

## Statutory Instrument 1993 No. 3143

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

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#### STATUTORY INSTRUMENTS

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**1993 No. 3143**

#### **CARIBBEAN AND NORTH ATLANTIC TERRITORIES**

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

*Made* 16th December 1993

*Laid before  
Parliament* 10th January  
1994

Coming into force

*On a day to be  
appointed under  
section 1(4)*

At the Court at Buckingham Palace, the 16th day of December 1993

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue of the powers conferred upon Her by sections 5 and 7 of the West Indies Act 1962<sup>[1]</sup> 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, construction and commencement.**

1.—(1) This Order may be cited as the Cayman Islands (Constitution) (Amendment) Order 1993 and shall be read as one with the Cayman Islands (Constitution) Order 1972, as from time to time amended<sup>[2]</sup>.

(2) The Cayman Islands (Constitution) Orders 1972 to 1992 and this Order may be cited together as the Cayman Islands (Constitution) Orders 1972 to 1993.

(3) In this Order, "the Constitution" means the Constitution set out in Schedule 2 to the Cayman Islands (Constitution) Order 1972.

(4) This Order shall come into force on such date as the Governor, acting in his discretion, may appoint by proclamation published in the Gazette.

**Amendment of section 5 of Constitution.**

2. Section 5 of the Constitution shall be amended:

(a) by replacing paragraph (a) by the following:

"(a) the Chief Secretary, the Attorney-General and the Financial Secretary, *ex officio*, who are hereinafter referred to as the official members of the Council; and"  
and

(b) in paragraph (b), by substituting the word "five" for the word "four" and adding at the end of the paragraph the words "who shall be entitled "Ministers"".

**Amendment of section 6 of Constitution.**

3. Section 6 of the Constitution shall be amended:

(a) by deleting subsection (1); and

(b) in subsection (2)(f), by substituting the words "nine of" for the words "two- thirds of all".

**Amendment of section 13 of Constitution.**

4. Section 13(1) of the Constitution shall be replaced by the following:

" (1) The Executive Council shall be summoned by the Governor acting in his discretion:

Provided that the Governor shall summon the Council if requested to do so by a majority of Ministers." .

**Addition of new section 16A to Constitution.**

5. The Constitution shall be amended by the addition, immediately after section 16, of the following new section:

**"Powers of Attorney-General.**

**16A.—**(1) The Attorney-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 Islands;
- (b) to take over and continue any such criminal proceedings that have been instituted by any other person or authority;
- (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 Attorney-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 special instructions.

(3) The powers conferred upon the Attorney-General by subsection (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 Attorney-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 on him by this section, section 23 or section 24 of this Constitution the Attorney-General shall not be subject to the direction or control of any other person or authority."

**Amendment of section 17 of Constitution.**

6. Section 17(2) of the Constitution shall be amended as follows—
- (a) by deleting paragraph (a);

(b) by replacing paragraph (b) by the following:

"(b) the Chief Secretary, the Attorney-General and the Financial Secretary, *ex officio*; and" ; and

(c) by adding the following new paragraph:

"(d) if he is not an elected member of the Assembly, the Speaker." .

**Amendment of section 18 of Constitution.**

7.—(1) Section 18(1)(f) of the Constitution shall be amended by inserting the words and figures ", subject to subsections (3) and (4) of this section," immediately before the words "in the seven years".

(2) Section 18(4) of the Constitution shall be amended by inserting the following "or (f)" after the reference to subsection (1)(e).

(3) For the avoidance of doubt, it is hereby declared that the reference to the appointed day in subsection 18(4) as hereby amended is a reference to the appointed day as defined in section 5 of the Cayman Islands (Constitution) (Amendment) Order 1987.

**Amendment of section 19 of Constitution.**

8.—(1) Section 19(1) of the Constitution shall be amended by replacing paragraph (e) by the following:

"(e) subject to subsection (2) of this section:

(i) is under sentence of death imposed on him by a court, or is serving a sentence of imprisonment (by whatever name called) exceeding twelve months imposed on him by a court or substituted by competent authority for some other sentence imposed on him by a court, or is under such a sentence of imprisonment the execution of which has been suspended; or

(ii) has been detained in prison under such a sentence of imprisonment within the period of five years immediately preceding the date of the election;" .

(2) Section 19(2) of the Constitution shall be amended by replacing the full stop at the end of the subsection by a semicolon and the word "and" and by adding the following paragraph:

"(c) no account shall be taken of a sentence of imprisonment imposed by a court outside the Islands other than a sentence on conviction for an offence constituted by conduct which, if it occurred within the Islands, would constitute an offence punishable under the law of the Islands by imprisonment of 12 months, or any greater punishment." .

**Amendment of section 20 of Constitution.**

9. Section 20 of the Constitution shall be amended:

(a) by deleting subsections (1) and (2); and

(b) by replacing subsection (3)(g) and (h) by the following:

"(g) subject to section 21 of this Constitution, if any circumstances were to 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 19 (1) other than paragraph (g)." .

**Replacement of section 21 of Constitution.**

**10.** Section 21 of the Constitution shall be replaced by the following:

**"Delay in vacation of seat to allow for an appeal.**

**21.—(1)** If circumstances such as are referred to in paragraph (g) of section 20(3) 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 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 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 Legislative 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." .

**Repeal of sections 22 and 23(1) of Constitution.**

**11.** Section 22 and section 23(1) of the Constitution shall be repealed.

**Amendment of section 24 of Constitution.**

**12.** Section 24(2) of the Constitution shall be amended by substituting the words "Attorney-General" for the word "Governor".

**Amendment of section 26 of Constitution.**

13. Section 26(1)(a) shall be amended by deleting the words "in any part of the Commonwealth".

**Amendment of section 29 of Constitution.**

14. Section 29 of the Constitution shall be amended by renumbering the same as subsection (1) and adding the following new subsection:

" (2) Without prejudice to the generality of subsection (1), a law may make provision for 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 and specified in such law." .

**Amendment of section 31 of Constitution.**

15. Section 31 of the Constitution shall be amended by adding the following new subsection:

" (3) The Standing Orders of the Assembly shall make provision for the establishment of a Finance Committee of the Assembly as follows:

- (a) the Committee shall be composed of all the elected members of the Assembly and the Financial Secretary;
- (b) the Financial Secretary shall be the Chairman of the Committee; the Chairman shall not vote on any question unless the votes are equally divided in which case he shall have and exercise a casting vote;
- (c) the functions of the Committee shall be to examine and consider, subject to the provisions of section 37 of this Constitution, the estimates of expenditure for the services of the Government, all financial bills, and such other matters relating to the finances of the Islands as may be referred to it by the Assembly, and to report thereon to the Assembly." .

**New section 31A added to Constitution.**

16. The Constitution shall be amended by the addition, immediately after section 31 of the following new section:

**"Speaker and Deputy Speaker.**

31A.—(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 elect—

- (a) a Speaker from among the elected members of the Assembly, or persons qualified to be elected members of the Assembly, other than Ministers;
- (b) a Deputy Speaker from among the elected members of the Assembly other than Ministers;

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

- (2) A person shall vacate the office of Speaker or Deputy Speaker—
- (a) on dissolution of the Legislative Assembly;
  - (b) if he informs the Legislative 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 any circumstances which, in the case of the Speaker, would cause him to vacate his seat as, or if he were, an elected member of the Assembly, or, in the case of the Deputy Speaker, if he ceases to be an elected member of the Assembly;
  - (d) if, on the date of his election as Speaker or Deputy 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 of the Islands 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 if 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 firm or company, therein and the Assembly does not exempt him from vacating his office under this paragraph;
  - (e) if he becomes a member of the Executive Council;
  - (f) on the passing, by the votes of two-thirds 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." .

**Replacement of section 32 of Constitution.**

17. Section 32 of the Constitution shall be replaced as follows—

**"Presiding in Assembly.**

32. At sittings of the 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 of the elected members of the Assembly (other than a Minister) as may be elected by the elected members." .

**Amendment of section 35 of Constitution.**

18. Section 35(2) of the Constitution shall be amended by substituting the word "Speaker" for the word "Governor".

**Amendment of section 36 of Constitution.**

19. Section 36(1) of the Constitution shall be amended by substituting the word "Speaker" for the word "Governor".

**Amendment of section 42 of Constitution.**

20. Section 42(6) shall be amended by deleting the words "or the establishment by the Governor of committees of the Assembly for special purposes relating to any of the matters mentioned in the last foregoing subsection".

**Addition of new section 47A to Constitution.**

21. The Constitution shall be amended by the addition, immediately after section 47, of the following new section:

**"Recalling dissolved Assembly in case of emergency.**

47A. 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, acting in his discretion, may summon the Assembly that has been dissolved and that Assembly shall thereupon be deemed (except for the purposes of section 48 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." .

**Addition of new Part V A to Constitution.**

22. The Constitution shall be amended by the addition, immediately following section 49G, of the following new Part:

"PART V A

THE GRAND COURT AND SUBORDINATE COURTS  
**THE GRAND COURT**

**Constitution of Grand Court.**

49H.—(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.**

49I.—(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 qualified for appointment under subsection (3) of this section and shall be appointed by the Governor, acting in his discretion, by instrument under the public seal.

(3) The qualifications for appointment as a judge of the Grand Court shall be such 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.

(4) 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 49J 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.

(5) 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 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.**

**49J.**—(1) Subject to the provisions of this section, a judge of the Grand Court shall vacate his office when he attains the age of sixty-five years:

Provided that—

(a) 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 the Governor and that judge; and

(b) 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<sup>[3]</sup> 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;
- (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<sup>[4]</sup> as in force on the date of commencement of this Constitution 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 Commissioners 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 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 Grand Court.**

**49K.**—(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 in his discretion, 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 this office, the Governor, acting in his discretion, may appoint a person qualified for appointment as a judge of the Grand Court to act as such a judge.

(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 49J of this Constitution, continue 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.**

**49L.** 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 Schedule II to this Constitution.

*Subordinate Courts***Other courts.**

**49M.**—(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.

**Addition of new Part V B to Constitution.**

23. The Constitution shall be amended by the addition, immediately following Part V A, of the following new Part:

"PART V B

COMPLAINTS COMMISSIONER

**Appointment of Complaints Commissioner.**

49N.—(1) Subject to the provisions of this Constitution, a law may make provision for the office, functions, jurisdiction and powers of a Complaints Commissioner.

(2) The Complaints Commissioner shall be appointed by the Governor, acting in his discretion after consultation with the Executive Council, 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 member of the Legislative Assembly; and, subject to such exceptions as the Governor, acting in his discretion, may authorise 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.

(4) The office of the Complaints 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 a member of the Assembly;
- (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 (3) of this section.

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

**Amendment of section 50 of Constitution.**

24. Section 50(1) of the Constitution shall be amended by deleting the definition "Grand Court" and adding the following definitions:

"Grand Court" means the Grand Court constituted by Part V A;" .

"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;" .

"Minister" means an elected member of the Executive Council;" .

**New section 53A added to Constitution.**

25. The Constitution shall be amended by the addition, immediately after section 53, of the following new section:

**"Register of interests**

53A.—(1) There shall be a Register of Interests for the Islands which shall be open to the public. The register 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, and of such other person or persons 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 (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 Governor) as may be prescribed by law.

(5) A law may 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 III 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 by law." .

**New sections 55A, 55B and 55C added to Constitution.**

26. The Constitution shall be amended by the addition, immediately after section 55, of the following new sections:

**"Office of Attorney- General.**

55A.—(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 in his discretion.

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

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

(4) It shall be lawful to make an appointment of an 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 the provisions of 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 represents 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." .

#### **"Office of Auditor-General.**

**55B.**—(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 fifty-five years:  
Provided that the Governor may permit an Auditor-General who attains the age of fifty-five years to continue in office until he has attained such later age, not exceeding the age of sixty-five 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 inability of body or mind or any other cause) or for misbehaviour, and shall not be so removed except in accordance with the provisions of 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 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.**

**55C.—**(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 date of the coming into force of the Cayman Islands (Constitution) (Amendment) Order 1993, the day on which the award was granted;
  - (b) in relation to an award granted or to be granted on or after the said date to or in respect of a person who was a public officer before that date, the day immediately before that date;
  - (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 that date, the day on which he becomes a public officer.

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

#### **Amendment of Schedule II of Constitution.**



27. The heading to Schedule II of the Constitution shall be amended by deleting the words "of the Court of Appeal"

**Transitional.**

28.—(1) Any person who, immediately before the coming into force of this Order, holds or is acting in the office of Judge or Clerk or other officer of the existing Grand Court, or the office of Attorney-General or Auditor-General, shall continue to hold or, as the case may be, act in that office as if he had been appointed to hold or act in it in accordance with the Constitution as hereby amended.

(2) Any reference to the existing Grand Court in any law made before the coming into force of this Order shall, in relation to any period after the coming into force of this Order, be read as a reference to the Grand Court as constituted by the Constitution as hereby amended; and the Governor may by Order published in the Cayman Islands Gazette, at any time within twelve months of the coming into force of this Order, make such amendments or modifications to any law relating to the existing Grand Court as may be necessary or expedient for bringing that law into conformity with this Order.

(3) Any cause, matter or appeal pending before the existing Grand Court immediately before the coming into force of this Order may be continued, determined or appealed against as if such cause, matter or appeal had been instituted or was pending before the Grand Court as constituted by the Constitution as hereby amended.

(4) Any decree or order of the existing Grand Court given or made before the coming into force of this Order, in so far as it has not been fully executed or enforced, may be executed or enforced as if it were a decree or order of the Grand Court as constituted by the Constitution as hereby amended.

(5) In this section, the "existing Grand Court" means the Grand Court as reconstituted under the Grand Court Law of the Cayman Islands<sup>[5]</sup>.

*N. H. Nicholls*

Clerk of the Privy Council

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**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order makes various amendments to the Constitution of the Cayman Islands. The principal changes are:

— As regards the Executive, provision is made for increasing the number of members elected to the Executive Council by the Legislative Assembly from four to five; such members will be styled "Ministers". New provision is made for the Attorney-General and Auditor-General designed to protect their tenure of office and the independence of the Attorney-General in respect of the conduct of prosecutions.

— More specific provision is made for the offices of Speaker and Deputy Speaker and new provision is made for disqualifying members of the Assembly in the event of their being convicted of offences punishable by at least one year's imprisonment by any court (not only as hitherto a Commonwealth court) and for a period of five years after such a sentence has been served.

— Provision is also made for a Commissioner for Complaints, for a Register of Interests and for referenda; and the Superior Court of first instance (the Grand Court) is now established by the Constitution rather than by a law of the Islands.

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*Notes:*

[1] 1962 c. 19. [back](#)

[2] S.I. 1972/1101, amended by S.I. 1984/126, S.I. [1987/2199](#) and S.I. [1992/226](#).  
[back](#)

[3] 1833 c. 41. [back](#)

[4] 1935 No. 25: Revised Laws, Title 28, Item 19. [back](#)

[5] Law 8 of 1975. [back](#)

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