

STATUTORY INSTRUMENTS

**2018 No. ...**

**CARIBBEAN AND NORTH ATLANTIC TERRITORIES**

The Anguilla Constitution (Amendment) Order 2018

*Made* - - - - [xxx] 2018

*Coming into force* - - *In accordance with section 1(4)*

At the Court at Buckingham Palace, the [xx] day of [xxx] 2018

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by section 1(2) of the Anguilla Act 1980<sup>1</sup> or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is ordered, as follows:

**Citation, construction and commencement**

1.-(1) This Order may be cited as the Anguilla Constitution (Amendment) Order 2018 and shall be construed as one with the Anguilla Constitution Order 1982<sup>2</sup> (in this Order referred to as “the principal Order”).

(2) The principal Order and this Order may be cited together as the Anguilla Constitution Orders 1982 to 2018.

(3) In this Order, “the Constitution” means the Constitution set out in the Schedule to the principal Order.

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<sup>1</sup> 1980 c. 67.

<sup>2</sup> S.I. 1982/334, amended by S.I. 1990/587; there are other amending instruments but none is relevant.

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

#### **Amendment of references to Chief Minister in Constitution**

2. The Constitution is amended in sections 23, 24, 24A, 25, 26, 27, 28, 33, 35, 40A, 63, 65 and 66 by substituting for the words “Chief Minister”, wherever they occur, the word “Premier”.

#### **Amendment of references to persons who belong to Anguilla**

3. The Constitution is amended –

(a) in sections 36, 38 and 43, by substituting for the words “a person who belongs to Anguilla”, wherever they occur, the words “an Anguillian”;

(b) in section 5(3)(c), by substituting for the words “does not belong to Anguilla” the words “is not Anguillian”;

(c) in section 13(4)(a), by substituting for the words “do not belong to Anguilla” the words “are not Anguillian”; and

(b) in section 35, by substituting for the words “persons who belong to Anguilla” the word “Anguillians”.

#### **Amendment of section 23 of Constitution**

4. Section 23 of the Constitution is amended –

(a) by renumbering the existing text as subsection (1), and

(b) by inserting after that text the following new subsection –

“(2) The number of Ministers referred to in subsection (1) may be increased by law, but in no circumstances may the number of Ministers be increased so that the total number of Ministers exceeds a number arrived at by subtracting one from the total number of elected members of the House of Assembly and then dividing by two.”.

#### **Amendment of section 24 of Constitution**

5. Section 24 of the Constitution is amended by inserting after subsection (1) the following new subsection -

“(1A) Notwithstanding subsection (1), the Governor shall not appoint as Premier a person who has held office as Premier or 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 House of Assembly first meets after its dissolution at any time and terminating when the Assembly is next dissolved.”

### **Amendment of section 26 of Constitution**

6. Section 26 of the Constitution is amended by inserting the following new subsection -

“(4) If the Premier dies while in office, the Governor, acting in his discretion, shall appoint as the Premier the elected member of the Assembly who, in his judgement, is likely to command the support of a majority of the elected members of the Assembly.”.

### **Amendment of section 36 of Constitution**

7. Section 36(b) of the Constitution is amended by adding at the end the following words -

“or is the grandchild of grandparents at least one of whom was born in Anguilla”.

### **Amendment of section 37 of Constitution**

8. Section 37 of the Constitution is amended –

(a) in subsection (1), by deleting paragraphs (a) and (b), and

(b) by deleting subsection (2).

### **Amendment of section 43 of Constitution**

9. Section 43 of the Constitution is amended –

(a) in subsection (1)(a), by substituting for the words “a British overseas territories citizen” the words “an Anguillian”, and

(b) by inserting the following new subsection -

“(3) In this section “qualifying date” means such date as may be appointed by or under any law as the date with reference to which the qualifications of persons for registration as voters, for the purpose of the election of members of the House of Assembly, are to be ascertained.”.

### **Amendment of section 46 of Constitution**

10. Section 46 of the Constitution is amended –

(a) by renumbering the existing text as subsection (1), and

(b) by inserting after that text the following new subsections –

“(2) Notwithstanding anything in this Constitution, the Legislature may enact legislation providing for –

(a) Anguilla to be a single electoral district, in addition to the single-member electoral districts into which Anguilla is divided;

(b) the number of members to be returned to the House of Assembly in elections in the single electoral district;

(c) voters to be registered, and to vote, in the single electoral district, in addition to their right to vote in single-member electoral districts.

(3) Subject to subsection (4), no legislation enacted under subsection (2) shall come into force before the dissolution of the House of Assembly next following its enactment.

(4) Provisions of any legislation enacted under subsection (2) which concern the registration of voters and other preparations for elections may be brought into force before the dissolution of the House of Assembly.”.

### **Amendment of section 80 of the Constitution**

**11.**-(1) Section 80 of the Constitution is amended in subsection (1) by substituting for the words “Anguilla Belonger Commission” the words “Anguillian Status Commission”.

(2) Section 80 of the Constitution is amended by substituting for subsection (2) the following subsections –

“(2) For the purposes of this Constitution a person shall be regarded as an Anguillian if that person –

(a) is a person born or adopted in or outside of Anguilla who has at least one parent or grandparent who was born or adopted in Anguilla and who is regarded as being Anguillian by virtue of this Constitution or has the status of belonger by virtue of any previous Constitution;

(b) holds the status of belonger under the provisions of this or any previous Constitution;

(c) is naturalised or registered in Anguilla as a British overseas territories citizen;

(d) has been granted Anguillian status by the Commission on the basis that he or she –

(i) is a great-grandchild of a person born in Anguilla and who is regarded as being Anguillian by virtue of this Constitution or has the status of belonger by virtue of any previous Constitution, where the great-grandchild has resided in Anguilla for a continuous period of at least five years; or

(ii) has resided in Anguilla for a continuous period of at least 15 years; or

(iii) is born in Anguilla and is a child under the age of 18 years of a person referred to in subparagraph (ii); or

(iv) is born outside Anguilla and is a child under the age of 18 years of a person referred to in subparagraph (ii), where the child has resided in Anguilla for a continuous period of at least three years; or

(v) is born in Anguilla and does not qualify under any of the foregoing provisions of this subsection, but has resided in Anguilla for a continuous period of at least ten years; or

(vi) is married to an Anguillian and has been so married for at least five years.

(3) The Commission may withdraw the status of Anguillian from any person referred to in subsection (2)(d)(ii), (2)(d)(iv) and (2)(d)(vi) if that person is convicted of an indictable offence by a court of Anguilla.

(4) A withdrawal of Anguillian status under subsection (3) does not prejudice the status of an Anguillian who obtained such status by virtue of his or her relationship to the person whose status has been withdrawn.

(5) Any reference in this section to a period of residence in Anguilla is to be construed as a reference to residing lawfully in Anguilla and not in breach of Anguilla's immigration laws and will be calculated in a manner determined by law.”.

### **Modification of Anguilla laws**

**12.** In any law in force in Anguilla –

(a) any reference to the Chief Minister shall be construed as a reference to the Premier;

(b) any reference to the Anguilla Belonger Commission shall be construed as a reference to the Anguillian Status Commission; and

(c) any reference to a person who belongs to Anguilla shall be construed as a reference to an Anguillian..

### **Transitional provision regarding office of Premier**

**13.** The person who, immediately before the date of commencement of this Order, holds the office of Chief Minister shall, on and after that date, hold the office of Premier in accordance with the Constitution.

*Richard Tilbrook*

Clerk of the Privy Council

### **EXPLANATORY NOTE**

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

This Order amends the Constitution of Anguilla. It changes the title of Chief Minister to Premier, and introduces a limit of two consecutive terms for the Premier. It substitutes the

term Anguillian for a person who belongs to Anguilla, and revises the categories of people who qualify as Anguillians. It also makes some changes to the qualifications for elected membership of the House of Assembly and the qualifications of voters, and enables the establishment by legislation of an island-wide electoral district in addition to the single-member electoral districts into which Anguilla is divided.