, “the commencement date” means the date on which this Order comes into force in accordance with section 1(3).

Ceri King
Deputy Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Cayman Islands Constitution Order in the following ways. Firstly, the tenure of judges of the Grand Court is extended from the age of 65 to 70. Secondly, the Governor's power to exercise disciplinary control over the Chief Justice and the President of the Court of Appeal is removed. And thirdly, the power to exercise disciplinary control over judges of the Grand Court and magistrates and judges of the Court of Appeal is transferred to the Chief Justice and the President of the Court of Appeal respectively.

The Governor's constitutional power to remove the Chief Justice, the President of the Court of Appeal, judges of the Grand Court, magistrates and judges of the Court of Appeal from office is unaffected by this Order.