

200[3] No. XXXX

CARIBBEAN AND NORTH ATLANTIC TERRITORIES

The Cayman Islands Constitution Order 200[3]

Made - - - - - [xxxxxx200[3]]

Laid before Parliament [xxxxxx200[3]]

Coming into force in accordance with section 1(2)

At the Court at Buckingham Palace, the ** day of ** 200[3]

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers conferred upon Her by sections 5 and 7 of the West Indies Act 1962(a) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

Citation and commencement

1.—(1) This Order may be cited as the Cayman Islands Constitution Order 200[3].

(2) This Order shall come into force on such day as the Governor, acting in his discretion, may appoint by proclamation published in a Government Notice.

Interpretation

2.—(1) In this Order –

“the appointed day” means the date on which the Legislative Assembly is next dissolved after the coming into force of this Order;

“the Constitution” means the Constitution set out in Schedule 2 to this Order.

(a) 1962. c.19.

(2) The provisions of section 102 of the Constitution shall apply for the purposes of interpreting sections 1 to 10 of this Order and otherwise in relation thereto as they apply for the purposes of interpreting and in relation to the Constitution.

Revocations

3. The instruments specified in Schedule 1 to this Order are revoked with effect from the appointed day, save that the Cabinet then existing pursuant to the provisions of the said instruments shall continue in office until the next general election following the appointed day.

Establishment of Constitution

4.—(1) Subject to subsection (2) of this section, Schedule 2 to this Order shall have effect as the Constitution of the Cayman Islands from the appointed day.

(2) Part I of the Constitution shall have effect from 1st January 2006 from such earlier day after the appointed day as the Governor, acting in his discretion, may appoint by proclamation published in a Government Notice.

Existing laws

5.—(1) Subject to the provisions of 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 provisions of the Constitution.

(2) The Governor may, by regulations published as a Government Notice, at any time not later than twelve months after the appointed day make such modifications or adaptations to any existing law as appear to him to be necessary or expedient for bringing that law into conformity with the provisions of the Constitution or otherwise for giving effect or enabling effect to be given to those provisions; and any existing law shall have effect accordingly from such day (not being earlier than the appointed day) as may be specified in any such regulations.

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

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

Existing offices and officers

6.—(1) Any office established by or under the Cayman Islands (Constitution) Order 1972(a) and existing immediately before the appointed day shall on and after that day, so far as is consistent with the provisions of 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 referred to in subsection (1) of this section shall, on and after that day, continue to hold or act in that office as if he had been appointed to hold or to act in it in accordance with or under the provisions of the Constitution.

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

Legislative Assembly

7. The Standing Orders of the Legislative Assembly as in force immediately before the appointed day shall, except as may be otherwise provided under section 54 of the Constitution, have effect on and after that day as if they had been made under that section but shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with the Constitution.

General election

8. A general election of members of the Legislative Assembly shall be held at such time within two months of the appointed day as the Governor shall appoint by proclamation published in a Government Notice.

Pending legal proceedings

9.—(1) Any cause, matter or appeal pending before the Grand 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 Grand 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.

(a) S.I. 1972/1101, amended by S.I. 1984/126, 1987/2199, 1992/226, 1993/3143, 2003/....

(2) Any decree or order of the Grand 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 Grand Court or the Court of Appeal, as the case may be, as those courts are respectively constituted by the Constitution.

Power reserved by Her Majesty

10. 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 Cayman Islands.

A. K. Galloway
Clerk of the Privy Council

INSTRUMENTS REVOKED

The Cayman Islands (Constitution) Order 1972**(a)**

The Cayman Islands (Constitution) (Amendment) Order 1984**(b)**

The Cayman Islands (Constitution) (Amendment) Order 1987**(c)**

The Cayman Islands (Constitution) (Amendment) Order 1992**(d)**

The Cayman Islands (Constitution) (Amendment) Order 1993**(e)**

The Cayman Islands (Constitution) (Amendment) Order 2003**(f)**

The Instructions issued under the Royal Sign Manual and Signet to the Governor of the Cayman Islands on 26th July 1972

(a) S.I. 1972/1101.
(b) S.I. 1984/126.
(c) S.I. 1987/2199.
(d) S.I. 1992/226.
(e) S.I. 1993/3143.
(f) S.I. 2003/....

THE CONSTITUTION OF THE CAYMAN ISLANDS

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Whereas the people of the Cayman Islands, recalling the events that have shaped their history and made them what they are, and acknowledging their distinct history, culture and Christian heritage and its enduring influence and contribution in shaping the spiritual, moral and social values that have guided their development and brought peace, prosperity and stability to those islands, through the vision, forbearance, and leadership of their people,

Affirm their intention to be -

- A God-fearing country based on traditional Christian values.
- A caring community based on mutual respect for all individuals and their basic human rights.
- A community which practises honest and open dialogue to ensure mutual understanding and social harmony.
- A safe, secure and law abiding community.
- A country which is free from crime and drug abuse.
- A country with an educational system which identifies and develops on a continuing basis the abilities of each person, allowing them to reach their full potential and productivity.
- A community which encourages and prepares young people to assume leadership roles.
- A country which provides a comprehensive healthcare system.
- A community protective of traditional Caymanian heritage and the family unit.
- A country with a vibrant diversified economy, which provides full employment.
- A country which makes optimal use of modern technology.
- A country which manages growth and maintains prosperity, while protecting its social and natural environment.
- A country which respects, protects and defends its natural resources as the basis of its existence.
- A country with open, responsible and accountable government, which includes a working partnership with the private sector and continuing beneficial ties with the United Kingdom.
- A country with an immigration system which protects Caymanians and gives security to long-term residents.

Now, therefore, the following provisions shall have effect as the Constitution of the Cayman Islands.

PART I

FUNDAMENTAL RIGHTS AND FREEDOMS OF THE INDIVIDUAL

Fundamental rights and freedoms of the individual

1. Whereas the Cayman Islands is a Caribbean Territory with its own distinct history, culture, Christian values and socio-economic framework, and whereas every person in the Cayman Islands is entitled to the fundamental rights and freedoms of the individual, that is to say, the right, whatever his race, place of origin, political or other opinion, colour, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest, to each and all of the following, namely:-

- (a) life, liberty, security of the person and the protection of the law;
- (b) freedom of conscience, of expression, of assembly and association, and of movement; and
- (c) protection for his private and family life, the privacy of his home and other property and from deprivation of property except in the public interest and on payment of fair compensation,

the subsequent provisions of this Part shall have effect for the purpose of affording protection to the aforesaid rights and freedoms subject to such limitations of that protection as are contained in those provisions, being limitations designed to ensure that the enjoyment of the said rights and freedoms by any individual does not prejudice the rights and freedoms of others or the public interest.

Protection of right to life

2.—(1) No person shall be deprived intentionally of his life.

(2) A person shall not be regarded as having been deprived of his life in contravention of this section if he dies as a result of the use, to such extent and in such circumstances as are permitted by law, of such force as is reasonably justifiable-

- (a) for the defence of any person from violence or for the defence of property;
- (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
- (c) for the purpose of suppressing a riot, insurrection or mutiny; or
- (d) in order to prevent the commission by that person of a criminal offence,

or if he dies as a result of a lawful act of war.

Protection from inhuman treatment

3. No person shall be subjected to torture or to inhuman or degrading treatment or punishment.

Protection from slavery and forced labour

4.—(1) No person shall be held in slavery or servitude.

(2) No person shall be required to perform forced labour.

(3) For the purposes of this section, “forced labour” does not include-

- (a) any labour required in consequence of the sentence or order of a court;
- (b) any labour required of a member of a disciplined force in pursuance of his duties as such or, in the case of a person who has conscientious objections to service in a naval, military or air force, any labour that that person is required by law to perform in place of such service;
- (c) labour required of any person while he is lawfully detained that, though not required in consequence of the sentence or order of a court, is reasonably necessary in the interests of hygiene or for the maintenance of the place in which he is detained; or
- (d) any labour required during a period of public emergency or in the event of any other emergency or calamity that threatens the life or well-being of the community, to the extent that the requiring of such labour is reasonably justifiable, in the circumstances of any situation arising or existing during that period or as a result of that other emergency or calamity, for the purpose of dealing with that situation.

Protection of right to personal liberty

5.—(1) No person shall be deprived of his personal liberty save as may be authorised by law in any of the following cases-

- (a) in execution of the sentence or order of a court, whether established for the Cayman Islands or some other country, in respect of a criminal offence of which he has been convicted or in consequence of his unfitness to plead to a criminal charge;
- (b) in execution of an order of a court punishing him for contempt of that court or of another court or tribunal;
- (c) in execution of the order of a court made in order to secure the fulfilment of any obligation imposed on him by law:

Provided that no person shall be deprived of his liberty merely on the ground of inability to fulfil a contractual obligation;

- (d) for the purpose of bringing him before a court in execution of the order of a court;
- (e) upon reasonable suspicion that he has committed, is committing or is about to commit a criminal offence;
- (f) in the case of a person who has not attained the age of eighteen years, under the order of a court or with the consent of his parent or guardian, for the purpose of his education or welfare;
- (g) for the purpose of preventing the spread of an infectious or contagious disease or in the case of a person who is, or is reasonably suspected to be, of unsound mind, addicted to drugs or alcohol, or a vagrant, for the purpose of his care or treatment or the protection of the community;
- (h) for the purpose of preventing the unlawful entry of that person into the Cayman Islands or for the purpose of effecting the expulsion, extradition or other lawful removal from the Cayman Islands of that person or the taking of proceedings relating thereto.

(2) Any person who is arrested or detained shall be informed as soon as is reasonably practicable, in a language that he understands, of the reason for his arrest or detention.

(3) Any person who is arrested or detained in such a case as is mentioned in subsection (1)(d) or (e) of this section and who is not released shall be brought without undue delay before a court; and if any person arrested or detained in such a case as is mentioned in subsection (1)(e) of this section is not tried within a reasonable time he shall (without prejudice to any further proceedings that may be brought against him) be released either unconditionally or upon reasonable conditions, including in particular such conditions as are reasonably necessary to ensure that he appears at a later date for trial or for proceedings preliminary to trial.

(4) Any person who is unlawfully arrested or detained by any other person shall be entitled to compensation therefor from that other person, from any person or authority on whose behalf that other person was acting or from them both:

Provided that a judicial officer or an officer of a court or a police officer acting in pursuance of the order of a judicial officer shall not be personally liable to pay compensation under this subsection in respect of anything done by him in good faith in the discharge of the functions of his office and any liability to pay any such compensation in respect of that thing shall be a liability of the Crown.

(5) For the purposes of subsection (1)(a) of this section, a person charged with a criminal offence in respect of whom a special verdict has been returned that he was guilty of the act or omission charged but was insane when he did the act or made the omission shall be regarded as a person who has been convicted of a criminal offence, and the detention of that person in consequence of such a verdict shall be regarded as detention in execution of the order of a court.

Provisions to secure protection of law

6.—(1) If any person is charged with a criminal offence, then, unless the charge is withdrawn, the case shall be afforded a fair and public hearing within a reasonable time by an independent and impartial court established by law.

(2) Every person who is charged with a criminal offence-

- (a) shall be presumed to be innocent until he is proved or has pleaded guilty;
- (b) shall be informed as soon as reasonably practicable, in a language that he understands and in detail, of the nature of the offence charged;
- (c) shall be given adequate time and facilities for the preparation of his defence;
- (d) shall be permitted to defend himself before the court in person or, at his own expense, by a legal representative of his own choice or, where so provided by any law, by a legal representative at the public expense;
- (e) shall be afforded facilities to examine in person or by his legal representative the witnesses called by the prosecution before the court, and to obtain the attendance and carry out the examination of witnesses to testify on his behalf before the court on the same conditions as those applying to witnesses called by the prosecution;
- (f) shall be permitted to have without payment the assistance of an interpreter if he cannot understand the language used at the trial of the charge; and
- (g) shall, when charged on indictment in the Grand Court, have the right to trial by jury;

and, except with his own consent, the trial shall not take place in his absence, unless he so conducts himself in the court as to render the continuance of the proceedings in his presence impracticable and the court has ordered him to be removed and the trial to proceed in his absence, or unless, having had reasonable notice of the hearing and of the nature of the offence charged, he is voluntarily absent from the proceedings.

(3) When a person is tried for any criminal offence, the accused person or any person authorised by him in that behalf shall, if he so requires and subject to payment of such reasonable fee as may be prescribed by law, be given within a reasonable time after judgment a copy for the use of the accused person of any record of the proceedings made by or on behalf of the court.

(4) No person shall be held to be guilty of a criminal offence on account of any act or omission that did not, at the time it took place, constitute such an offence, and no penalty shall be imposed for any criminal offence that is severer in degree or description than the maximum penalty that might have been imposed for that offence at the time when it was committed.

(5) No person who shows that he has been tried by a competent court for a criminal offence and either convicted or acquitted shall again be tried for that offence or for any other criminal offence

of which he could have been convicted at the trial for that offence, save upon the order of a superior court in the course of appeal or review proceedings relating to the conviction or acquittal.

(6) No person shall be tried for a criminal offence if he shows that he has been pardoned for that offence.

(7) No person who is tried for a criminal offence shall be compelled to give evidence at the trial.

(8) Every person who has been convicted by a court of a criminal offence shall have the right to appeal to a superior court against his conviction or his sentence or both:

Provided that-

(a) nothing contained in any law shall be held to be inconsistent with or in contravention of this subsection-

(i) to the extent that it precludes an appeal by a person against his conviction of an offence if he pleaded guilty to that offence at his trial; or

(ii) to the extent that it makes reasonable provision with respect to the grounds upon which any such appeal may be made or with respect to the practice and procedure to be observed in relation to the making, hearing and disposal of any such appeal; and

(b) this subsection shall not apply in relation to the conviction of a person by a superior court, or in relation to his sentence upon such conviction, if he was convicted by that court on an appeal against his acquittal by a lower court.

(9) When a person has, by a final decision of a court, been convicted of a criminal offence and, subsequently, his conviction has been quashed, or he has been pardoned, on the ground that a newly-disclosed fact shows that there has been a miscarriage of justice, he shall be compensated out of public funds for any punishment that he has suffered as a result of the conviction unless it is proved that the non-disclosure in time of that fact was wholly or partly his fault.

(10) Any court or other adjudicating authority prescribed by law for the determination of the existence or extent of any civil right or obligation shall be established by law and shall be independent and impartial; and where proceedings for such a determination are instituted by any person before such a court or other adjudicating authority, the case shall be determined fairly within a reasonable time.

(11) All proceedings instituted in any court for the determination of the existence or extent of any civil right or obligation, including the announcement of the decision of the court, shall be held in public.

(12) Nothing in subsection (1) or (11) of this section shall prevent the court from excluding from the proceedings persons other than the parties thereto and their legal representatives to such extent as the court-

- (a) may be empowered by law so to do and may consider necessary or expedient in circumstances where publicity would prejudice the interests of justice, or in interlocutory proceedings, or in the interests of public morality, the welfare of persons under the age of eighteen years or the protection of commercial confidence or of the private lives of persons concerned in the proceedings; or
- (b) may be empowered or required by law so to do in the interests of defence, public safety, or public order.

(13) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of –

- (a) subsection (2)(a) of this section, to the extent that the law in question imposes upon any person charged with a criminal offence the burden of proving particular facts;
- (b) subsection (2)(e) of this section to the extent that the law in question imposes conditions that must be satisfied if witnesses called to testify on behalf of an accused person are to be paid their expenses out of public funds;
- (c) subsection (5) of this section to the extent that the law in question authorises a court to try a member of a disciplined force for a criminal offence notwithstanding any trial and conviction or acquittal of that member under the disciplinary law of that force, save that any court so trying such a member and convicting him shall in sentencing him to any punishment take into account any punishment awarded him under that disciplinary law.

(14) In this section, “legal representative” means a person entitled to practise in the Cayman Islands as an attorney.

Protection of right of prisoners to humane treatment

7.—(1) All persons deprived of their liberty (in this section referred to as “prisoners”) have the right to be treated with humanity and with respect for the inherent dignity of the human person.

(2) Save where the interests of defence, public safety, public order, public morality, public health or the administration of justice otherwise require, unconvicted prisoners shall be segregated from convicted prisoners; and every unconvicted prisoner shall be entitled to be treated in a manner appropriate to his status as such.

(3) Juvenile prisoners shall be segregated from adult prisoners and every juvenile prisoner shall be treated in a manner appropriate to his age and legal status and, if he is an unconvicted prisoner and unless he is earlier released, to have any criminal proceedings against him pursued with the greatest possible expedition.

Protection for private and family life and the privacy of home and other property

8.—(1) Every person has the right to respect for his private and family life, his home and his correspondence, and except with his own consent, no person shall be subjected to the search of his person or his property or the entry by others on his premises.

(2) 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-

- (a) that is reasonably required-
 - (i) in the interests of defence, public safety, public order, public morality, public health, town and country planning, the development of mineral resources, or the development or utilisation of any other property in such a manner as to promote the public benefit; or
 - (ii) for the purpose of protecting the rights and freedoms of other persons;
- (b) to enable an officer or agent of the Government, a local government authority or a body corporate established by law for a public purpose to enter on the premises of any person in order to inspect those premises or anything thereon for the purpose of any tax, rate or due or in order to carry out work connected with any property that is lawfully on those premises and that belongs to the Government or that authority or body corporate, as the case may be; or
- (c) to authorise, for the purpose of enforcing the judgment or order of a court, the search of any person or property by order of a court or the entry upon any premises by such order,

except so far as that provision or, as the case may be, the thing done under its authority is shown not to be reasonably justifiable in a democratic society.

Protection of the right to marry etc.

9.—(1) Every man and woman of marriageable age (as determined by or under any law) has the right to marry a person of the opposite sex and found a family.

(2) No person shall be compelled to marry, that is to say, to do so without his free and full consent.

(3) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of subsection (1) of this section to the extent that the law makes provision that is reasonably required-

- (a) in the interests of public order, public morality or public health;
- (b) for regulating, in the public interest, the procedures and modalities of marriage; or
- (c) for protecting the rights and freedoms of others,

except so far as that provision or, as the case may be, the thing done under its authority is shown not to be reasonably justifiable in a democratic society.

(4) Spouses shall be entitled to equal rights and shall be subject to equal responsibilities as between themselves and as regards their children both during marriage and, if the marriage is dissolved, thereon and thereafter, but this equality of rights and responsibilities shall be subject to such arrangements or measures as may be agreed, or as may be ordered by a court, in the interests of their children.

Protection of freedom of conscience

10.—(1) Except with his consent, no person shall be hindered in the enjoyment of his freedom of conscience, and for the purposes of this section the said freedom includes freedom of thought and of religion, freedom to change his religion or belief and freedom, either alone or in community with others, and both in public and in private, to manifest and propagate his religion or belief in worship, teaching, practice and observance.

(2) Except with his consent (or, if he is a person who has not attained the age of eighteen years, the consent of his guardian) no person attending any place of education shall be required to receive religious instruction or to take part in or attend any religious ceremony or observance that relates to a religion other than his own.

(3) No religious community or denomination shall be prevented from or hindered in providing religious instruction for persons of that community or denomination in the course of any education provided by that community or denomination whether or not that community or denomination is in receipt of any government subsidy, grant or other form of financial assistance designed to meet, in whole or in part, the cost of such education.

(4) No person shall be compelled to take any oath which is contrary to his religion or belief or to take any oath in a manner which is contrary to his religion or belief.

(5) 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 which is reasonably required-

- (a) in the interests of public safety, public order, public morality or public health; or
- (b) for the purpose of protecting the rights and freedoms of other persons, including the right to observe and practise any religion or belief without the unsolicited interference of persons professing any other religion or belief,

except so far as that provision or, as the case may be, the thing done under its authority is shown not to be reasonably justifiable in a democratic society.

(6) If a court's determination of any question arising under this Part might affect the exercise by a religious organisation (itself or its members collectively) of the right to freedom of conscience as protected by this section, it must have particular regard to the importance of that right.

Protection of freedom of expression

11.—(1) Except with his consent, no person shall be hindered in the enjoyment of his freedom of expression, and for the purposes of this section the said freedom includes freedom to hold opinions and to receive and impart ideas and information without interference, and freedom from interference with his correspondence or other means of communication.

(2) 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-

- (a) that is reasonably required-
 - (i) in the interests of defence, public safety, public order or public morality; or
 - (ii) for the purpose of protecting the rights, reputations and freedoms of other persons or the private lives of persons concerned in legal proceedings, preventing the disclosure of information received in confidence, maintaining the authority and independence of the courts, regulating telephony, telegraphy, posts, wireless broadcasting, television or other means of communication or regulating public exhibitions or public entertainments; or
- (b) that imposes restrictions upon public officers,

except so far as that provision or, as the case may be, the thing done under its authority is shown not to be reasonably justifiable in a democratic society.

(3) For the purposes of subsection (2)(b) of this section, "law" in that subsection includes directions in writing issued by or under the authority of the Governor regarding the conduct of public officers generally or any class of public officer.

Protection of freedom of assembly and association

12.—(1) Except with his consent, no person shall be hindered in the enjoyment of his freedom of peaceful assembly and association, that is to say, his right to assemble freely and associate with other persons and in particular to form or belong to political parties or to form or belong to trade unions or other associations for the protection of his interests.

(2) 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-

- (a) that is reasonably required-

- (i) in the interests of defence, public safety, public order, public morality or public health; or
 - (ii) for the purpose of protecting the rights and freedoms of other persons; or
- (b) that imposes restrictions upon public officers,

except so far as that provision or, as the case may be, the thing done under its authority is shown not to be reasonably justifiable in a democratic society.

(3) For the purposes of subsection (2)(b) of this section, “law” in that subsection includes directions in writing issued by or under the authority of the Governor regarding the conduct of public officers generally or any class of public officer.

Protection of freedom of movement

13.—(1) Except with his consent, no person shall be hindered in the enjoyment of his freedom of movement, that is to say, the right to move freely throughout the Cayman Islands, the right to reside in any part of the Cayman Islands, the right to enter the Cayman Islands, the right to leave the Cayman Islands and immunity from expulsion from the Cayman Islands.

(2) 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-

- (a) for the imposition of restrictions on the movement or residence within the Cayman Islands or on the right to leave the Cayman Islands of persons generally or any class of persons that are reasonably required-
 - (i) in the interests of defence, public safety, public order, public morality or public health; or
 - (ii) for the purpose of protecting the rights and freedoms of other persons,

except so far as that provision or, as the case may be, the thing done under its authority is shown not to be reasonably justifiable in a democratic society;
- (b) for the removal of a person from the Cayman Islands to be tried or punished in some other country for a criminal offence under the law of that country or to undergo imprisonment in some other country in execution of the sentence of a court in respect of a criminal offence under the law of the Cayman Islands of which he has been convicted;
- (c) for the imposition of restrictions on the movement or residence within the Cayman Islands or the right to leave the Cayman Islands of public officers that are reasonably required for the purpose of ensuring the proper performance of their functions;
- (d) for the imposition of restrictions on the entry, movement or residence within the Cayman Islands of any person who is not a Caymanian or who does not possess Caymanian status

or who is not a permanent resident, or the exclusion or expulsion therefrom of any such person;

- (e) for the imposition of restrictions on the acquisition or use by any person of land or other property in the Cayman Islands;
- (f) for the imposition of restrictions, by order of a court, on the movement or residence within the Cayman Islands of any person or on any person's right to leave the Cayman Islands either in consequence of his having been found guilty of a criminal offence under the law of the Cayman Islands or for the purpose of ensuring a fair trial or that he appears before a court at a later date for trial or for proceedings relating to his extradition or lawful removal from the Cayman Islands; or
- (g) for the imposition of restrictions on the right of any person to leave the Cayman Islands that are reasonably required in order to secure the fulfilment of any obligation imposed by law, except so far as the provision or, as the case may be, the thing done under its authority is shown not to be reasonably justifiable in a democratic society.

(3) For the purposes of subsection (2)(c) of this section, "law" in that subsection includes directions in writing issued by or under the authority of the Governor regarding the conduct of public officers generally or any class of public officer.

(4) Any restriction on a person's freedom of movement which is involved in his lawful detention shall not be held to be inconsistent with or in contravention of this section.

(5) In this section "permanent resident" has the meaning assigned to it in the Immigration Law (2001 Revision) or any law amending or replacing that Law.

Protection from discrimination on grounds of race, etc.

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

(2) Subject to subsection (6) of this section, 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 by race, place of origin, political or other opinion, colour, creed, sex or mental or physical disability 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) of this section shall not apply to any law so far as that law makes provision-

- (a) for the appropriation of revenues or other funds of the Cayman Islands or for the imposition of taxation (including the levying of fees for the grants 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 Cayman Islands of persons who are not Caymanian or who do not possess Caymanian status;
- (c) for the application, in the case of persons of any such description as is mentioned in subsection (3) of this section (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) of this section 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 objectively and reasonably justifiable in a democratic society and there is a reasonable proportionality between the means employed and the purpose sought to be realised.

(5) Nothing contained in any law shall be held to be inconsistent with or in contravention of subsection (1) of this section to the extent that it requires a person to be a Caymanian or to possess Caymanian status, or to possess any other qualification (not being a qualification specifically relating to race, place of origin, political or other opinion, colour, creed, sex or mental or physical disability) 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) of this section 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) of this section.

(7) Subsections (1) and (2) of this section are without prejudice to any restriction on the rights and freedoms guaranteed by section 8, 9, 10, 11, 12 or 13 of this Constitution which is permitted by that section, or to waiver of any of those rights and freedoms by consent to the extent permitted by any of those sections.

(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 public resort.

Protection from deprivation of property

15.—(1) No property of any description shall be compulsorily taken possession of, and no interest in or right over property of any description shall be compulsorily acquired, except where the following conditions are satisfied, that is to say-

- (a) the taking of possession or acquisition is necessary or expedient in the interests of defence, public safety, public order, public morality, public health, town and country planning or the development or utilisation of any property in such manner as to promote the public benefit or the economic well-being of the community; and
- (b) there is reasonable justification for the causing of any hardship that may result to any person having an interest in or right over the property; and
- (c) provision is made by a law applicable to that taking of possession or acquisition-
 - (i) for the prompt payment of adequate compensation; and
 - (ii) securing to any person having an interest in or right over the property a right of access to the Grand Court, whether direct or on appeal from any other authority, for the determination of his interest or right, the legality of the taking of possession or acquisition of the property, interest or right, and the amount of any compensation to which he is entitled, and for the purpose of obtaining prompt payment of that compensation; and
 - (iii) giving to any party to proceedings in the Grand Court relating to such a claim the same rights of appeal as are accorded generally to parties to civil proceedings in that Court sitting as a court of original jurisdiction.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of subsection (1) of this section-

- (a) to the extent that the law in question makes provision for the taking of possession or acquisition of any property, interest or right-
 - (i) in satisfaction of any tax, rate or due;
 - (ii) by way of penalty for breach of any law or forfeiture in consequence of a breach of any law;
 - (iii) as an incident of a lease, tenancy, mortgage, charge, bill of sale, pledge or contract;
 - (iv) by way of taking of a sample for the purposes of any law;
 - (v) where the property consists of an animal upon its being found trespassing or straying;
 - (vi) in the execution of judgments or orders of a court;

- (vii) by reason of its being in a dilapidated or dangerous state or injurious to the health of human beings, animals or plants;
- (viii) in consequence of any law with respect to prescription or the limitation of actions; or
- (ix) for so long only as may be necessary for the purposes of any examination, investigation, trial or inquiry, or, in the case of land, for the purposes of carrying out thereon work of reclamation, drainage, soil conservation or the conservation of other natural resources or work relating to agricultural development or improvement (being work relating to such development or improvement that the owner or occupier of the land has been required, and has, without reasonable and lawful excuse, refused or failed to carry out),

except so far as that provision or, as the case may be, the thing done under its authority is shown not to be reasonably justifiable in a democratic society; or

- (b) to the extent that the law in question makes provision for the taking possession or acquisition of any of the following property (including an interest in or right over property), that is to say:-
 - (i) enemy property;
 - (ii) property of a deceased person, a person of unsound mind or a person who has not attained the age of eighteen years, for the purpose of its administration for the benefit of the persons entitled to the beneficial interest therein;
 - (iii) property of a person adjudged bankrupt or a body corporate in liquidation, for the purpose of its administration for the benefit of the creditors of the bankrupt or body corporate and, subject thereto, for the benefit of other persons entitled to the beneficial interest in the property; or
 - (iv) property subject to a trust, for the purpose of vesting the property in persons appointed as trustees under the instrument creating the trust or by a court or, by order of a court, for the purpose of giving effect to the trust.

(3) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of subsection (1) of this section to the extent that the law in question makes provision for the compulsory taking of possession in the public interest of any property, or the compulsory acquisition in the public interest of any interest in or right over property, where that property, interest or right is held by a body corporate established by law for public purposes in which no moneys have been invested other than moneys provided from public funds.

Provision for periods of public emergency

16.—(1) Nothing contained in or done under the authority of any regulation made under -

- (a) the Emergency Powers Orders in Council 1939 to 1973^(a), or
- (b) the Emergency Powers Law^(b),

shall be held to be inconsistent with or in contravention of section 5, section 6 other than subsections (4) and (6) thereof, or any provision of section 8 and sections 10 to 15 (inclusive) of this Constitution to the extent that the regulation in question makes in relation to any period of public emergency provision, or authorises the doing during any such period of anything, that is reasonably justifiable in the circumstances of any situation arising or existing during that period for the purpose of dealing with that situation.

(2) Where any person who is lawfully detained in pursuance of such a regulation as is referred to in subsection (1) of this section so requests at any time during the period of that detention (but if he has already made such a request during that period not earlier than six months after he last made such a request during that period), his case shall within one month of making the request be reviewed by an independent and impartial tribunal established by law and presided over by a person appointed by the Chief Justice.

(3) On any review by a tribunal in pursuance of this section of the case of a detained person, the tribunal may make recommendations concerning the necessity or expediency of continuing his detention to the authority by which it was ordered but, unless it is otherwise prescribed, that authority shall not be obliged to act in accordance with any such recommendations.

Enforcement of fundamental rights

17.—(1) If any person alleges that any of the foregoing provisions of this Part has been, is being or is likely to be contravened in relation to him, then, without prejudice to any other action with respect to the same matter which is lawfully available, that person may apply to the Grand Court for redress.

(2) The Grand Court shall have original jurisdiction-

- (a) to hear and determine any application made by any person in pursuance of subsection (1) of this section; and
- (b) to determine any question arising in the case of any person which is referred to it in pursuance of subsection (3) of this section,

and may make such orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing or securing the enforcement of any of the foregoing provisions of this Part to the protection of which the person concerned is entitled:

^(a) See S.I. 1952/2031 (1952 I. p.620). The relevant amending instruments are S.I. 1956/731, 1963/88, 1964/267, 1199, 1965/131, 1968/724, 1973/759.

^(b)

Provided that the Grand Court shall not exercise its powers under this subsection if it is satisfied that adequate means of redress are or have been available to the person concerned under any other law.

(3) If, in any proceedings in any court established in the Cayman Islands other than the Grand Court or the Court of Appeal, any question arises as to the contravention of any of the foregoing provisions of this Part, the court in which the question has arisen shall refer the question to the Grand Court unless, in its opinion, the raising of the question is merely frivolous or vexatious.

(4) An appeal shall lie as of right to the Court of Appeal from any final determination of any application or question by the Grand Court under this section, and an appeal shall lie as of right to Her Majesty in Council from the final determination by the Court of Appeal of the appeal in any such case:

Provided that no appeal shall lie from a determination by the Grand Court under this section dismissing an application on the ground that it is frivolous or vexatious.

(5) A law made under this Constitution may confer upon the Grand Court such powers in addition to those conferred by this section as may appear to be necessary or desirable for the purpose of enabling the Court more effectively to exercise the jurisdiction conferred upon it by this section.

(6) Any such law may make, or provide for the making of, provision with respect to the practice and procedure-

- (a) of the Grand Court in relation to the jurisdiction and powers conferred upon it by or under this section;
- (b) of the Grand Court or the Court of Appeal in relation to appeals under this section from determinations of the Grand Court or the Court of Appeal; and
- (c) of other courts in relation to references to the Grand Court under subsection (3) of this section;

including provision with respect to the time within which any application, reference or appeal shall or may be made or brought and provision whereby such an application, reference or appeal may be brought on behalf of a person referred to in subsection (1) by some other person.

Interpretation of Part I

18.—(1) In this Part, unless it is otherwise expressly provided or required by the context-
“contravention” in relation to any requirement includes a failure to comply with that requirement, and cognate expressions shall be construed accordingly;

“court” means any court of law having jurisdiction in the Cayman Islands, including Her Majesty in Council, but excepting, save in sections 2 and 4 of this Constitution, a court constituted by or under disciplinary law;

“disciplinary law” means a law regulating the discipline of any disciplined force;

“disciplined force” means-

- (a) a naval, military or air force;
- (b) any police force or prison service of the Cayman Islands;

“member” in relation to a disciplined force includes any person who, under the law regulating the discipline of that force, is subject to that discipline;

“period of public emergency” means any period during which-

- (a) Her Majesty is at war; or
- (b) there is in force in the Cayman Islands a proclamation of emergency under the Emergency Powers Orders in Council 1939 to 1973 or under the Emergency Powers Law.

(2) In relation to any person who is a member of a disciplined force raised under the law of the Cayman Islands, nothing contained in or done under the authority of the disciplinary law of that force shall be held to be inconsistent with or in contravention of the provisions of this Part other than sections 2, 3 and 4.

(3) In relation to any person who is a member of a disciplined force raised otherwise than as aforesaid and lawfully present in the Cayman Islands, nothing contained in or done under the authority of the disciplinary law of that force shall be held to be inconsistent with or in contravention of any of the provisions of this Part.

PART II

THE GOVERNOR

The Governor

19.—(1) There shall be a Governor of the Cayman Islands who shall be appointed by Her Majesty by Commission under Her Sign Manual and Signet and shall hold office during Her Majesty's pleasure.

(2) The Governor shall, for the purpose of administering the government of the Cayman Islands, have such powers and duties as are conferred or imposed on him by this Constitution or any other law and such other powers as Her Majesty may from time to time be pleased to assign to him, and, subject to the provisions of this Constitution and of any other law by which any such powers or duties are conferred or imposed, shall do and execute all things that belong to his office according to such Instructions, if any, as Her Majesty may from time to time see fit to give him; but no court shall inquire whether or not he has complied with any such Instructions.

(3) A person appointed to the office of Governor shall, before entering upon the functions of that office, make before the Chief Justice oaths of allegiance and for the due execution of that office in the forms set out in the First Schedule to this Constitution.

Deputy Governor

20.—(1) There shall be a Deputy Governor who shall be a Caymanian and shall be appointed by the Governor in pursuance of instructions given by Her Majesty through a Secretary of State, and who shall hold office during Her Majesty's pleasure.

(2) If the office of Deputy Governor is vacant or the person holding that office is acting in the office of Governor under section 21 of this Constitution or is for any other reason unable to perform the functions of the office of Deputy Governor, then the Governor, acting in his discretion, may appoint a person to act as Deputy Governor and any such person shall continue to act until his appointment is revoked by the Governor, acting in his discretion.

(3) The Deputy Governor shall have such functions, not of a ministerial nature, as (subject to the provisions of this Constitution and of any other law) may be assigned to him by the Governor, acting in his discretion.

(4) Under the authority of the Governor, the Deputy Governor shall be head of the civil service.

Acting Governor

21.—(1) During any period when the office of Governor is vacant or the Governor is absent from the Cayman Islands or is for any other reason unable to perform the functions of his office those functions shall, during Her Majesty's pleasure, be assumed and performed by-

- (a) the Deputy Governor; or
- (b) if the office of Deputy Governor is vacant or the Deputy Governor is absent from the Cayman Islands or is for any other reason unable to perform those functions, such public officer being a Caymanian as the Governor, acting in his discretion, shall by writing under his hand appoint.

(2) Before assuming the functions of the office of Governor, any such person as aforesaid shall make the oaths directed by section 19 of this Constitution to be made by the Governor.

(3) Any such person as aforesaid shall not continue to perform the functions of the office of Governor after the Governor or some other person having a prior right to perform the functions of that office has notified him that he is about to resume or assume those functions.

Governor's Deputy

22.—(1) Whenever the Governor-

- (a) has occasion to be absent from the seat of government but not from the Cayman Islands;
or
- (b) has occasion to be absent from the Cayman Islands for a period which he has reason to believe will be of short duration; or
- (c) is suffering from an illness which he has reason to believe will be of short duration,

he may, by instrument under the public seal, acting in his discretion, appoint any person in the Cayman Islands being a Caymanian to be his deputy during such absence or illness and in that capacity to perform on his behalf such of the functions of the office of Governor as may be specified in that instrument.

(2) The power and authority of the Governor shall not be abridged, altered or in any way affected by the appointment of a deputy under this section, and a deputy shall conform to and observe all instructions that the Governor, acting in his discretion, may from time to time address to him; but no court shall inquire whether or not he has complied with any such instructions.

(3) A person appointed as a deputy under this section shall hold that appointment for such period as may be specified in the instrument by which he is appointed, and his appointment may be revoked or extended at any time by Her Majesty by instructions given through a Secretary of State, or by the Governor, acting in his discretion.

Emoluments, personal staff and expenditure of the Governor

23.—(1) The Governor shall receive such emoluments as may for the time being be fixed by a Secretary of State by directions in writing and those emoluments are hereby charged on and shall be paid out of the revenues of the Cayman Islands.

(2) A law made under this Constitution may prescribe the offices that are to constitute the personal staff of the Governor, the salaries and allowances that are to be paid to the members of that staff and the other sums that are to be paid in respect of the expenditure attaching to the office of Governor; but no such law shall apply to such members of the personal staff of the Governor as are recruited and paid under the authority of a Secretary of State.

(3) Any salaries, allowances or other sums prescribed under subsection (2) of this section are hereby charged on and shall be paid out of the revenues of the Cayman Islands.

Exercise of Governor's functions

24.—(1) The Governor shall, subject to the following provisions of this section, consult with the Cabinet in the formulation of policy and in the exercise of all powers conferred upon him by this Constitution or by any other law for the time being in force in the Cayman Islands, except in the exercise of-

- (a) any power conferred upon him by this Constitution which he is empowered to exercise in his discretion or in pursuance of Instructions given to him by Her Majesty;
- (b) any power conferred by this Constitution or any other law which he is empowered or directed, either expressly or by necessary implication, to exercise without consulting the Cabinet or to exercise on the recommendation or advice of, or after consultation with, any person or authority other than the Cabinet; or
- (c) the special responsibilities of the Governor, that is to say any power that in his opinion relates to-
 - (i) defence;
 - (ii) external affairs;
 - (iii) internal security including the police;
 - (iv) the appointment (including the appointment on promotion or transfer, appointment on contract and appointment to act in an office) of any person to any public office, the suspension, termination of employment, dismissal or retirement of any public officer or taking of disciplinary action in respect of such an officer, the application to any public officer of the terms or conditions of employment of the public service (including salary scales, allowances, leave, passages or pensions) for which financial

provision has been made, or the organisation of the public service to the extent that it does not involve new financial provision:

Provided that in exercising his powers in relation to the matters mentioned in paragraph (c) the Governor shall keep the Cabinet informed of any matters that in his judgement may involve the economic or financial interests of the Cayman Islands or the enactment of laws under this Constitution; and

Provided further that the Governor, acting in his discretion, may assign to a member of the Cabinet responsibility for the conduct on behalf of the Governor of any business of the Legislative Assembly with respect to any of the said matters.

(2) The Governor shall not be required to consult with the Cabinet in any case in which in his judgement-

- (a) the service of Her Majesty would sustain material prejudice thereby;
- (b) the matters to be decided are too unimportant to require such consultation; or
- (c) the urgency of the matter requires him to act before the Cabinet can be consulted.

(3) In every case falling within subsection (2) of this section the Governor shall, as soon as practicable, communicate to the Cabinet the measures which he has adopted and the reasons for those measures.

(4) Where the Governor is by this Constitution or any other law directed to exercise any function after consultation with any person or authority other than the Cabinet he shall not be obliged to exercise that function in accordance with the advice of that person or authority.

(5) Where the Governor is by this Constitution or any other law directed to exercise any function in accordance with the recommendation or advice of, or after consultation with, any person or authority, the question whether he has so exercised that function shall not be inquired into by any court.

Governor may act contrary to the advice of Cabinet

25.—(1) Subject to the provisions of this Constitution, in any case where the Governor is required by the last foregoing section to consult with the Cabinet he shall act in accordance with the advice given him by the Cabinet unless he considers it expedient in the interests of public order, public faith or good government not to do so:

Provided that he shall not so act against the advice of the Cabinet without first obtaining the approval of a Secretary of State, unless in his judgement the matter is so urgent that it is necessary for him to act before obtaining such approval, in which case he shall forthwith report his action to a Secretary of State with the reasons therefor.

(2) Whenever the Governor acts otherwise than in accordance with the advice given to him by the Cabinet, any member of the Cabinet may require that there be recorded in the minutes the grounds of any advice or opinion which he may have given on the question.

Powers of pardon, etc.

26.—(1) The Governor may, in Her Majesty's name and on Her Majesty's behalf-

- (a) grant to any person concerned in or convicted of any offence against any law in force in the Cayman Islands a pardon, either free or subject to lawful conditions;
- (b) grant to any person a respite, either indefinite or for a specified period, from the execution of any sentence passed on that person for such an offence;
- (c) substitute a less severe form of punishment for that imposed by any sentence for such an offence; or
- (d) remit the whole or any part of any sentence passed for such an offence or any penalty or forfeiture otherwise due to Her Majesty on account of such an offence.

(2) In the exercise of his powers under this section the Governor shall consult the Committee established under section 27 of this Constitution, but he shall decide whether to exercise any of those powers in any case in his discretion, whether the members of the Committee concur in his decision or otherwise.

Establishment and procedure of Advisory Committee

27.—(1) There shall be for the Cayman Islands an Advisory Committee on the Prerogative of Mercy (in this section and section 26 referred to as the Committee), which shall consist of the Attorney-General, the Chief Medical Officer and four other members of which two shall be appointed by the Governor after consultation with the Chief Minister and two after consultation with the Leader of the Opposition.

(2) The Committee shall not be summoned except by the authority of the Governor, acting in his discretion; and the Governor shall preside at all meetings of the Committee.

(3) No business shall be transacted at any meeting of the Committee unless there are at least three members present, of whom one shall be the Attorney-General.

(4) The office as a member of the Committee of any member appointed by the Governor under subsection (1) of this section shall become vacant if the Governor, acting after consultation with the Chief Minister and the Leader of the Opposition, revokes his appointment as a member of the Committee.

(5) Subject to subsection (3) of this section, the Committee shall not be disqualified for the transaction of business by reason of any vacancy in the membership of the Committee and the

validity of the transaction of any business by the Committee shall not be affected by reason only of the fact that some person who was not entitled to do so took part in the proceedings.

(6) Subject to the provisions of this section the Committee may regulate its own proceedings.

Powers to dispose of land

28. Subject to the provisions of any law for the time being in force in the Cayman Islands, the Governor or any person duly authorised by him in writing under his hand may, in Her Majesty's name and on Her Majesty's behalf, make and execute under the public seal grants and dispositions of any land or other immovable property within the Cayman Islands that may be lawfully granted or disposed of by Her Majesty.

Public seal

29. The Governor shall keep and use the public seal for sealing all things that should pass that seal.

Offices and appointments

30. Subject to the provisions of this Constitution and of any other law, the Governor, in Her Majesty's name and on Her Majesty's behalf, may-

- (a) constitute offices for the Cayman Islands and make appointments, to be held during Her Majesty's pleasure, thereto; and
- (b) remove any person so appointed or take such other disciplinary action in relation to him as the Governor may think fit.

PART III

THE EXECUTIVE

Executive authority

31.—(1) The executive authority of the Cayman Islands is vested in Her Majesty.

(2) Subject to the provisions of this Constitution, the executive authority of the Cayman Islands shall be exercised on behalf of Her Majesty by the Governor, either directly or through officers subordinate to him.

(3) Nothing in this section shall preclude persons or authorities other than the Governor from exercising such functions as are or may be conferred upon them by any law.

The Cabinet

32.—(1) There shall be a Cabinet for the Cayman Islands, which shall consist of-

- (a) the Governor;
- (b) a Chief Minister appointed by the Governor in accordance with subsection (2) or (3) of this section;
- (c) six other Ministers appointed by the Governor, acting in accordance with the advice of the Chief Minister from among the elected members of the Legislative Assembly;
- (d) the Deputy Governor and the Attorney-General, *ex officio*.

(2) If a political party gains a majority of the seats of elected members of the Legislative Assembly, the Governor shall appoint as Chief Minister the elected member of the Assembly recommended by a majority of the elected members of the Assembly who are members of that party.

(3) If no political party gains such a majority or if no recommendation is made under subsection (2) of this section, the Governor shall cause a ballot to be held among the elected members of the Assembly to determine which elected member commands the support of the majority of such members, and shall record the vote of each member voting; and, where such a ballot is held, the Governor shall appoint as Chief Minister the elected member who obtains a majority of the votes of the elected members.

(4) Notwithstanding subsections (2) and (3) of this section, the Governor shall not appoint as Chief Minister a person who has held office as Chief Minister during two consecutive parliamentary terms unless at least one parliamentary term has expired since he last held that

office; and for the purposes of this subsection a parliamentary term shall be deemed to be a period commencing when the Legislative Assembly first meets after being constituted under this Constitution or after its dissolution at any time, and terminating when the Assembly is next dissolved.

(5) Appointments of the Chief Minister and the other Ministers shall be made by the Governor by instrument under the public seal.

(6) If occasion arises for making an appointment of any Minister between a dissolution of the Legislative Assembly and the polling in the next following general election, a person who was an elected member of the Legislative Assembly immediately before the dissolution may be appointed as a Minister as if he were still a member of the Legislative Assembly.

(7) The Governor shall without delay report to Her Majesty through a Secretary of State every appointment made under this section.

(8) The members of the Cabinet, other than the Governor, shall each before entering upon the duties of his office as such member make before the Governor oaths of allegiance and for the due execution of his office in the forms set out in the First Schedule to this Constitution.

Tenure of office of Chief Minister

33.—(1) The Governor shall, by instrument under the public seal, revoke the appointment of the Chief Minister if a motion that the Legislative Assembly should declare a lack of confidence in the Government receives the affirmative vote of not less than eleven of the elected members thereof:

Provided that before so revoking the Chief Minister's appointment, the Governor shall consult the Chief Minister and may, acting in his discretion, dissolve the Legislative Assembly instead of revoking the appointment.

(2) The Chief Minister shall vacate his office if, after the polling in a general election and before the Legislative Assembly first meets thereafter, the Governor, acting in his discretion, informs him that he is about to appoint another person as Chief Minister.

Tenure of office of Ministers

34.—(1) Any Minister shall vacate his office-

- (a) if he ceases to be a member of the Legislative Assembly for any reason other than a dissolution thereof;
- (b) if he is not a member of the Legislative Assembly when it first meets after a general election;
- (c) if he resigns his office by writing under his hand addressed to the Governor; or

- (d) if he is absent from the Cayman Islands or absent from three consecutive meetings of the Cabinet without-
 - (i) in the case of the Chief Minister, having given the Governor prior notice of such absence; or
 - (ii) in the case of any other Minister, having obtained written permission for such absence from the Governor, acting in accordance with the advice of the Chief Minister.
- (2) A Minister other than the Chief Minister shall also vacate his office if-
 - (a) the Chief Minister vacates his office; or
 - (b) his appointment is revoked by the Governor, acting in accordance with the advice of the Chief Minister, by instrument under the public seal.

Performance of functions of Ministers in certain events

35.—(1) If the Chief Minister is unable, due to illness or his absence from the Cayman Islands, to perform the functions of his office, the Governor may authorise some other Minister to perform those functions.

(2) In exercising his powers under this section the Governor shall act in accordance with the advice of the Chief Minister unless, in the Governor's judgement, it is impracticable to obtain the Chief Minister's advice owing to his infirmity of body or mind or absence in which case he shall exercise the power acting in his discretion.

(3) Whenever a Minister other than the Chief Minister is unable, by reason of illness or absence from the Islands or absence from his duties on leave, to perform the functions of his office, the Governor, acting in accordance with the advice of the Chief Minister, may in writing-

- (a) appoint a person who is a member of the Legislative Assembly to be a temporary Minister; or
- (b) assign responsibility for the performance of the functions of that Minister to another Minister (including the Chief Minister),

and may specify the period for which such person shall be a temporary Minister or for which such other Minister shall perform the functions of that Minister:

Provided that, if occasion arises for the making of an appointment under paragraph (a) between a dissolution of the Legislative Assembly and the next following general election, the preceding provisions of this subsection shall have effect for the purpose as if the Legislative Assembly had not been dissolved.

- (4) Subject to the provisions of this Constitution-

- (a) a temporary Minister shall hold office, and
- (b) a Minister assigned to perform the functions of another Minister shall perform those functions,

until the expiry of the period specified under subsection (3) of this section or, where no period was so specified, until he is notified by the Governor in writing that he shall cease to hold that office or to perform those functions.

(5) Any authority given under this section shall be conferred by the Governor by instrument under the public seal, and may be revoked in like manner.

Allocation of responsibilities to Ministers

36.—(1) The Governor, acting in accordance with the advice of the Chief Minister, may by directions in writing-

- (a) charge the Chief Minister or any other Minister with responsibility for the conduct (subject to the provisions of this Constitution and of any other law) of any business of the Government including responsibility for the administration of any department of government;
- (b) designate the style by which any Minister so charged shall be known:

Provided that a Minister shall be charged with responsibility for finance and shall be styled “Minister of Finance”.

(2) Nothing in this section shall empower the Governor to confer on any Minister authority to exercise any power or discharge any duty that is conferred or imposed by this Constitution or any other law on the Governor or any person or authority other than a Minister.

(3) Without prejudice to the generality of subsection (2) of this section, except for the purpose of submitting questions relating to such matters to the Cabinet and conducting government business relating to such matters in the Legislative Assembly, a Minister shall not be charged under this section with responsibility for-

- (a) any matter for which the Governor, acting in his discretion, is responsible under section 24 of this Constitution;
- (b) the discharge by the courts of the Cayman Islands of their judicial functions;
- (c) the initiation, conduct and discontinuance of criminal proceedings;
- (d) the audit of the accounts of the Cayman Islands.

(4) It shall be the duty of a Minister charged under subsection (1) of this section to act in the exercise thereof in accordance with the policies of the Government as decided in the Cabinet and in accordance with the principles of collective responsibility, and to support in the Legislative

Assembly any measure decided upon in the Cabinet unless he has received the prior permission of the Governor to act otherwise or not to support such a measure.

(5) A Minister charged under subsection (1) of this section with responsibility for the conduct of any business of the Government may be assisted in the discharge of that responsibility by a board, committee or other similar body consisting wholly or partly of persons who are not public officers and established by a law made under this Constitution or by directions in writing given by the Minister concerned; and any such body shall have such advisory, consultative and administrative functions as may be conferred on it by such a law or directions, but, in exercising any such functions, the body shall be subject to the directions of the Minister concerned.

(6) Where a Minister has been charged under subsection (1) of this section with responsibility for the administration of any department of government, the Minister shall (subject to the provisions of this Constitution and of any other law) exercise general direction and control over the department, and, subject to such direction and control, the department shall be under the supervision of a public officer:

Provided that two or more departments of government may be placed under the supervision of one public officer.

(7) The Governor, acting in his discretion, may at any time call for any official papers or seek any official information or advice available to a Minister with respect to a matter for which that Minister is responsible under this section.

Summoning of Cabinet

37. The Cabinet shall be summoned by the Governor acting in his discretion; but the Governor shall summon the Cabinet if requested to do so by the Chief Minister or a majority of Ministers.

Proceedings in and quorum of Cabinet

38.—(1) The Governor shall so far as is practicable attend and preside at meetings of the Cabinet.

(2) In the absence of the Governor from any meeting of the Cabinet, the person for the time being performing the functions of the Governor pursuant to the provisions of this Constitution shall preside at the meeting.

(3) No business shall be transacted at any meeting of the Cabinet if there are less than five members present, in addition to the person presiding.

(4) Subject to subsection (3) of this section, the Cabinet shall not be disqualified for the transaction of business by reason of any vacancy in its membership (including any vacancy not filled when the Cabinet is first constituted or reconstituted at any time) and the validity of the

transaction of business in the Cabinet shall not be affected by reason only of the fact that some person who was not entitled so to do took part in the proceedings.

Submission of questions to Cabinet

39. No question shall be submitted to the Cabinet for its advice except by and with the approval of the Governor, acting in his discretion; but if the Governor declines to submit any question to the Cabinet when requested in writing by any member of the Cabinet to do so, that member may require that there be recorded in the minutes his written application, together with the answer given thereto by the Governor.

Attendance of other persons at meetings

40. The Governor, or any person presiding over a meeting of the Cabinet in his absence, may, acting in his discretion, summon any public officer or other person to a meeting of the Cabinet whenever the business before the Cabinet renders the presence of that officer or other person desirable.

Secretary to the Cabinet

41.—(1) There shall be a Secretary to the Cabinet, whose office shall be a public office and who shall be appointed by the Governor, acting after consultation with the Chief Minister.

(2) The Secretary to the Cabinet shall have charge of the Cabinet Office and shall be responsible, in accordance with such instructions as may be given to him by the Governor, for arranging the business for, and keeping the minutes of, the meetings of the Cabinet or any committee thereof and for conveying the conclusions reached at the meetings to the appropriate person or authority, and shall have such other functions as the Governor, acting after consultation with the Chief Minister, may from time to time direct.

(3) The Secretary to the Cabinet shall-

- (a) transmit copies of all papers submitted for consideration by the Cabinet or any committee thereof to the members of the Cabinet;
- (b) inform all members of the Cabinet of the summoning of any meeting of the Cabinet or any committee thereof and of the matters to be discussed at any meeting of the Cabinet or any committee thereof; and
- (c) furnish the Governor and all members of the Cabinet, as soon as practicable after each meeting of the Cabinet or any committee thereof, with a copy of the confirmed minutes of the previous meeting showing the matters discussed and the conclusions reached at the meeting.

(4) The Secretary to the Cabinet and the Cabinet Office shall also have general responsibility, under the authority of the Governor and the Chief Minister, for the development and co-ordination of Government policy.

Powers of Solicitor-General

42.—(1) The Solicitor-General shall have power, in any case in which he considers it desirable so to do-

- (a) to institute and undertake criminal proceedings against any person before any court in respect of any offence against any law in force in the Cayman Islands;
- (b) to take over and continue any such criminal proceedings that have been instituted by any other person or authority; and
- (c) to discontinue at any stage before judgment is delivered any such criminal proceedings instituted or undertaken by himself or any other person or authority.

(2) The powers of the Solicitor-General under subsection (1) of this section may be exercised by him in person or by officers subordinate to him acting under and in accordance with his general or specific instructions.

(3) The powers conferred upon the Solicitor-General by subsections (1)(b) and (c) of this section shall be vested in him to the exclusion of any other person or authority:

Provided that where any other person or authority has instituted criminal proceedings, nothing in this subsection shall prevent the withdrawal of those proceedings by or at the instance of that person or authority at any stage before the person against whom the proceedings have been instituted has been charged before the court.

(4) For the purposes of this section, any appeal from any determination in any criminal proceedings before any court, or any case stated or question of law reserved for the purpose of any such proceedings, to any other court or to Her Majesty in Council shall be deemed to be part of those proceedings:

Provided that the powers conferred on the Solicitor-General by subsection (1)(c) of this section shall not be exercised in relation to any appeal by a person convicted in any criminal proceedings or to any case stated or question of law reserved at the instance of such a person.

(5) In the exercise of the powers conferred upon him by this section, the Solicitor-General shall not be subject to the direction or control of any other person or authority.

PART IV

THE LEGISLATURE

The Legislative Assembly

Composition of the Legislative Assembly

43.—(1) There shall be a Legislative Assembly for the Cayman Islands.

(2) Subject to the provisions of this Constitution, the Assembly shall consist of-

- (a) a Speaker, who shall be elected as provided in section 48 of this Constitution;
- (b) seventeen elected members, who shall be persons qualified for election in accordance with the provisions of this Constitution, and elected in the manner provided for in a law enacted for the purposes of section 76 of this Constitution; and
- (c) the Attorney-General, ex officio.

(3) No member of the Legislative Assembly shall be permitted to take part in the proceedings of the Assembly other than proceedings necessary for the purposes of this subsection or the election of a Speaker, until he has made and subscribed before the Assembly an oath of allegiance and for the due execution of his office in the forms set out in the First Schedule to this Constitution.

Qualifications for elected membership

44.—(1) Subject to section 45 of this Constitution, a person shall be qualified to be elected as a member of the Legislative Assembly if, and shall not be qualified to be so elected unless:

- (a) he is a Caymanian; and
- (b) he has attained the age of twenty-one years; and
- (c) he is, at the date of his nomination for election, domiciled and resident in the Cayman Islands; and
- (d) if at least one of his parents is a Caymanian (or if deceased would if alive have been a Caymanian at the date of his nomination for election), he has resided in the Cayman Islands for a period or periods amounting to not less than five years out of the seven years immediately preceding the date of his nomination for election; or
- (e) if neither of his parents is a Caymanian (or if deceased would not if alive have been a Caymanian at the date of his nomination for election), he has been a Caymanian for at least twenty-five years and he has resided in the Cayman Islands for a period or periods

amounting to not less than twenty years out of the twenty-five years immediately preceding the date of his nomination for election.

(2) In determining whether a person is resident in the Cayman Islands for the purposes of subsection (1) of this section any period of absence by reason of the following shall be disregarded-

- (a) the performance of duty on behalf of the Government;
- (b) attendance as a pupil at any educational establishment;
- (c) attendance as a patient at any hospital, clinic or other medical institution;
- (d) employment as a seaman aboard an ocean-going vessel; or
- (e) employment as a crewmember on any aircraft.

Disqualifications for elected membership

45.—(1) No person shall be qualified to be elected as a member of the Legislative Assembly who-

- (a) is, by virtue of his own act, under any acknowledgement of allegiance, obedience or adherence to a foreign power or state;
- (b) holds, or is acting in, any public office;
- (c) has been adjudged or otherwise declared bankrupt under any law in force in any part of the Commonwealth and has not been discharged;
- (d) is a person certified to be insane or otherwise adjudged to be of unsound mind under any law in force in the Cayman Islands;
- (e) subject to subsection (2) of this section, is under sentence of death imposed on him by any court in any country, or is serving or has served a sentence of imprisonment (by whatever name called) exceeding twelve months imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court, or is under such a sentence of imprisonment the execution of which has been suspended, or has been convicted by any court in any country of an offence involving dishonesty;
- (f) is disqualified for election by any law in force in the Cayman Islands by reason of his holding, or acting in, any office the functions of which involve-
 - (i) any responsibility for, or in connection with, the conduct of any election; or
 - (ii) any responsibility for the compilation or revision of any electoral register;
- (g) is a party to, or a partner in a firm or a director or manager of a company which is a party to, any contract with the Government for or on account of the public service and has not,

within the period of one month immediately preceding the date of an election in which he is a candidate, caused to be published a Government Notice setting out the nature of such contract and his interest, or the interest of any such firm or company, therein; or

- (h) is disqualified for membership of the Assembly by any law in force in the Cayman Islands relating to offences connected with elections.

(2) For the purposes of paragraph (e) of subsection (1) of this section and paragraph (g) of section 46 of this Constitution-

- (a) where a person is serving two or more sentences of imprisonment that are required to be served consecutively he shall, throughout the whole time during which he so serves, be regarded as serving a sentence exceeding twelve months if (but not unless) any one of those sentences exceeds that term; and
- (b) no account shall be taken of a sentence of imprisonment imposed as an alternative to or in default of the payment of a fine.

Tenure of office of elected members

46. The seat of an elected member of the Legislative Assembly shall become vacant-

- (a) upon a dissolution of the Assembly;
- (b) if he is absent from the sittings of the Assembly for such period and in such circumstances as may be prescribed in the Standing Orders of the Assembly;
- (c) if he ceases to be a Caymanian;
- (d) if he ceases to be resident in the Cayman Islands;
- (e) if he resigns his seat by writing under his hand addressed to the Governor;
- (f) if he becomes a party to any contract with the Government for or on account of the public service, or if any firm in which he is a partner or any company of which he is a director or manager becomes a party to any such contract, or if he becomes a partner in a firm or a director or manager of a company which is a party to any such contract:

Provided that, if in the circumstances it appears to it to be just to do so, the Assembly may exempt any elected member from vacating his seat under this paragraph if the member, before or as soon as practicable after becoming a party to the contract, or before or as soon as practicable after becoming otherwise interested in the contract (whether as a partner in a firm or as a director or manager of a company), discloses to the Assembly or, if that is impractical, to the Clerk of the Assembly the nature of the contract and his interest or the interest of the firm or company therein; or

- (g) subject to section 47 of this Constitution, if any circumstances arise that, if he were not a member of the Assembly, would cause him to be disqualified for election thereto by virtue of any provision of section 45 (1) of this Constitution other than paragraph (g).

Delay in vacation of seat to allow for an appeal

47.—(1) If circumstances such as are referred to in paragraph (g) of section 46 of this Constitution arise because a member is adjudged or declared bankrupt, certified insane or adjudged of unsound mind, is under sentence of death or imprisonment, is convicted of an offence involving dishonesty or is convicted or reported guilty of an offence relating to elections, and it is open to the member to appeal against the decision (either with or without the leave of a court or other authority), he shall forthwith cease to perform his functions as a member of the Legislative Assembly, but, subject to subsection (2) of this section, he shall not vacate his seat in the Assembly until the expiration of a period of thirty days thereafter:

Provided that the Governor, acting in his discretion, may, at the request of the member, from time to time extend that period to enable the member to pursue the appeal against the decision, save that extensions of time exceeding in the aggregate one hundred and fifty days shall not be given without the approval of the Assembly.

(2) If, on the determination of any appeal, such circumstances as aforesaid continue to exist and no further appeal is open to the member, or if for any reason, including the refusal of leave to appeal or the expiration of any time for entering an appeal, it ceases to be open to the member to appeal, he shall forthwith vacate his seat.

(3) If at any time before the member vacates his seat such circumstances as aforesaid cease to exist, his seat shall not become vacant on the expiration of the period referred to in subsection (1) and he may resume the performance of his functions as a member.

Speaker and Deputy Speaker

48.—(1) At the first sitting of the Legislative Assembly after a general election, and as soon as practical after a vacancy occurs in the relevant office otherwise than on a dissolution of the Assembly, the elected members of the Assembly shall by majority vote elect -

- (a) a Speaker from among persons who are not elected members of the Assembly but who are qualified to be elected as members of the Assembly and are not disqualified in any way for elected membership; and
- (b) a Deputy Speaker from among the elected members of the Assembly other than Ministers;

and the election of the Speaker and the Deputy Speaker shall take precedence over any other business of the Assembly.

- (2) A person shall vacate the office of Speaker or Deputy Speaker-
- (a) upon a dissolution of the Legislative Assembly;
 - (b) if he informs the Assembly, by writing under his hand addressed to the Assembly and received by the Clerk of the Assembly, that he resigns his office;
 - (c) in the case of the Speaker, in any circumstances which would cause him to vacate his seat if he were an elected member or, in the case of the Deputy Speaker, if he ceases to be an elected member of the Assembly;
 - (d) in the case of the Speaker, if on the date of his election as Speaker he is a party to, or a partner in a firm or a director or manager of a company which is a party to, any contract with the Government or if, on any date after such election he or a firm in which he is a partner or a company of which he is a director or manager becomes a party to any such contract or he becomes a partner in a firm or a director or manager of a company which is a party to any such contract, and he does not, before the expiration of thirty days from the date in question, disclose to the Assembly or, if that is impracticable, to the Clerk of the Assembly in writing the nature of such contract and his interest, or the interest of such a firm or company, therein and the Assembly does not exempt him from vacating his office under this paragraph; or
 - (e) on the passing, by the votes of ten of the elected members of the Assembly, of a motion expressing no confidence in him as Speaker or Deputy Speaker, as the case may be.

Determination of questions as to membership of Assembly

49.—(1) Any question whether a person has been validly elected as a member of the Legislative Assembly, or whether an elected member of the Assembly has vacated his seat therein, shall be determined by the Grand Court, whose decision shall be final and not subject to any appeal.

(2) An application to the Grand Court for the determination of any question whether a person has been validly elected as a member of the Assembly may be made by-

- (a) a person who voted or had the right to vote at the election to which the application relates;
- (b) a person claiming to have had the right to be returned at such election;
- (c) a person alleging himself to have been a candidate at such election; or
- (d) the Attorney-General.

(3) An application to the Grand Court for the determination of any question whether an elected member of the Assembly has vacated his seat therein may be made by-

- (a) any elected member of the Assembly; or
- (b) the Attorney-General.

(4) If any application referred to in subsection (2) or (3) of this section is made by a person other than the Attorney-General, the Attorney-General may intervene and may then appear or be represented in the proceedings.

(5) A law made under this Constitution may make provision with respect to-

- (a) the time within which, the circumstances and manner in which and the imposition of conditions under which, any application may be made to the Grand Court for the determination of any question under this section;
- (b) the powers, practice and procedure of the Grand Court in relation to any such application.

(6) In the exercise of the powers conferred upon him by this section and section 50 of this Constitution, the Attorney-General shall not be subject to the direction or control of any other person or authority.

Penalty for sitting or voting in Assembly when unqualified

50.—(1) Any person who sits or votes in the Legislative Assembly knowing or having reasonable grounds for knowing that he is not entitled to do so shall be liable to a penalty not exceeding five hundred dollars for each day upon which he so sits or votes.

(2) Any such penalty shall be recoverable by civil action in the Grand Court at the suit of the Attorney-General.

Leader of the Opposition

51.—(1) Subject to the provisions of this section, there shall be a Leader of the Opposition who shall be appointed by the Governor.

(2) The Governor shall appoint as the Leader of the Opposition-

- (a) the elected member of the Legislative Assembly who, in the opinion of the Governor, is the leader in the Assembly of any opposition party whose numerical strength in the Assembly is greater than that of any other opposition party; or
- (b) if it appears to the Governor that there is no such party but that there is an elected member of the Assembly who would be acceptable as Leader of the Opposition to a majority of the members of the Assembly in opposition to the Government, that member.

(3) Whenever the office of Leader of the Opposition is vacant by reason of the fact that the Governor is of the opinion that there is no member of the Assembly whom he can appoint thereto in accordance with subsection (2) of this section-

- (a) the functions conferred upon the Governor by sections 27(4) and 71(1) of this Constitution shall be exercised by him after consultation with the Chief Minister and the leaders in the Assembly of the opposition parties whose numerical strength in the Assembly is greatest;
- (b) the function conferred upon the Governor by paragraph (c) of section 71(2) and, in any case in which, but for the provisions of this subsection, it would be exercisable in accordance with the advice of the Leader of the Opposition, the function conferred upon him by paragraph (b) of section 71(5) of this Constitution shall be exercised by him in accordance with such advice as may be given to him jointly by the leaders aforesaid;
- (c) in any case in which, but for the provisions of this subsection, the functions conferred on the Governor by sections 27(1), 90(2) and 99(2) would be exercisable by him after consultation with the Leader of the Opposition, those functions shall be exercised by him after consultation with the leaders aforesaid.

(4) If at any time between the polling in a general election and the next following dissolution of the Assembly the Governor is satisfied that, if the office of the Leader of the Opposition were then vacant, he would appoint thereto a person other than the person then holding that office, the Governor shall revoke the appointment of the Leader of the Opposition.

(5) The office of the Leader of the Opposition shall also become vacant-

- (a) if for any reason other than a dissolution of the Assembly the holder thereof ceases to be a member of the Assembly;
- (b) when the Assembly first meets after a general election; or
- (c) if the holder thereof becomes a member of the Cabinet.

(6) In this section “opposition party” includes a group of members of the Legislative Assembly in opposition to the Government who are prepared to support one of their number as their leader.

(7) In the exercise of his functions under this section the Governor shall act in his discretion.

Powers and procedure in the Legislative Assembly

Power to make laws

52.—(1) Subject to the provisions of this Constitution, the Governor, with the advice and consent of the Legislative Assembly, may make laws for the peace, order and good government of the Cayman Islands.

(2) Without prejudice to the generality of subsection (1) of this section, a law may make provision to enable the holding of a referendum amongst persons qualified as electors in elections to the Assembly on a question declared by resolution, adopted by a majority of the elected members of the Assembly, to be a matter of national importance:

Provided that the question of whether the Cayman Islands should seek any amendment to this Constitution that may result in their independence shall be deemed to be a matter of national importance.

Royal Instructions

53. Subject to the provisions of this Constitution, the Governor and the Legislative Assembly shall, in the transaction of business and the making of laws, conform as nearly as may be to the directions contained in any Instructions under Her Majesty's Sign Manual and Signet which may from time to time be addressed to the Governor in that behalf.

Standing Orders

54.—(1) Subject to the provisions of this Constitution and of any Instructions under Her Majesty's Sign Manual and Signet, the Legislative Assembly may from time to time make, amend and revoke Standing Orders for the regulation and orderly conduct of its own proceedings and the dispatch of business, and for the passing, intituling and numbering of Bills and for the presentation thereof to the Governor for assent; but no such Standing Orders or amendment or revocation thereof shall have effect unless they have been approved by the Governor.

(2) In any matter not provided for in the Standing Orders, resort shall be had to the usage and practice of the House of Commons of the United Kingdom, which shall be followed as far as the same may be applicable to the Assembly and not inconsistent with the Standing Orders nor with the practice of the Assembly.

(3) In cases of doubt, the Standing Orders shall be interpreted in the light of the relevant usage and practice of the House of Commons, but no restrictions which the House of Commons has introduced by standing order after the making of such Standing Orders shall be deemed to extend to the Assembly or its members until the Assembly has by the Standing Orders provided for such restriction.

(4) The Standing Orders of the Legislative Assembly shall make provision for the establishment of a Finance Committee thereof to consider in detail the estimates of revenue and expenditure of the Cayman Islands laid before the Assembly by the Minister of Finance, and to examine and consider all financial bills and such other matters relating to the finances of the Cayman Islands as may from time to time be referred to it by the Assembly and to report thereon to the Assembly. The Finance Committee shall be composed of all the elected members of the Assembly and shall

be chaired by the Minister of Finance, who shall not vote on any question unless the votes are equal, in which event he shall have and exercise a casting vote.

(5) The Standing Orders of the Assembly may also establish one or more other standing committees of the Assembly, each of which may be charged with responsibility for monitoring the conduct of business of the Government for which responsibility has been assigned to a Minister under section 36 of this Constitution. The composition of all such standing committees shall, so far as possible, reflect proportionately the numerical strength of all parties or groups making up the elected membership of the Assembly. Any standing committee so established shall have power to summon any Minister, the Attorney-General or any public officer of a department of Government for which a Minister is responsible to appear before it and to require any Minister or other person so summoned to answer questions and provide information about the conduct of business of the Government by the Minister or department concerned or by the Attorney-General and to report upon its activities to the Assembly.

Presiding in Assembly

55. At sittings of the Legislative Assembly there shall preside-

- (a) the Speaker; or
- (b) in the absence of the Speaker, the Deputy Speaker; or
- (c) in the absence of the Speaker and the Deputy Speaker, such one of the elected members (other than a member of the Cabinet) as may be elected by the elected members.

Assembly may transact business notwithstanding vacancies

56. The Legislative Assembly shall not be disqualified for the transaction of business by reason of any vacancy in its membership (including any vacancy not filled when the Assembly is first constituted or is reconstituted at any time) and any proceedings therein shall be valid notwithstanding that some person who was not entitled to do so sat or voted in the Assembly or otherwise took part in those proceedings.

Quorum

57.—(1) If at any sitting of the Legislative Assembly a quorum is not present and any member of the Assembly who is present objects on that account to the transaction of business and, after such interval as may be prescribed in the Standing Orders of the Assembly, the person presiding at the sitting ascertains that a quorum is still not present, he shall adjourn the Assembly.

(2) For the purposes of this section a quorum shall consist of nine elected members of the Assembly in addition to the person presiding.

Voting

58.—(1) Save as otherwise provided in this Constitution, all questions proposed for decision in the Legislative Assembly shall be determined by a majority of votes of the members present and voting.

(2) The Speaker shall not vote, and any other member presiding shall have an original but no casting vote.

(3) In the event of an equality of votes on any question the motion shall be lost.

Summoning of persons to assist Assembly

59.—(1) The Speaker or other person presiding may, when in his opinion the business before the Legislative Assembly makes it desirable, summon any person to a meeting of the Assembly notwithstanding that that person is not a member of the Assembly.

(2) Any person so summoned shall be entitled to take part as if he were a member in the proceedings of the Assembly relating to the matter in respect of which he was summoned, except that he may not vote.

Introduction of Bills

60.—(1) Subject to the provisions of this Constitution and of the Standing Orders of the Legislative Assembly, any member may introduce any Bill or propose any motion for debate in, or may present any petition to, the Assembly, and the same shall be debated and disposed of according to the Standing Orders of the Assembly.

(2) The Standing Orders of the Assembly shall require that, except in a case of emergency, every Bill introduced by the Government shall be published at least twenty-one days before the commencement of the meeting at which it is scheduled to be introduced.

(3) Except on the recommendation of the Minister of Finance, the Assembly shall not-

- (a) proceed upon any Bill (including any amendment to a Bill) which, in the opinion of the person presiding in the Assembly, makes provision for imposing or increasing any tax, for imposing or increasing any charge on the revenues or other funds of the Cayman Islands or for altering any such charge otherwise than by reducing it or for compounding or remitting any debt due to the Cayman Islands;
- (b) except in the case of a motion proposing a resolution under section 52(2) of this Constitution, proceed upon any motion (including any amendment to a motion) the effect of which, in the opinion of the person presiding in the Assembly, is that provision would be made for any of the purposes aforesaid; or

- (c) receive any petition which, in the opinion of the person presiding in the Assembly, requests that provision be made for any of the purposes aforesaid.

Governor's reserved power

61.—(1) If the Governor considers that it is expedient-

- (a) in the interests of public order, public faith or good government (which expressions shall, without prejudice to their generality, include the responsibility of the Cayman Islands as a territory within the Commonwealth and all matters pertaining to the creation or abolition of any public office or to the salary or other conditions of service of any public officer);
or
- (b) in order to secure detailed control of the finances of the Cayman Islands during such time as, by virtue of the receipt of financial assistance by the Cayman Islands from Her Majesty's Exchequer in the United Kingdom for the purpose of balancing the annual budget, such control rests with Her Majesty's Government,

that any Bill introduced, or any motion proposed, in the Legislative Assembly should have effect, then, if the Assembly fail to pass the Bill or to carry the motion within such time and in such form as the Governor thinks reasonable and expedient, the Governor may, at any time that he thinks fit, and notwithstanding any provision of this Constitution or of any other law in force in the Cayman Islands or of any Standing Orders of the Assembly, declare that the Bill or motion shall have effect as if it had been passed or carried by the Assembly either in the form in which it was introduced or proposed or with such amendments as the Governor thinks fit which have been moved or proposed in the Assembly or any committee thereof; and the Bill or the motion shall be deemed thereupon to have been so passed or carried, and the provisions of this Constitution, and in particular the provisions relating to assent to Bills and disallowance of laws, shall have effect accordingly.

(2) The Governor shall not make any declaration under this section except in accordance with the following conditions-

- (a) the question whether the declaration should be made shall first be submitted in writing by the Governor to the Cabinet and if, upon the question being so submitted to it, the Cabinet advises him that the declaration should be made, the Governor may make the declaration;
- (b) if, when the question whether the declaration should be made is submitted to it as aforesaid, the Cabinet does not, within such time as the Governor thinks reasonable and expedient, advise him that the declaration should be made, then-

- (i) the Governor may submit the said question to a Secretary of State and may make the declaration if, upon the question being so submitted to him, a Secretary of State authorises the Governor to make the declaration; or
- (ii) the Governor may make the declaration without submitting the said question to a Secretary of State if, in the Governor's judgement, urgent necessity requires that the declaration be made without obtaining the authority of a Secretary of State; in which case he shall, at the time of making the declaration, certify in writing that urgent necessity requires that the declaration be made without obtaining such authority.

(3) Whenever the Governor, in accordance with subsection (2)(b) of this section, submits to a Secretary of State the question whether a declaration should be made, or makes a declaration without submitting the said question to a Secretary of State, he shall inform the Cabinet in writing of his reasons for so doing.

(4) Whenever the Governor makes a declaration under this section, other than a declaration made with the authority of a Secretary of State, he shall forthwith report to a Secretary of State the making of, and the reasons for, the declaration and, in the case of a declaration made in accordance with subsection (2)(b)(ii) of this section, the grounds of urgency.

(5) If any member of the Cabinet so desires, he may, within thirty days of the date of the making of a declaration under this section, submit to the Governor a statement in writing of his comments on the making of such declaration, and the Governor shall forward such statement or a copy thereof as soon as practicable to a Secretary of State.

(6) Any declaration made under this section that relates to a motion may be revoked by a Secretary of State, and the Governor shall cause notice of such revocation to be published in a Government Notice; and from the date of such publication any motion which has effect by virtue of the declaration shall cease to have effect, and section 16(1) of the Interpretation Act 1978(a) shall apply to the revocation as it applies to the repeal of an Act of Parliament.

(7) This section applies to any motion-

- (a) relating to or for the purposes of a bill;
- (b) proposing or amending a resolution which, if passed by the Legislative Assembly, would have the force of law; or
- (c) proposing or amending a resolution upon which the coming into force or continuance in force of any subsidiary instrument depends.

(8) The powers conferred upon the Governor by subsections (1) and (2) of this section shall be exercised by him in his discretion.

(a) 1978 c.30.

Assent to Bills

62.—(1) A Bill shall not become a law until-

- (a) the Governor has assented to it in Her Majesty's name and on Her Majesty's behalf and has signed it in token of his assent; or
- (b) Her Majesty has given Her assent to it through a Secretary of State and the Governor has signified Her assent by Proclamation.

(2) When a Bill is presented to the Governor for his assent, he shall, subject to the provisions of this Constitution and of any Instructions addressed to him under Her Majesty's Sign Manual and Signet or through a Secretary of State, declare that he assents or refuses to assent to it or that he reserves the Bill for the signification of Her Majesty's pleasure:

Provided that, unless he has been authorised by a Secretary of State to assent thereto, the Governor shall reserve for the signification of Her Majesty's pleasure any Bill which appears to him, acting in his discretion -

- (a) to be in any way repugnant to, or inconsistent with, the provisions of this Constitution;
- (b) to determine or regulate the privileges, immunities or powers of the Legislative Assembly or of its members;
- (c) to be inconsistent with any obligation of Her Majesty or of Her Majesty's Government in the United Kingdom towards any other state or any international organisation;
- (d) to be likely to prejudice the Royal prerogative;
- (e) to affect any matter for which he is responsible under section 24(1)(c) of this Constitution; or
- (f) to affect the integrity or independence of the public service or of the administration of justice.

Return of Bills by Governor

63. The Governor may return to the Legislative Assembly any Bill presented to him for his assent, transmitting therewith any amendments which he may recommend, and the Assembly shall deal with such recommendation.

Disallowance of laws

64.—(1) Any law to which the Governor has given his assent may be disallowed by Her Majesty through a Secretary of State.

(2) Whenever a law has been disallowed by Her Majesty the Governor shall, as soon as practicable, cause notice of the disallowance to be published by Government Notice and the law shall be annulled with effect from the date of the publication of that notice.

(3) The provisions of section 16(1) of the Interpretation Act 1978 shall apply to the annulment of any law under this section as they apply to the repeal of an Act of Parliament, save that any enactment repealed or amended by or in pursuance of that law shall have effect as from the date of the annulment as if that law had not been made.

Privileges of Assembly and members

65. A law made under this Constitution may determine and regulate the privileges, immunities and powers of the Legislative Assembly and its members, but no such privileges, immunities or powers shall exceed those of the House of Commons of the United Kingdom or of the members thereof.

Sessions of Assembly

66.—(1) Subject to the provisions of this Constitution, the sessions of the Legislative Assembly shall be held at such places and begin at such times as the Governor may from time to time by Proclamation appoint.

(2) The first session of the Assembly shall begin within twelve months after the appointed day; and thereafter there shall be at least one session of the Assembly in every year, so however that there shall be an interval of less than twelve months between the last sitting in one session and first sitting in the next session.

Prorogation and dissolution

67.—(1) The Governor-

- (a) after consulting the Chief Minister, may at any time, by Proclamation, dissolve the Legislative Assembly;
- (b) acting on the advice of the Chief Minister, may at any time, by Proclamation, prorogue the Assembly.

(2) The Governor shall dissolve the Assembly at the expiration of four years from the date when the Assembly first meets after any general election unless it has been sooner dissolved pursuant to the provisions of this Constitution.

Recalling dissolved Assembly in case of emergency

68. If, between a dissolution of the Legislative Assembly and the next ensuing general election, an emergency arises of such a nature that, in the opinion of the Governor, it is necessary for the Assembly to be recalled, the Governor may, after consultation with the Chief Minister, summon the Assembly that has been dissolved and that Assembly shall thereupon be deemed (except for the purposes of section 69(1) of this Constitution) not to have been dissolved, but shall be deemed (except as aforesaid) to be dissolved on the date on which the next ensuing general election is held.

General elections and bye-elections

69.—(1) A general election of members of the Legislative Assembly shall be held at such time within two months after every dissolution of the Assembly as the Governor shall appoint by proclamation published in a Government Notice.

(2) Whenever any person vacates his seat as a member of the Assembly for any reason other than a dissolution thereof, an election to fill the vacancy shall be held within two months after the occurrence of the vacancy unless the Assembly is sooner dissolved or the date on which the Assembly must be dissolved under section 67(2) of this Constitution is less than four months after the occurrence of the vacancy.

Electoral constituencies and franchise

Electoral constituencies

70.—(1) For the purpose of elections to the Legislative Assembly, the Cayman Islands shall be divided into seventeen electoral constituencies.

(2) The boundaries of the electoral constituencies shall be those set out in the Second Schedule to this Constitution:

Provided that the said Schedule may from time to time be modified by order made by the Governor in accordance with section 72(6) of this Constitution.

(3) Each electoral constituency shall return one member to the Assembly.

Electoral Boundary Commission

71.—(1) An Electoral Boundary Commission shall be appointed from time to time at such time as the Governor, after consultation with the Chief Minister and the Leader of the Opposition, may determine:

Provided that-

- (a) the first such Commission shall be appointed within eight years of the appointed day; and
 - (b) each subsequent Commission shall be appointed not later than eight years after the last Commission submitted its report under section 72 of this Constitution.
- (2) An Electoral Boundary Commission shall consist of-
- (a) a Chairman who shall be appointed by the Governor, acting in his discretion;
 - (b) one member appointed by the Governor, acting in accordance with the advice of the Chief Minister; and
 - (c) one member appointed by the Governor, acting in accordance with the advice of the Leader of the Opposition.
- (3) A person shall not be qualified to be appointed as the Chairman of an Electoral Boundary Commission if he is a member of the Legislative Assembly or a public officer.
- (4) The Chairman of an Electoral Boundary Commission shall vacate his office-
- (a) on the day following the date of submission under section 72 of this Constitution of the report of the Commission;
 - (b) if he becomes a member of the Legislative Assembly or a public officer;
 - (c) if the Governor, acting in his discretion, directs that he shall be removed from office for inability to discharge the functions thereof (whether arising from infirmity of body or mind or any other cause) or for misbehaviour.
- (5) Any other member of an Electoral Boundary Commission shall vacate his office-
- (a) on the day following the date of submission under section 72 of this Constitution of the report of the Commission;
 - (b) if his appointment is revoked by the Governor, acting, in the case of a member appointed under subsection (2)(b) of this section, in accordance with the advice of the Chief Minister or, in the case of a member appointed under subsection(2)(c) of this section, in accordance with the advice of the Leader of the Opposition.
- (6) An Electoral Boundary Commission may regulate its own procedure and, with the consent of the Governor, confer powers and impose duties on any public officer or on any authority of the Government for the purpose of the discharge of its functions.
- (7) For the purpose of the discharge of its functions, an Electoral Boundary Commission shall invite views from members of the public and may seek such advice as it considers appropriate.
- (8) An Electoral Boundary Commission may act notwithstanding any vacancy in its membership (including any vacancy not filled when appointments of members are first made) and its proceedings shall be valid notwithstanding that some person who was not entitled so to do took part therein:

Provided that any decision of the Commission shall require the concurrence of not less than two members of the Commission.

(9) In the exercise of its functions under this Constitution, an Electoral Boundary Commission shall not be subject to the direction or control of any other person or authority.

Review and alteration of electoral constituency boundaries

72.—(1) An Electoral Boundary Commission shall, as soon as practicable after its appointment, review the boundaries of the electoral constituencies into which the Cayman Islands are divided and submit to the Legislative Assembly a report-

- (a) stating that, in the opinion of the Commission, no change in those boundaries is required;
- or
- (b) recommending the changes in those boundaries specified in the report.

(2) In determining whether or not to recommend any changes in those boundaries, the Commission shall-

- (a) take no account of the racial distribution of electors within an electoral constituency;
- (b) take account of the natural boundaries within each electoral constituency; and
- (c) subject to the foregoing provisions of this subsection, ensure that-
 - (i) the electoral constituencies shall contain, so far as is reasonably practicable, equal numbers of persons registered as electors, and
 - (ii) Cayman Brac and Little Cayman shall (between these two islands) at all times return at least two members to the Assembly.

(3) As soon as may be after the Commission has submitted a report under subsection (1)(b) of this section, the Chief Minister shall lay before the Assembly for its approval the draft of an order by the Governor for giving effect, whether with or without modifications, to the recommendations contained in the report, and that draft may make provision for any matters which appear to the Chief Minister to be incidental to or consequential upon the other provisions of the draft.

(4) Where any draft order laid under this section would give effect to any such recommendations with modifications, the Chief Minister shall lay before the Assembly together with the draft a statement of the reasons for the modifications.

(5) If the motion for the approval of any draft order laid under this section is rejected by the Assembly or is withdrawn by leave of the Assembly, an amended draft shall be laid without undue delay by the Chief Minister before the Assembly.

(6) If any draft order laid under this section is approved by resolution of the Assembly, the Chief Minister shall submit it to the Governor who shall make an order (which shall be published

in a Government Notice) in terms of the draft; and that order shall come into force for the determination of the boundaries of the electoral constituencies to which it relates upon the next dissolution of the Assembly after it is made.

(7) The question of the validity of any order by the Governor purporting to be made under this section and reciting that a draft thereof has been approved by the Assembly shall not be inquired into in any court.

Qualifications of electors

73.—(1) Subject to section 73 of this Constitution, a person shall be entitled to be registered as an elector in one electoral constituency only, but he shall not be entitled to be registered as an elector for elections to the Legislative Assembly unless -

- (a) he was, on the day immediately preceding the appointed day, entitled to be registered as an elector; or
- (b) he is a Caymanian; and
- (c) he has attained the age of eighteen years; and
- (d) he is resident in the Cayman Islands at the date of registration; and
- (e) he has been resident in the Cayman Islands for a period or periods amounting to not less than two years out of the four years immediately preceding the date of registration.

(2) Any period of absence for any of the purposes specified in section 44(2) of this Constitution shall be disregarded in determining whether a person is or has been resident in the Cayman Islands for the purposes of this section.

Disqualifications of electors

74.—(1) A person shall not be entitled to be registered as an elector in any electoral constituency who-

- (a) subject to subsection (2) of this section, is under sentence of death imposed on him by a court in any country, or is serving a sentence of imprisonment (by whatever name called) exceeding twelve months imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court, or is under such a sentence of imprisonment the execution of which has been suspected;
- (b) is a person certified to be insane or otherwise adjudged to be of unsound mind under any law in force in the Cayman Islands; or
- (c) is disqualified for registration as an elector by any law in force in the Cayman Islands relating to offences connected with elections.

(2) Section 45(2) of this Constitution shall apply for the purposes of subsection (1)(a) of this section as it applies for the purposes of subsection (1)(e) of the said section 45.

Right to vote at elections

75.—(1) Any person who is registered as an elector in an electoral constituency shall, while so registered, be entitled to vote at any election in that constituency for an elected member of the Legislative Assembly, unless he is prohibited from so voting by any law in force in the Cayman Islands-

- (a) because he is a returning officer; or
- (b) because he has been concerned in any offence connected with elections.

(2) No person shall vote at any election in any electoral constituency who-

- (a) is not registered as an elector in that constituency;
- (b) has voted in another constituency at the same election;
- (c) is in lawful custody; or
- (d) is for any other reason unable to attend to vote in person (except so far as it may be provided by law that such persons may vote).

Law as to elections

76. Subject to the provisions of this Constitution, a law made under this Constitution may provide for the election of members of the Legislative Assembly, including (without prejudice to the generality of the foregoing power) the following matters, that is to say:-

- (a) the registration of electors;
- (b) the ascertainment of the qualifications of electors and of candidates for election;
- (c) the holding of elections;
- (d) the determination of any question whether any person has been validly elected a member of the Assembly or whether the seat of any elected member in the Assembly has become vacant;
- (e) the definition and trial of offences connected with elections and the imposition of penalties therefor, including the disqualification for membership of the Assembly, or for registration as an elector, or for voting at elections, of any person concerned in any such offence; and
- (f) the disqualification for election as members of the Assembly of persons holding or acting in any office the functions of which involve any responsibility for, or in connection with, the conduct of any election or the compilation or revision of any electoral register.

PART V
THE JUDICATURE
The Grand Court

Constitution and jurisdiction of Grand Court

77.—(1) There shall be a Grand Court for the Cayman Islands which shall be a superior Court of Record and shall have such jurisdiction and powers as may be conferred on it by this Constitution and any other law.

(2) The Court shall have and use a seal bearing the style of the Court and a device approved by the Chief Justice.

Composition of Grand Court

78.—(1) The judges of the Grand Court shall be a Chief Justice and such number of other judges (if any) as may be prescribed by a law made under this Constitution:

Provided that the office of a judge shall not, without his consent, be abolished during his continuance in office.

(2) The judges of the Grand Court shall be persons holding such qualifications for appointment as a judge of the Grand Court as may be prescribed by a law made under this Constitution:

Provided that a person who has been appointed as a judge of the Grand Court may continue in office notwithstanding any subsequent variation in the qualifications so prescribed.

(3) The Chief Justice shall be appointed by the Governor by instrument under the public seal with the prior approval of a Secretary of State.

(4) The judges of the Grand Court other than the Chief Justice shall be appointed by the Governor by instrument under the public seal in accordance with the recommendation of the Judicial Service Commission.

(5) It shall be lawful for a person qualified for appointment as a judge of the Grand Court to be so appointed (regardless of his age) for such term as may be specified in the instrument of appointment, and section 79 of this Constitution shall have effect in relation to any person so appointed as if he would attain the retiring age applicable to that office on the day on which the specified term expires.

(6) The emoluments and allowances of a judge of the Grand Court shall be prescribed by law and shall be charged on the revenues of the Cayman Islands, and the emoluments and allowances of a judge shall not, without his consent, be reduced during his continuance in office.

Tenure of office of judges of Grand Court

79.—(1) Subject to the provisions of this section and of section 78(5) of this Constitution, a judge of the Grand Court shall vacate his office when he attains the age of sixty-five years:

Provided that -

- (i) the Governor may permit a judge who attains the age of sixty-five years to continue in office until he has attained such later age, not exceeding the age of seventy years, as may have been agreed between that judge and the Governor following the recommendation of the Judicial Service Commission;
- (ii) a judge who has attained the age at which he would otherwise vacate office under this subsection may continue in office for such period as may be necessary to enable him to deliver judgment or to do any other thing in relation to any proceeding commenced before him before he attained that age.

(2) A judge of the Grand Court may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour, and shall not be so removed except in accordance with subsection (3) of this section.

(3) A judge of the Grand Court shall be removed from office by the Governor by instrument under the public seal if the question of the removal of that judge from office has, at the request of the Governor made in pursuance of subsection (4) of this section, been referred by Her Majesty to the Judicial Committee of Her Majesty's Privy Council under section 4 of the Judicial Committee Act 1833(a) or any other enactment enabling Her Majesty in that behalf, and the Judicial Committee has advised Her Majesty that the judge ought to be removed from office for inability as aforesaid or misbehaviour.

(4) If the Governor considers that the question of removing a judge of the Grand Court from office for inability as aforesaid or misbehaviour ought to be investigated, then-

- (a) the Governor shall appoint a tribunal, which shall consist of a Chairman and not less than two other members selected by the Governor from among persons who hold or have held high judicial office;

(a) 1833 c. 41.

- (b) the tribunal shall inquire into the matter and report on the facts thereof to the Governor and advise the Governor whether he should request that the question of the removal of that judge should be referred by Her Majesty to the Judicial Committee; and
- (c) if the tribunal so advises, the Governor shall request that the question should be referred accordingly.

(5) The provisions of the Commissions of Inquiry Law^(a) as in force on the appointed day shall, subject to the provisions of this section, apply as nearly as may be in relation to tribunals appointed under subsection (4) of this section or, as the context may require, to the members thereof as they apply in relation to Commissions or Commissioners appointed under that Law.

(6) If the question of removing a judge of the Grand Court from office has been referred to a tribunal under subsection (4) of this section, the Governor may suspend the judge from performing the functions of his office, and any such suspension may at any time be revoked by the Governor, and shall in any case cease to have effect-

- (a) if the tribunal advises the Governor that he should not request that the question of the removal of the judge from office be referred by Her Majesty to the Judicial Committee; or
- (b) if the Judicial Committee advises Her Majesty that the judge ought not to be removed from office.

(7) The powers conferred upon the Governor by this section shall be exercised by him in his discretion.

Acting judges of Grand Court

80.—(1) If the office of Chief Justice is vacant, or if the holder thereof is for any reason unable to perform the functions of his office, then, until some other person has been appointed to, and has assumed the functions of, that office, or until the holder of that office has resumed those functions, as the case may be, such one of the other judges of the Grand Court or such other person qualified for appointment as a judge of the Grand Court as the Governor, acting with the prior approval of a Secretary of State, may appoint for that purpose shall act in that office.

(2) If the office of a judge of the Grand Court other than the Chief Justice is vacant, or if any such judge is acting as Chief Justice or is for any reason unable to perform the functions of his office, the Governor, acting in accordance with the recommendation of the Judicial Service Commission, may appoint a person qualified for appointment as a judge of the Grand Court to act as such a judge.

^(a)

(3) A person may be appointed under subsection (1) or (2) of this section notwithstanding that he has attained the age of sixty-five years.

(4) Any person appointed under this section to act as a judge of the Grand Court shall, unless he is removed from office under section 79 of this Constitution, continue so to act for the period of his appointment or, if no such period is specified, until his appointment is revoked by the Governor, acting in his discretion:

Provided that a person whose appointment so to act has expired or been revoked may, with the permission of the Governor, acting in his discretion, continue so to act for such period as may be necessary to enable him to deliver judgment or to do any other thing in relation to any proceeding commenced before him previously thereto.

Oaths to be taken by judges of Grand Court

81. Before assuming the functions of his office, every judge of the Grand Court shall make and subscribe before the Governor, or some other person authorised in that behalf by the Governor, acting in his discretion, oaths of allegiance and for the due execution of his office in the forms set out in the First Schedule to this Constitution.

The Court of Appeal

Constitution and jurisdiction of Court of Appeal

82.—(1) There shall be a Court of Appeal for the Cayman Islands which shall be a superior Court of Record and shall have jurisdiction and powers to hear and determine such appeals from the Grand Court as may be prescribed by any law in force in the Cayman Islands.

(2) The Court of Appeal shall, subject to the provisions of this Constitution and any law in force in the Cayman Islands, have all the powers and jurisdiction that are possessed by the Grand Court under any law in force in the Cayman Islands; and decisions of the Court of Appeal in respect of any appeal from the Grand Court shall, subject as aforesaid, be enforced in the Cayman Islands in the same way as decisions of that Court.

(3) Subsection (1) of this section shall not apply to appeals relating to any matter in respect of which this Constitution or any other law provides that the decision of the Grand Court is to be final.

(4) The Court of Appeal shall have and use a seal bearing the style of the Court and a device approved by the President.

Composition of Court of Appeal

83.—(1) The judges of the Court of Appeal shall be a President and not less than two Justices of Appeal.

(2) The judges of the Court of Appeal shall be appointed by the Governor by instrument under the public seal, in accordance with such instructions as he may receive from Her Majesty through a Secretary of State:

Provided that the office of a judge shall not, without his consent, be abolished during his continuance in office.

(3) A person shall be qualified to be appointed as a judge of the Court of Appeal if, and shall not be qualified to be so appointed unless, he holds or has held high judicial office.

(4) A judge of the Grand Court may exercise any of the powers of a single judge of the Court of Appeal to such extent as a law made under this Constitution may prescribe.

Tenure of office of judges of Court of Appeal

84.—(1) The judges of the Court of Appeal shall be appointed for such period as may be specified in their respective instruments of appointment:

Provided that a person whose appointment as a judge of the Court of Appeal has expired may, with the permission of the Governor, acting in his discretion, continue in office for such period as may be necessary to enable him to deliver judgment or to do any other thing in relation to any proceeding commenced before him previously thereto.

(2) A judge of the Court of Appeal may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour, and shall not be so removed except in accordance with subsection (3) of this section.

(3) A judge of the Court of Appeal shall be removed from office by the Governor by instrument under the public seal if the question of the removal of that judge from office has, at the request of the Governor made in pursuance of subsection (4) of his section, been referred by Her Majesty to the Judicial Committee of Her Majesty's Privy Council under section 4 of the Judicial Committee Act 1833 or any other enactment enabling Her Majesty in that behalf, and the Judicial Committee has advised Her Majesty that the judge ought to be removed from office for inability as aforesaid or misbehaviour.

(4) If the Governor considers that the question of removing a judge of the Court of Appeal from office for inability as aforesaid or misbehaviour ought to be investigated, then -

- (a) the Governor shall appoint a tribunal, which shall consist of a Chairman and not less than two other members selected by the Governor from among persons who hold or have held high judicial office;
- (b) the tribunal shall inquire into the matter and report on the facts thereof to the Governor and advise the Governor whether he should request that the question of the removal of that judge should be referred by Her Majesty to the Judicial Committee; and
- (c) if the tribunal so advises, the Governor shall request that the question should be referred accordingly.

(5) The provisions of the Commissions of Inquiry Law as in force on the appointed day shall, subject to the provisions of this section, apply as nearly as may be in relation to tribunals appointed under subsection (4) of this section or, as the context may require, to the members thereof as they apply in relation to Commissions or Commissioners appointed under that Law.

(6) If the question of removing a judge of the Court of Appeal from office has been referred to a tribunal under subsection (4) of this section, the Governor may suspend the judge from performing the functions of his office, and any such suspension may at any time be revoked by the Governor, and shall in any case cease to have effect-

- (a) if the tribunal advises the Governor that he should not request that the question of the removal of the judge from office should be referred by Her Majesty to the Judicial Committee; or
- (b) if the Judicial Committee advises Her Majesty that the judge ought not to be removed from office.

(7) The powers conferred upon the Governor by this section shall be exercised by him in his discretion.

Acting judges of Court of Appeal

85.—(1) If the office of the President of the Court of Appeal is vacant, or if the holder thereof is for any reason unable to perform the functions of his office, then, until some other person has been appointed to, and has assumed the functions of, that office or until the holder thereof has resumed those functions, as the case may be, such one of the Justices of Appeal or such other person qualified for appointment as a judge of the Court of Appeal as the Governor, acting in his discretion, may appoint for that purpose shall act in the office of the President.

(2) If the office of a Justice of Appeal is vacant, or if any Justice of Appeal is acting as the President or is for any reason unable to perform the functions of his office, the Governor, acting in his discretion, may appoint a person possessing such legal qualifications and experience as he,

after consultation with the President, or acting President, may deem appropriate to act as a Justice of Appeal.

(3) Any person appointed under this section to act as a Justice of Appeal shall, unless he is removed from office under section 84 of this Constitution, continue so to act for the period of his appointment or, if no such period is specified, until his appointment is revoked by the Governor, acting in his discretion:

Provided that a person whose appointment so to act has expired or been revoked may, with the permission of the Governor, acting in his discretion, continue so to act for such period as may be necessary to enable him to deliver judgement or to do any other thing in relation to any proceeding commenced before him previously thereto.

Oaths to be taken by judges of Court of Appeal

86. Before assuming the functions of his office every judge of the Court of Appeal shall make and subscribe before the Governor, or some other person authorised in that behalf by the Governor, acting in his discretion, oaths of allegiance and for the due execution of his office in the forms set out in the First Schedule to this Constitution.

Subordinate courts

Other courts

87.—(1) A law made under this Constitution may establish courts subordinate to the Grand Court.

(2) The Grand Court shall have jurisdiction to supervise the proceedings before any subordinate court and may make such orders, issue such process and give such directions as it may consider appropriate for the purpose of ensuring that justice is duly administered by any such courts.

Judicial Service Commission

Judicial Service Commission

88. There shall be for the Cayman Islands a Judicial Service Commission which shall consist of-

- (a) the Chief Justice, who shall be Chairman;
- (b) the President of the Court of Appeal; and
- (c) the Chairman of the Civil Service Commission.

Powers of Judicial Service Commission

89.—(1) Subject to subsections (3) and (4) of this section, power to make appointments to the offices to which this section applies and to remove and exercise disciplinary control over persons holding or acting in those offices shall vest in the Governor, acting in accordance with the recommendation of the Judicial Service Commission.

(2) This section applies to the office of a magistrate or any registrar or other officer of the Grand Court or the Court of Appeal who is required to possess legal qualifications.

(3) Whenever the Governor proposes to exercise any power under subsection (1) of this section or section 78(4), section 79(1) or section 80(2) of this Constitution otherwise than in accordance with the recommendation received from the Judicial Service Commission, he shall first refer that recommendation back to the Commission, once, for reconsideration and shall hold further consultations on the matter with the Commission, but shall thereafter exercise the power in his discretion.

(4) If the Governor, having consulted the Judicial Service Commission in the exercise of any power in accordance with subsection (1) of this section or section 78(4), section 79(1) or section 80(2) of this Constitution, receives no recommendation from the Commission within such time as the Governor, acting in his discretion, considers reasonable he may exercise the power in his discretion forthwith.

PART VI

THE PUBLIC SERVICE

Appointment, discipline and removal

Civil Service Commission

90.—(1) There shall be a Civil Service Commission for the Islands, which shall consist of a Chairman and not less than four or more than six other members.

(2) Of the members of the Civil Service Commission, the Chairman shall be appointed by the Governor acting in his discretion and an equal number of the other members shall be appointed by the Governor acting after consultation with the Chief Minister and by the Governor acting after consultation with the Leader of the Opposition.

(3) The members of the Civil Service Commission shall be appointed by instrument under the public seal for such period, not being less than two nor more than four years, as may be specified in their respective instruments of appointment.

(4) No person shall be qualified to be appointed as a member of the Civil Service Commission if he is a public officer or if he is or has been within the preceding three years-

- (a) an elected member of the Legislative Assembly; or
- (b) the holder of any office of any political party.

(5) The office of a member of the Civil Service Commission shall become vacant-

- (a) at the expiration of the period specified in the instrument by which he was appointed;
- (b) if he resigns his office by writing under his hand addressed to the Governor;
- (c) if he becomes an elected member of the Legislative Assembly, the holder of any office in any political party, or a public officer; or
- (d) if the Governor, acting in his discretion, directs that he shall be removed from office for inability to discharge the functions thereof (whether arising from infirmity of body or mind or any other cause) or for misbehaviour.

(6) Subject to section 91 and the other provisions of this Constitution, the Civil Service Commission shall have such functions in relation to the public service as may be prescribed by law.

(7) In the performance of its functions under any law the Civil Service Commission shall not be subject to the direction or control of any other person or authority.

Appointment, etc., of public officers

91.—(1) Power to make appointments to public offices, and to transfer, remove or exercise disciplinary control over persons holding or acting in such offices, is vested in the Governor acting in his discretion.

(2) The Governor, acting in his discretion, may by regulations delegate, to such extent and subject to such conditions as may be specified in the regulations, the powers vested in him by subsection (1) of this section to such public officers as may be specified.

(3) No regulations made under subsection (2) of this section shall delegate any powers vested in the Governor in relation to the offices of Attorney-General, Solicitor-General, Commissioner of Police, or Auditor General, or to any office to which Part V of this Constitution applies.

Attorney-General

92.—(1) The office of Attorney-General shall be a public office and the Attorney-General shall be the principal legal adviser to the Government.

(2) Power to make appointments to the office of Attorney-General is vested in the Governor, acting after consultation with the Chief Minister.

(3) Subject to the following provisions of this section, the Attorney-General shall vacate his office when he attains the age of 55 years:

Provided that the Governor may permit an Attorney-General who attains the age of 55 years to continue in office until he has attained such later age, not exceeding the age of 65 years, as may have been agreed between the Governor and that Attorney-General.

(4) It shall be lawful for a public officer to be appointed as Attorney-General for such term as may be specified in the instrument of appointment and the following provisions of this section shall have effect in relation to any person so appointed as if he would attain the retiring age applicable to that office on the day on which the specified term expires.

(5) The Attorney-General may be removed from office only for inability to discharge the functions thereof (whether arising from infirmity of body or mind or any other cause) or for misbehaviour, and shall not be so removed except in accordance with subsection (6) of this section.

(6) The Attorney-General shall be removed from office by the Governor if the question of his removal from office has been referred to a tribunal appointed under subsection (7) of this section and the tribunal has advised the Governor that he ought to be removed from office for inability as aforesaid or for misbehaviour.

(7) If the Governor, acting in his discretion, considers that the question of removing the Attorney-General from office for inability as aforesaid or for misbehaviour ought to be investigated, or the Chief Justice and the other judges of the Grand Court collectively represent to the Governor that that question ought to be investigated, then-

- (a) the Governor shall appoint a tribunal, which shall consist of a Chairman and not less than two other members selected by the Governor, acting in his discretion, from among persons who hold or have held high judicial office; and
- (b) that tribunal shall inquire into the matter and report on the facts thereof to the Governor and advise the Governor whether the Attorney-General ought to be removed from office for inability as aforesaid or for misbehaviour.

(8) The provisions of the Commissions of Inquiry Law shall, subject to the provisions of this section, apply as nearly as may be in relation to tribunals appointed under subsection (7) of this section or, as the context may require, to the members thereof as they apply in relation to Commissions or Commissioners appointed under that Law.

(9) If the question of removing the Attorney-General from office has been referred to a tribunal under subsection (7) of this section, the Governor, acting in his discretion, may suspend the Attorney-General from performing the functions of his office, and any such suspension may at any time be revoked by the Governor, acting in his discretion, and shall in any case cease to have effect if the tribunal advises the Governor that the Attorney-General should not be removed from office.

(10) References in subsections (3) to (9) of this section to the Attorney-General do not include references to a person appointed to act in the office of Attorney-General during any period when it is vacant or the holder thereof is unable to perform the functions thereof; and the appointment of such a person may be revoked by the Governor, acting in his discretion, at any time before the expiration of that period.

Solicitor-General

93.—(1) The office of Solicitor-General shall be a public office.

(2) The Solicitor-General shall -

- (a) have the powers specified in section 42 of this Constitution; and
- (b) perform all of the functions of the Attorney-General if the Attorney-General is unable by reason of illness or absence from the Cayman Islands to perform those functions.

(3) Power to make appointments to the office of Solicitor-General is vested in the Governor acting in his discretion.

(4) Subsections (3) to (10) of section 92 of this Constitution apply to the Solicitor-General as they apply to the Attorney-General.

Auditor-General

94.—(1) The office of Auditor-General shall be a public office and power to make appointments to the office of the Auditor-General is vested in the Governor acting in his discretion.

(2) Subject to the following provisions of this section, the Auditor-General shall vacate his office when he attains the age of 55 years:

Provided that the Governor, acting after consultation with the Chief Minister, may permit an Auditor-General who attains the age of 55 years to continue in office until he has attained such later age, not exceeding the age of 65 years, as may have been agreed between the Governor and that Auditor-General.

(3) It shall be lawful to make an appointment of an Auditor-General for such term as may be specified in the instrument of appointment and the following provisions of this section shall have effect in relation to any person so appointed as if he would attain the retiring age applicable to that office on the day on which the specified term expires.

(4) The Auditor-General may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour, and shall not be so removed except in accordance with subsection (5) of this section.

(5) The Auditor-General shall be removed from office by the Governor if the Governor, acting in his discretion, is satisfied that he ought to be removed from office for inability as aforesaid or for misbehaviour.

(6) During any period when the question of removing the Auditor-General from office for inability as aforesaid or for misbehaviour is being investigated by, or in pursuance of directions given by, the Governor, the Governor, acting in his discretion, may suspend the Auditor-General from performing the functions of his office.

(7) References in subsections (2) to (6) of this section to the Auditor-General do not include references to a person appointed to act in the office of the Auditor-General during any period when it is vacant or the holder thereof is unable to perform the functions thereof; and the appointment of such a person may be revoked by the Governor, acting in his discretion, at any time before the expiration of that period.

Pensions

Applicability of pensions law

95.—(1) The law applicable to the grant and payment to any officer, or to his widow, children, dependants or personal representatives, of any pension, gratuity or other like allowance (in this section referred to as “an award”) in respect of the service of that officer in a public office shall be that in force on the relevant day or any later law not less favourable to the person concerned.

(2) For the purposes of this section the relevant day is-

- (a) in relation to an award granted before the appointed day, the day on which the award was granted;
- (b) in relation to an award granted or to be granted on or after the appointed day to or in respect of a person who was a public officer before that day, the day immediately before that day;
- (c) in relation to an award granted or to be granted to or in respect of a person who first becomes a public officer on or after the appointed day, the day on which he becomes a public officer.

(3) For the purposes of this section, insofar as the law applicable to an award depends on the option of the person to or in respect of whom it is granted or to be granted, the law for which he opts shall be taken to be more favourable to him than any other law for which he might have opted.

(4) Where any sum is required for the payment of an award and no, or insufficient, provision has been made therefor under a law made under this Constitution, that sum shall be charged upon and paid out of the revenues of the Cayman Islands.

PART VII

FINANCE

Revenue and Expenditure

96.—(1) The Legislative Assembly shall have the authority to levy or change the rates of revenue unless otherwise provided by law.

(2) All Government expenses, assets and the incurrence of liabilities shall require appropriation by the Legislative Assembly, unless otherwise provided by law.

(3) A law made under this Constitution shall govern the operation of the Government's financial system and processes.

Reporting

97.—(1) At least one report annually shall be made to the Legislative Assembly on the Government's financial performance and fiscal position.

(2) The content, timing and process for financial reporting and the agencies that are to report to the Legislative Assembly shall be prescribed by law.

Audit

98.—(1) The Auditor-General shall be responsible for the audit of the Government's financial statements and for providing independent reports to the Legislative Assembly on financial matters.

(2) The powers and duties of the Auditor-General and the accountability of that post and the Audit Office shall be prescribed by law.

(3) In the exercise of his functions under this section, the Auditor-General shall not be subject to the direction or control of any other person or authority.

PART VIII
MISCELLANEOUS

Complaints Commissioner

99.—(1) Subject to the provisions of this Constitution, a law made under this Constitution may make provision for the office, functions and jurisdiction of a Complaints Commissioner, otherwise called an Ombudsman.

(2) The Complaints Commissioner shall be appointed by the Governor, acting after consultation with the Chief Minister and the Leader of the Opposition, by instrument under the public seal.

(3) No person shall be qualified to be appointed as Complaints Commissioner if he is or has been within the preceding three years-

- (a) an elected member of the Legislative Assembly; or
- (b) the holder of any office in any political party.

(4) The office of the Complaints Commissioner shall become vacant-

- (a) at the expiration of the period specified in the instrument by which he was appointed;
- (b) if he resigns his office by writing under his hand addressed to the Governor;
- (c) if he becomes an elected member of the Legislative Assembly or the holder of any office in any political party; or
- (d) if the Governor, acting in his discretion, directs that he shall be removed from office for inability to discharge the functions thereof (whether arising from infirmity of body or mind or any other cause) or for misbehaviour, or for contravention of subsection (5) of this section.

(5) Subject to such exceptions as the Governor, acting in his discretion, may authorise by directions in writing, the Complaints Commissioner shall not hold any other office of emolument either in the public service or otherwise nor engage in any occupation for reward other than the duties of his office.

(6) In the exercise of his functions, the Complaints Commissioner shall not be subject to the direction or control of any other person or authority.

Register of Interests

100.—(1) There shall be for the Cayman Islands a Register of Interests, which shall be maintained by a Registrar who shall be appointed, and may be removed from office, by the Governor acting in his discretion.

(2) It shall be the duty of any person to whom this section applies to declare to the Registrar, for entry in the Register of Interests, such interests, assets, income and liabilities of that person, or of any other person connected with him, as may be prescribed by law.

(3) A person shall make a declaration under subsection (2) of this section upon assuming the functions of his office and at such intervals thereafter (being no longer than twelve months) as may be prescribed by law.

(4) This section applies to all members of the Legislative Assembly and the holders of such other offices (except that of the Governor) as may be prescribed by law.

(5) A law made under this Constitution shall make provision for giving effect to this section, including the sanctions which may be imposed for a failure to comply with subsection (2) or (3) and, notwithstanding any provision of Part IV of this Constitution, the sanctions which may be imposed may include the suspension of a member of the Legislative Assembly from sitting therein for such period as may be prescribed in such a law.

Freedom of information

101. A law made under this Constitution shall provide for a right of access to information held by public authorities, for the conditions for the exercise of that right, and for restrictions and exceptions to that right in the interests of the security of the Cayman Islands or the United Kingdom, public safety, public order, public morality or the rights or interests of individuals.

Interpretation

102.—(1) In this Constitution, unless it is otherwise provided or required by the context-

“appointed day” means the date of commencement of this Constitution;

“Assembly” means Legislative Assembly;

“Caymanian” means a person who possesses Caymanian status and British overseas territories citizenship or British citizenship by virtue of a connection with the Cayman Islands;

“Caymanian status” means Caymanian status as provided for under the Immigration Law (2001 Revision) or any law amending or replacing that Law;

“Chief Minister” means a Chief Minister appointed under section 32 of this Constitution;

“Civil Service Commission” means the Civil Service Commission established by section 90 of this Constitution;

“Court of Appeal” means the court established by section 82 of this Constitution;

“financial year” shall have the same meaning as defined in the Public Management and Finance Law 2001, or any law amending or replacing that Law;

“functions” includes jurisdiction, powers and duties;

“Government” means the Government of the Cayman Islands;

“Government Notice” means a Cayman Islands Government Notice;

“Governor” means the person for the time being holding the office of Governor of the Cayman Islands, and includes any person for the time being lawfully performing the functions of that office and, to the extent to which a deputy appointed under section 22 of this Constitution is authorised to act (but except where the word “Governor” appears in that section), that deputy;

“Grand Court” means the court established by section 77 of this Constitution;

“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 a court having jurisdiction in appeals from such a court;

“Judicial Service Commission” means the Judicial Service Commission established by section 88 of this Constitution;

“law” includes any instrument having the force of law made in exercise of a power conferred by law;

“Leader of the Opposition” means a Leader of the Opposition appointed under section 51 of this Constitution;

“Minister” means a member of the Cabinet who is appointed a Minister under section 32 of this Constitution;

“party” as it appears in sections 32 and 51 of this Constitution shall mean a group of persons who have united to contest election for membership of the Legislative Assembly;

“public office” means, subject to subsection (2) of this section, 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;

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

“session” means the meetings of the Legislative Assembly commencing when the Assembly first meets after being constituted under this Constitution, or after its prorogation or dissolution at any time, and terminating when the Assembly is prorogued or is dissolved without having been prorogued;

“sitting” means a period during which the Legislative Assembly is sitting continuously without adjournment and includes any period during which the Assembly is in committee.

(2) For the purposes of this Constitution, references to public offices shall not be construed as including -

- (a) references to the office of Speaker, Deputy Speaker or elected member of the Legislative Assembly, Chief Minister, Minister, or Leader of the Opposition;
- (b) except in section 95 of this Constitution references to the office of judge of the Grand Court or the Court of Appeal;
- (c) references to a member of the Civil Service Commission, an Electoral Boundary Commission, or the Advisory Committee on the Prerogative of Mercy, or to the Complaints Commissioner;
- (d) references to any office the holder of which is declared by any law in force in the Cayman Islands not to be disqualified for election as a member of the Assembly,

and a person shall not be considered as holding a public office by reason only that he is in receipt of a pension or other like allowance in respect of service under the Crown.

(3) Any person who has vacated his seat in any body, or has vacated any office established by 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) A reference in this Constitution to the holder of an office by the term designating his office shall be construed as a reference to any person for the time being acting in that office or otherwise lawfully performing the functions of that office.

(5) Without prejudice to the last foregoing subsection-

- (a) 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 thereto; and
- (b) where two or more persons concurrently hold the same office by virtue of the foregoing paragraph, the person last appointed shall in respect of any function conferred on the holder of that office be deemed to be the sole holder thereof.

(6) Any power conferred by this Constitution to make any proclamation, rules, regulations or order or to give any directions shall be construed as including a power exercisable in like manner to amend or revoke any such proclamation, rules, regulations, order or directions.

(7) Where a person is required by this Constitution to make an oath he shall if he so desires be permitted to comply with that requirement by making an affirmation in accordance with the provisions of the First Schedule to this Constitution.

(8) For the purposes of this Constitution the resignation of a member of any body or holder of any office thereby established 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.

(9) For the purposes of this Constitution a person shall not be regarded as absent from the Cayman Islands or as unable to perform any of his functions thereunder by reason only that he is in passage between any one of the Cayman Islands and another or from one part of any Island to another part.

FIRST SCHEDULE TO THE CONSTITUTION

FORMS OF OATHS AND AFFIRMATIONS

1. Oath of Allegiance

I.....do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, according to law. So help me God.

2. Oath for due execution of office

I.....do swear that I will well and truly serve Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, and the people of the Cayman Islands in the office of (here insert the description of the office). So help me God.

3. Oath for due execution of judicial office

I.....do swear that I will well and truly serve Her Majesty Queen Elizabeth the Second in the office of (here insert the description of the office) and I will do right to all manner of people according to the law without fear or favour affection or ill-will. So help me God.

4. Affirmations

In the forms above respectively set forth, for the word “swear” there shall be substituted the words “solemnly and sincerely affirm and declare”, and the words “So help me God” shall be omitted.

SECOND SCHEDULE TO THE CONSTITUTION

ELECTORAL CONSTITUENCIES

[Description of the seventeen electoral constituencies following the report of the Electoral Boundary Commission to be established pursuant to the Cayman Islands (Constitution) (Amendment) Order 2003.]