
STATUTORY INSTRUMENTS

2009 NO.xxxx

CARIBBEAN AND NORTH ATLANTIC TERRITORIES

The ANGUILLA CONSTITUTION ORDER 2008

Made - - - - - xx xx 2009

Laid before Parliament xx xx 2009

Coming into Operation xx xx 2009

At the Court at Buckingham Palace, the xx day of xx 2009

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by section 1(2) of the Anguilla Act 1980 and sections 6(1) and 17(4) of the West Indies Act 1967, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

Citation, commencement and establishment of the Constitution

1. (1) This Order may be cited as the Anguilla Constitution Order 2009.
- (2) This Order shall come into force on "the appointed day".

THE CONSTITUTION OF ANGUILLA

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CHAPTER 1

PROTECTION OF FUNDAMENTAL RIGHTS AND FREEDOMS

Fundamental rights and freedoms of the individual

1. Whereas every person in Anguilla is entitled to the fundamental rights and freedoms of the individual, that is to say, the right, whatever his race, place of origin, political opinions, 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, the enjoyment of property and the protection of the law;
- (b) freedom of conscience, expression, **movement**, assembly and association; and
- (c) respect and protection **for** his private and family life,

the subsequent provisions of this Chapter 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 an individual does not prejudice the rights and freedoms of others or the public interest.

Protection of right to life

2. (1) **Every person has a right to life which shall be protected by law.**

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

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

- (a) for the defence of any person from violence or for the defence of property;
- (b) 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;
- (d) In order lawfully to prevent the commission by that person of a criminal offence.

Protection of right to personal liberty

3. (1) Every person has the right to liberty and security of the person.

- (2) No person shall be deprived of his personal liberty save as may be authorised by law in any of the following cases, that is to say—
- (a) in consequence of his unfitness to plead to a criminal charge;
 - (b) in execution of the sentence or order of a court, whether established for Anguilla or some other country, in respect of a criminal offence of which he has been convicted;
 - (c) in execution of an order of the High Court or the Court of Appeal or such other court as may be prescribed by the Legislature on the grounds of his contempt of any such court or of another court or tribunal;
 - (d) in execution of the order of a court made in order to secure the fulfillment of any obligation imposed on him by law;
 - (e) for the purpose of bringing him before a court in execution of the order of a court;
 - (f) upon reasonable suspicion of his having committed or of being about to commit a criminal offence under the law of Anguilla;
 - (g) under the order of a court or with the consent of his parent or guardian, for his education or welfare during any period ending not later than the date when he attains the age of eighteen years;
 - (h) for the purpose of preventing the spread of an infectious or contagious disease;
 - (i) 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;
 - (j) for the purpose of preventing the unlawful entry of that person into Anguilla, or for the purpose of effecting the expulsion, extradition or other lawful removal of that person from Anguilla or for the purpose of restricting that person while he is being conveyed through Anguilla in the course of his extradition or removal as a convicted prisoner from one country to another; or
 - (k) to such extent as may be necessary in the execution of a lawful order requiring that person to remain within a specified area within Anguilla or prohibiting him from being within such an area or to such extent as may be reasonably justifiable for the taking of proceedings against that person relating to the making of any such order, or to such extent as may be reasonably justifiable for restraining that person during any visit that he is permitted to make to any part of Anguilla in which, in consequence of any other such order, his presence would otherwise be unlawful.

(3) Any person who is arrested or detained shall be informed orally and in writing as soon as reasonably practicable, in a language which he understands, of the reasons for his arrest or detention.

(4) Any person who is arrested or detained shall have the right, at any stage and at his or her own expense, to retain and instruct without delay a legal representative of his own choice, and to hold private communication with such legal practitioner and, in the case of a minor, to communication with his parent or guardian.

(5) Every person who is arrested shall be informed, as soon as reasonably practicable and in a language that he or she understands, of his rights under subsection (4); and that person shall also have the right, and shall be informed at the same time that he has the right, to remain silent and to have one person informed by the quickest practicable means of his arrest and his whereabouts.

(6) Any person who is arrested or detained—

(a) for the purpose of bringing him before a court in execution of the order of a court; or

(b) upon reasonable suspicion of his having committed or being about to commit a criminal offence under the law of Anguilla,

and who is not released, shall be brought without unreasonable delay before a court.

(7) If any person arrested or detained upon reasonable suspicion of his having committed or being about to commit a criminal offence under the law of Anguilla is not charged within a reasonable time, then, without prejudice to any further proceedings which may be brought against him, he shall 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.

(8) Any person who is unlawfully arrested or detained by any other person shall be entitled to compensation **for such unlawful arrest or detention** from that **other** person or from any other person or authority on whose behalf that other person was acting; **but 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 or her in good faith in the discharge of the functions of his or her office and any liability to pay any such compensation in respect of such arrest or detention shall be a liability of the Crown.**

(9) Where any person is brought before a court in execution of the order of a court in any proceedings or upon suspicion of his having committed or being about to commit an offence, he shall not be thereafter further held in custody in connection with those proceedings or that offence save upon the order of a court.

(10) For the purposes of subsection (2)(b) of this section a person charged before a court 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 a person in consequence of such a verdict shall be regarded as detention in execution of the order of a court.

Protection of right of prisoners to humane treatment

4. (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.

¹[(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 or her 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 from slavery and forced labour

5. (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, the expression “forced labour” does not include—

(a) any labour required in consequence of the sentence or order of a court;

(b) 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 at which he is detained;

(c) 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 as a member of a naval, military or air force, any labour that that person is required by law to perform in place of such service;

¹ To be discussed

(d) any labour required during any period of public emergency or in the event of any other emergency or calamity that threatens the life and 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 freedom of movement

6. (1) No person shall be deprived of his freedom of movement, and, for the purposes of this section the said freedom means the right to move freely throughout Anguilla, the right to reside in any part of Anguilla, the right to enter Anguilla, the right to leave Anguilla and immunity from expulsion from Anguilla.

(2) 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.

(3) 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 Anguilla of any person or on any person's right to leave Anguilla that are reasonably required in the interests of defence, public safety or public order;

(b) for the imposition of restrictions on the movement or residence within Anguilla or on the right to leave Anguilla of persons generally or any class of persons in the interests of defence, public safety, public order, public morality or public health and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown to be reasonably justifiable in a democratic society;

(c) for the imposition of restrictions on the movement or residence within Anguilla of any person who does not belong to Anguilla or the exclusion or expulsion from Anguilla of any such person;

(d) for the imposition of restrictions on the acquisition or use by any person of land or other property in Anguilla;

(e) for the imposition of restrictions on the movement or residence within Anguilla of public officers, or on the right of public officers to leave Anguilla;

(f) for the removal of a person from Anguilla to be tried or punished in some other country for a criminal offence under the law of that other country or to undergo imprisonment in that other country in execution of the sentence of a court in respect of a criminal offence under the law of Anguilla of which he has been convicted; or

(g) for the imposition of restrictions on the right of any person to leave Anguilla that are reasonably required in order to secure the fulfillment of any obligations imposed on that person by law and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

(4) If any person whose freedom of movement has been restricted by virtue only of such a provision as is referred to in subsection (3)(a) of this section so requests at any time during the period of that restriction not earlier than six months after the restriction was imposed or six months after he last made such a request during that period, his case shall be reviewed by an independent and impartial tribunal established by law and presided over by a person appointed by the Chief Justice from among persons who hold the office of magistrate in Anguilla or who are entitled to practise or to be admitted to practise in Anguilla as barristers.

(5) On any review by a tribunal in pursuance of subsection (4) of this section of the case of any person whose freedom of movement has been restricted, the tribunal may make recommendations concerning the necessity or expediency of continuing that restriction to the authority by whom it was ordered and, unless it is otherwise provided by law, that authority shall be obliged to act in accordance with any such recommendations.

Protection from inhuman treatment

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

Protection from deprivation of property

8. (1) No interest in or right over any property of any description shall be compulsorily acquired, and no such property shall be compulsorily taken possession of, except by or under the provisions of a written law which—

- (a) prescribes the principles on which and the manner in which adequate Compensation thereto is to be determined;
- (b) requires the prompt payment of such adequate compensation;
- (c) prescribes the manner in which the compensation is to be given; and
- (d) the manner of enforcing the right to any such compensation.

(2) 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 in the public interest and for a public purpose; and**

(b) there is reasonable justification for the causing of any hardship that may result to any person having an interest in or right to or over the property.

(3) Every person having an interest or right over property which is compulsorily taken possession of or whose interest in or right over any property is compulsorily acquired shall have a right of direct access to the High Court for the determination of his interest or right, the legality of the taking of possession or acquisition of the property, interest or right.

4. Nothing in this section shall be construed as affecting the making or operation of any law so far as that law provides for the taking of possession or acquisition of any property, interest or right—

- (a) in satisfaction of any tax, rate or due; or
- (b) by way of penalty for breach of the law, whether under civil process or after conviction of a criminal offence under the law of Anguilla; or
- (c) upon the attempted removal of the property in question out of or into Anguilla in contravention of any law; or
- (d) by way of the taking of a sample for the purpose of any law; or
- (e) where the property consists of an animal upon its being found trespassing or straying; or
- (f) as an incident of a lease, tenancy, licence, mortgage, charge, bill of sale, pledge or contract; or
- (g) by way of the vesting or administration of trust property, enemy property, or the property of persons adjudged or otherwise declared bankrupt or insolvent, persons of unsound mind, deceased persons, or bodies corporate or unincorporate in the course of being wound up; or
- (h) in the execution of judgments or orders of courts; or
- (i) by reason of its being in a dangerous state or injurious to the health of human beings, animals or plants; or
- (j) in consequence of any law with respect to the limitation of actions; or
- (k) for so long only as may be necessary for the purposes of any examination, investigation, trial or inquiry or, in the case of land, the carrying out thereon—
 - (i) of work of soil conservation or of conservation of other natural resources; or

- (ii) of work relating to agricultural development or improvement which the owner or occupier of the land has been required, and has without reasonable excuse refused or failed, to carry out.

(5) Nothing in this section shall be construed as affecting the making or operation of any law so far as it provides for the orderly marketing or production or growth or extraction of any agricultural product or mineral or any article or thing prepared for market or manufactured therefore or for the reasonable restriction of the use of any property for the purpose of safeguarding the interests of others or the protection of tenants, licensees or others having rights in or over such property.

(6) Nothing in this section shall be construed as affecting the making or operation of any law 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 which is established for public purposes by any law and in which no monies have been invested other than monies provided by the Legislature.

(7) In this section “compensation” means the consideration to be given to a person for any interest or right which he may have in or over property which has been compulsorily taken possession of or compulsorily acquired as prescribed and determined in accordance with the provisions of the law by or under which the property or such right or interest has been compulsorily taken possession of or compulsorily acquired.

Protection from arbitrary search or entry

9. (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 in the interests of defence, public safety, public order, public morality, public health, public revenue, town and country planning or the development and utilisation of any property in such a manner as to promote the public benefit;

(b) that authorises an officer or agent of the Government of Anguilla, a local government authority or a body corporate established by law for public purposes 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 that Government, authority or body corporate, as the case may be;

(c) that is reasonably required for the purpose of preventing or detecting crime;

(d) that is reasonably required for the purpose of protecting the rights or freedoms of other persons; or

(e) that authorises, for the purpose of enforcing the judgment or order of a court in any civil proceedings, the search of any person or property by order of a court or entry upon any premises by such order,

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

Provisions to secure protection of law

10. (1) Whenever any person is charged with a criminal offence he shall, unless the charge is withdrawn, be afforded a fair hearing within a reasonable time by an independent and impartial court established by law.

(2) Any court or other authority prescribed by law for the determination of the existence or the extent of civil rights or obligations 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 authority, the case shall be given a fair hearing within a reasonable time.

(3) Except with the agreement of all the parties thereto all proceedings of every court and proceedings relating to the determination of the existence or the extent of a person's civil rights or obligations before such other authority, including the announcement of the decision of the court or other authority, shall be held in public.

(4) Nothing in subsection (3) of this section shall prevent any court or such other authority such as is mentioned in that subsection from excluding from the proceedings persons other than the parties thereto and their legal representatives—

(a) in interlocutory civil proceedings;

(b) to such extent as the court or other authority—

(i) may consider necessary or expedient in circumstances where publicity would prejudice the interests of justice; or

(ii) may be empowered or required by law to do so in the interests of defence, public safety, public order, public morality, the welfare of persons under the age of eighteen years or the protection of the private lives of persons concerned in the proceedings.

(5) Every person who is charged with a criminal offence shall be presumed to be innocent until he is proved or has pleaded guilty:

Provided that nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this subsection to the extent that the law in question imposes upon any person charged as aforesaid the burden of proving particular facts.

(6) Every person who is charged with a criminal offence—

(a) shall be informed orally and in writing as soon as reasonably practicable, in a language which he understands, of the nature of the offence charged;

(b) shall be given adequate time and facilities for the preparation of his defence;

(c) shall be permitted to defend himself in person or, at his own expense, by a legal representative of his own choice.

(d) shall be afforded facilities to examine in person or by his legal representative the witnesses called by the prosecution before any court and to obtain the attendance of witnesses, subject to the payment of their reasonable expenses, and carry out the examination of such witnesses to testify on his behalf before the court on the same condition as those applying to witnesses called by the prosecution; and

(e) shall be permitted to have without payment the assistance of an interpreter if he cannot understand the English language.

(f) shall, when charged on indictment in the High Court, have the right to trial by judge and jury.

(7) Except with his own consent, the trial of a person charged with a criminal offence shall not take place in his absence, unless—

(a) that person so behaves in the court as to render the continuance of the proceedings in his presence impracticable and the court has ordered that person to be removed and the trial to proceed in his absence; or

(b) the court, being satisfied that no injustice will result, orders the trial to proceed in that person's absence on account of the abscondment or the involuntary illness or incapacity of that person.

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

(9) No person who shows that he has been tried by any competent court for a criminal offence and either convicted or acquitted shall again be tried for that offence or for other criminal offence of which he could have been convicted at the

trial for that offence save upon the order of a superior court made in the course of appeal proceedings relating to the conviction or acquittal; and no person shall be tried for a criminal offence if he shows that he has been pardoned for that offence:

Provided that nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this subsection to the extent that the law in question authorises any 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; but 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.

(10) 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.

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

(12) 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 or she 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 or her fault.

(13) In the case of any person who is held in lawful detention the provisions of subsection (1), subsection (3) and paragraphs (c) and (d) of subsection (6) of this section shall not apply in relation to his trial for a criminal offence under the law regulating the discipline of persons held in such detention.

(14) In this section “criminal offence” means a criminal offence under the law of Anguilla.

Protection of freedom of conscience

11. (1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of conscience, including 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 own consent (or, if he is a person under the age of eighteen years, the consent of his parent or guardian) no person attending any place of education shall be compelled to receive religious instruction or to take part in or attend any religious ceremony or observance if that instruction, ceremony or observance relates to a religion other than his own.

(3) Every religious community shall be entitled, at its own expense, to establish and maintain places of education and to manage any place of education which it wholly maintains; and no such community shall be prevented from providing religious instruction for persons of that community in the course of any education provided at any places of education which it wholly maintains or in the course of any education which it otherwise provides.

(4) No person shall be compelled to take any oath that is contrary to his religion or belief or to take any oath in a manner that 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 defence, public safety, public order, public morality or public health;

(b) for the purpose of protecting the rights and freedoms of other persons, including the right to observe and practise any religion without the unsolicited intervention of members of any other religion; or

(c) for the purpose of regulating educational institutions in the interests of persons who receive or may receive instruction in them,

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

(6) References in this section to a religion shall be construed as including references to a religious denomination, and cognate expressions shall be construed accordingly.

Protection of freedom of expression

12. (1) Except with his own 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 the freedom to hold opinions and to receive and impart ideas and information without interference, and freedom from interference with his correspondence and 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 interest of defence, public safety, public order, public morality or public health; or

(ii) for the purposes of protecting the reputations, rights 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 regarding public exhibitions or public entertainments;** or

(b) that imposes restrictions upon public officers:

Provided that the provision or, as the case may be, the thing done under the authority thereof is shown to be reasonably justifiable in a democratic society.

Protection of freedom of assembly and association

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

(2) No person shall be required as a condition of employment to subscribe to any organisation for membership or admission; nor shall any person be required to pay dues or other compensation to secure or enjoy such employment or the right thereto; nor shall any person be prohibited from free access to his place of employment or return therefrom by virtue of his failure to belong or subscribe to any organisation.

(3) 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 or freedoms of other persons; or

(b) that imposes restrictions upon public officers:

Provided that:—

- (i) paragraph (a)(ii) of this subsection shall not apply in relation to a provision that operates so as to prohibit a trade union or other association from carrying out activities preventing or restricting persons who are not members of that trade union or other association from pursuing a particular trade, profession or employment unless that provision is contained in a written law;
- (ii) the provision or, as the case may be, the thing done under the authority of any such law is shown to be reasonably justifiable in a democratic society.

Protection from discrimination on the grounds of race, etc.

14. (1) Subject to the provisions of subsections (4), (5) and (7) of this section, no law shall make any provision which is discriminatory either of itself or in its effect.

(2) Subject to the provisions of subsections (6), (7) and (8) of this section, no person shall be treated in a discriminatory manner by any person acting by virtue of any written law or in the performance of the functions of any public office or any public authority.

(3) In this section, the expression (a) “discriminatory” means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, political opinions, colour, creed, sex or place of origin, 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.

(b) “public authority” means any statutory body or company or association in which the Government of Anguilla has an interest and which performs a public function or duty.

(4) Subsection (1) of this section shall not apply to any law so far as that law makes provision—

(a) with respect to persons who do not belong to Anguilla;

(b) 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 which is the personal law of persons of that description; or

(c) for the imposition of taxation or appropriation of revenue by the Government of Anguilla or any local authority or body for local purposes.

(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 makes provision with respect to qualifications for service as a public officer, or as a member of a disciplined force or for the service of a local government authority or a body corporate established 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) 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) whereby persons of any such description as is mentioned in subsection (3) of this section may be subjected to any restriction on the rights and freedoms guaranteed by sections **6, 9, 11, 12** and **13** of this Constitution, being such a restriction as is authorised by paragraph (a), (b) or (g) of subsection (3) of section **6**, subsection (2) of section **9**, subsection (5) of section **11**, subsection (2) of section **12**, or subsection (3) of section **13**, as the case may be; or

(b) which is reasonably justifiable in a democratic society for the protection or well-being of women; or

[²(c) which makes provision of services and economic advantage in favour of Anguillians.]

(8) Nothing in subsection (2) of this section shall affect any discretion relating to the institution, conduct or discontinuance of civil or criminal proceedings in any court that is vested in any person by or under this Constitution or any other law.

Derogations from fundamental rights and freedoms under emergency powers

15. Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of section 3 or section **14** of this Constitution to the extent that the law authorises the taking during any period of public emergency of measures that are reasonably justifiable for dealing with the situation that exists in Anguilla during that period.

Protection of persons detained under emergency laws

16. (1) When a person is detained by virtue of any such law as is referred to in section **15** of this Constitution the following provisions shall apply, that is to say—

(a) he shall, as soon as reasonably practicable and in any case not more than four days after the commencement of his detention, be furnished with a statement in writing in a language that he understands specifying in detail the grounds upon which he is detained;

(b) not more than fourteen days after the commencement of his detention, a notification shall be published in the Official Gazette stating that he has been detained and giving particulars of the provision of law under which his detention is authorised;

(c) not more than one month after the commencement of his detention and thereafter during his detention at intervals of not more than six months, his case shall be reviewed by an independent and impartial tribunal established by law and presided over by a person appointed by the Chief Justice from among persons who are or have been judges of the High Court or the Court of Appeal or are qualified for appointment as such judges;

² To be discussed

(d) he shall be afforded reasonable facilities to consult a legal representative of his own choice who shall be permitted to make representations to the tribunal appointed for the review of the case of the detained person; and

(e) at the hearing of his case by the tribunal appointed for the review of his case he shall be permitted to appear in person or by a legal representative of his own choice.

³[(2) 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 provided by law, that authority shall not be obliged to act in accordance with any such recommendations.]

(3) Nothing contained in subsection (1)(d) or subsection (1)(e) of this section shall be construed as entitling a person to legal representation at public expense.

Enforcement of protective provisions

17. (1) If any person alleges that any of the provisions of sections **1 to 16** (inclusive) of this Constitution has been, or is being, or is likely to be, contravened in relation to him (or, in the case of a person who is detained, if any other person alleges such a contravention in relation to the detained person), then, without prejudice to any other action with respect to the same matter which is lawfully available, that person may apply to the High Court for redress.

(2) The High Court shall have original jurisdiction to hear and determine any application made by any person in pursuance of subsection (1) of this section and may grant **such remedies or reliefs**, 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 provisions of the said sections **1 to 16** (inclusive) to the protection of which the person concerned is entitled.:

(3) The High Court may decline to exercise its powers under subsection (2) if it is satisfied that adequate means of redress for the contravention alleged are or have been available to the person concerned under any other law.

(4) If in any proceedings in any court (other than the Court of Appeal, the High Court or a court martial) any question arises as to the contravention in any of the provisions of sections **1 to 16** (inclusive) of this Constitution, the person presiding in that court may, and shall if any party to the proceedings so requests, refer the question to the High Court unless, in his opinion, the raising of the question is merely frivolous or vexatious.

(5) Where any question is referred to the High Court in pursuance of subsection (4) of this section, the High Court shall hear the matter and give its decision upon the question and the court in which the question arose shall dispose of the case

³ To be discussed

in accordance with that decision or, if that decision is the subject of an appeal to the Court of Appeal or to Her Majesty in Council, in accordance with the decision of the Court of Appeal or, as the case may be, of Her Majesty in Council.

(6) An appeal shall lie as of right to the court of Appeal from any final determination of any application or question by the High 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.

(7) The Legislature may confer or authorise the conferment on the High Court of 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 on it by this section.

(8) The Chief Justice may make rules with respect to the practice and procedure of the High Court in relation to the jurisdiction and powers conferred on it by or under this section (including rules with respect to the time within which applications may be brought and references shall be made to the High Court).

Declaration of emergency

⁴18. (1) The Governor may, by Proclamation published in the manner provided in subsection (2), declare that a state of emergency exists for the purposes of this Chapter.

(2) A proclamation shall be taken to be published if it is published in the Official Gazette or in a newspaper published in Anguilla, or if it is posted in prominent public places and announced on the radio.

(3) Every declaration of emergency shall lapse-

(a) in the case of a declaration made when the Legislature is sitting, at the expiration of a period of seven days beginning with the date of the publication of the declaration; and

(b) in any other case, at the expiration of a period of twenty-one days beginning with the date of publication of the declaration, unless it has in the meantime been approved by a resolution of the House of Assembly supported by the votes of a two-third majority of all the members of the House.

(4.) A declaration of emergency may at anytime be revoked by the Governor by Proclamation published aforesaid.

(5) A declaration of emergency that has been approved by a resolution of the House of Assembly in pursuance of subsection (3) of this section shall, subject to the provisions of subsection (4) of this section, remain in force so long as that resolution remains in force and no longer.

⁴ Redraft

(6) A resolution of the House of Assembly passed for the purposes of this section shall remain in force for 90 days or such shorter period as may be specified therein:

Provided that any such resolution may be extended from time to time by a further such resolution supported by the votes of two-thirds majority of all the members of the House, each extension not exceeding 90 days from the date of the resolution effecting the extensions; and any such resolution may be revoked at any time by a resolution supported by the votes of a majority of all the members of the House.

(7) Any provision of this section that a declaration of emergency shall lapse or cease to be in force at any particular time is without prejudice to the making of a further such declaration whether before or after that time.

19. Establishment of a Human Rights Commission

(1) There may be established by law a human rights commission (in this section referred to as (“the commission”)).

(2) The composition, powers and duties and of the commission(which shall not derogate from the provision of this Chapter) shall be such as may be prescribed by the law establishing it and may include the following —

- (a) the receipt and investigation of complaints of breaches or infringement of any right or freedom referred to in this Chapter;**
- (b) the provision of a forum for dealing with, and participation of the commission in promoting conciliation with respect to complaints and disputes concerning any matter relating to this Chapter.**
- (c) issuing guidance on procedures for dealing with any complaints of breaches or infringements of rights and freedoms referred to in this Chapter;**
- (d) imparting knowledge to the public with respect to the rights and freedoms referred to in this Chapter or in relation to any international instrument or activity relating to human rights; and**
- (e) Preparing and submitting periodically reports concerning its activities to the Legislature.**

(3) The power of the commission to deal with any mater under this Chapter shall be exercised only with the agreement or concurrence of the persons concerned therewith.

(4) Nothing contained in or done pursuant to any law establishing the commission shall—

- (a) oblige a person to refer any complaint of a breach or infringement of any right or freedom referred to in this Chapter to the commission; or**
- (b) prevent a person from seeking redress directly from the court in relation to any breach or infringement of a right or freedom**

referred to in this Chapter, and the fact that such person had previously sought the assistance of the commission with respect to such breach or infringement shall not be a bar.

Interpretation and savings

20. (1) In this Chapter, 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 Anguilla other than a court established by a disciplinary law, and includes Her Majesty In Council and in section 2 of this Constitution a court established by a 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) the Police Force; or
- (c) a prison service

“legal representative” means a person entitled to be in or to enter Anguilla and entitled to practice as a barrister in Anguilla, or except in relation to proceedings before a court in which a solicitor has no right of audience, so entitled to practice as a solicitor; and

“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.

(2) In this Chapter “ a period of public emergency” means any period during which: —

- (a) Her Majesty is at war; or
- (b) a declaration of emergency is in force under section **18** of this Constitution.

(3) In relation to any person who is a member of a disciplined force raised under the law of Anguilla, 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 Chapter other than section 2, **5**, and **6** of this Constitution.

(4) In relation to any person who is a member of a disciplined force raised otherwise than as aforesaid, 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 Chapter.

(5) For the purposes of this Constitution, a person belongs to Anguilla if that person-

- (a) is born in Anguilla and at the time of the birth his father or mother is or was a British Overseas Territories Citizen (or a British Dependent Territories Citizen, Citizen of The United Kingdom and Colonies or British Subject) by virtue of birth, registration or naturalization in Anguilla or by virtue of descent from a father or mother who was born in Anguilla; or**
- (b) is born in Anguilla of a father or mother who belongs to Anguilla by birth or descent or who, if deceased, would if alive, so belong to Anguilla.**
- (c) Is a child adopted in Anguilla by a person who belongs to Anguilla by birth or descent;**
- (d) Is born outside Anguilla of a father or mother, who is a British Overseas Territories Citizen (or a British Dependent Territories Citizen, Citizen of The United Kingdom and Colonies or British Subject) by virtue of birth in Anguilla or descent or who belongs to Anguilla by virtue of birth in Anguilla or descent.**
- (e) Is a British overseas territories citizen by virtue of registration in Anguilla.**
- (f) Is a person to whom a certificate of belonger status has been granted under the provisions of the 1982 Constitution of Anguilla.**
- (g) Is the spouse of a person who belongs to Anguilla and has been granted a certificate of belonger status under the provisions of the 1982 Constitution of Anguilla.**

CHAPTER 2 THE GOVERNOR

The Governor

21. (1) There shall be a Governor for Anguilla, who shall be appointed by Her Majesty and hold office during Her Majesty's pleasure and who shall be Her Majesty's representative in Anguilla.

Powers and duties of Governor

(2) The Governor shall have such powers and duties as are conferred or imposed on him by this Constitution or any other law and such other **functions** as Her Majesty may from time to time be pleased to assign to him

(3) Subject to the provisions of this Constitution and of any other law by which any such powers or duties are conferred or imposed upon him, the Governor 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.

(4) The question of whether or not the Governor has in any matter complied with any instructions addressed to him by Her Majesty shall not be enquired into in any court of law.

Governor's taking of oaths

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

Office of Deputy Governor

22. (1) There shall be a Deputy Governor who shall be **such person, being an Anguillian as defined in section 45(2)**, as Her Majesty may designate as such by 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 24(1) of this Constitution or is for any other reason unable to perform the functions of the office of Deputy Governor, then such person as Her Majesty may designate by instructions given through a Secretary of State shall act in the office of Deputy Governor during Her Majesty's pleasure.

(3) The Premier and the Leader of the Opposition shall be consulted before the appointment of any person to the office of Deputy Governor.

Functions of Deputy Governor

23. (1) Subject to the provisions of subsection (2) of this section, the Deputy Governor shall assist the Governor in the exercise of his functions relating to matters for which he is responsible under this Constitution.

(2) The Governor, acting in his discretion, may by writing under his hand, authorise the Deputy Governor to exercise for and on behalf of the Governor, subject to such exceptions and conditions as the Governor may from time to time specify, any or all of the functions of the office of Governor.

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

(4) The powers and authority of the Governor shall not be affected by any authority of the Deputy Governor under subsection (2) of this section and, subject to the provisions of this Constitution and of any law by which any function which

the Deputy Governor is authorised to exercise is conferred, the Deputy Governor shall comply with such instructions relating to the exercise of that function as the Governor, acting in his discretion, may from time to time address to him:

Provided that the question whether or not the Deputy Governor has in any matter complied with any such instructions shall not be enquired into in any court.

(5) Any authority given under subsection (2) of this section may at any time be varied or revoked by Her Majesty by instructions given through a Secretary of State or by the Governor, acting in his discretion, by writing under his hand.

(6) In subsection (2) of this section the reference to any functions of the office of Governor does not include a reference to—

(a) the functions conferred upon the Governor by this section; or

⁵[(b) any functions conferred upon the Governor by any Act of the Parliament of the United Kingdom or by any Order of Her Majesty in Council or other instrument made under any such Act other than the Anguilla Act 1980.]

Acting Governor

24. (1) During any period when the office of Governor is vacant or the Governor is absent from Anguilla, or is for any other reason unable to perform the functions of the office of Governor, such person as may be designated by Her Majesty by instructions to the Governor through a Secretary of State or if no person is so designated and able to perform those functions, the Deputy Governor shall, during Her Majesty's pleasure, act in the office of Governor and shall perform the functions of that office accordingly.

(2) Before assuming the functions of the office of Governor, the person designated or, as the case may be, the Deputy Governor shall make the oaths directed by section **21(5)** of this Constitution to be made by the Governor.

(3) The person designated or, as the case may be, the Deputy Governor shall not continue to act in the office of Governor after the Governor has notified him that he is about to assume or resume the functions of that office.

(4) The Governor shall not, for the purposes of this section, be regarded as absent from Anguilla or as unable to perform the functions of his office—

(a) at any time when there is a subsisting appointment of a deputy under the next following section; or

(b) by reason of absence from Anguilla for a period not exceeding forty-eight hours.

Governor's deputy

⁵ To be discussed

25. (1) Whenever the Governor—
- (a) **has occasion to be absent from the seat of government⁶ but not from the Island**; or
 - (b) has occasion to be absent from Anguilla for a period which he has reason to believe will be of short duration; or
 - (c) is suffering from illness which he has reason to believe will be of short duration,

he may in his discretion, **by instrument under the public seal**, appoint the Deputy Governor or, in the absence of the Deputy Governor, some other suitable person in Anguilla 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 the instrument by which he is appointed.

(2) The powers 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 enquire whether or not the deputy 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 at any time by Her Majesty by instructions given through a Secretary of State, or by the Governor, acting in his discretion.

CHAPTER 3 THE EXECUTIVE

Executive authority of Anguilla

⁷26. (1) The executive authority of Anguilla shall be vested in Her Majesty; **and save as otherwise provided in this Constitution, that authority may be exercised by the Government of Anguilla, either directly or through officers as prescribed by this Constitution or by any other law.**

[Cabinet and Government of Anguilla

⁸27. (1) There shall be a Cabinet in and for Anguilla which shall consist of the **Premier and not more than five other Ministers; and such Cabinet, together with Her Majesty who is represented in Anguilla by the Governor, shall constitute the Government of Anguilla.]**

⁹(2) **The cabinet shall have responsibility for the formulation of policy, including directing the implementation of such policy, insofar as it relates to every aspect of government, except those matters for which the Governor has special responsibility under section 42, and the Cabinet shall be collectively responsible to the House of Assembly for such policies and their implementation.]**

⁶ To be discussed

⁷ To be discussed

⁸ To be discussed

⁹ To be discussed

(3) Subject to this Constitution, the Cabinet shall determine its own rules of procedure for the conduct of its business.

Summoning of Cabinet and transaction of business

28. (1) The Cabinet shall not be summoned except by the authority of the Premier.

(2) No business shall be transacted at any meeting of the Cabinet if there are less than three Ministers present, one of whom shall be the Premier or the Minister performing the functions of the Premier under section **36**.

(3) Subject to subsection (2), 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 is 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 to do so took part in the proceedings.

Presiding in Cabinet

29. (1) The Premier shall, so far as is practicable, attend and preside at meetings of the Cabinet.

¹⁰[(2) In the absence of the Premier there shall preside at any meeting of the Cabinet the Deputy Premier or such member of the Cabinet as the Premier, acting in his discretion, may appoint.]

(3) There shall be a Secretary to the Cabinet who shall be appointed by the Governor acting in accordance with the advice of the Premier but if at any time he cannot conveniently discharge the functions of Secretary to the Cabinet, those functions shall be discharged by such public officer as may be designated in that behalf by the Governor, acting in accordance with the advice of the Premier.

Summoning of persons to Cabinet

30. (1) Whenever any business before the Cabinet renders the presence of a public officer desirable, the Premier may summon such public officer to a meeting of the Cabinet.

(2) Where a matter before the Cabinet concerns or relates to a statutory body and the presence of an officer of the statutory body is considered desirable, the Premier may summon that officer to a meeting of the Cabinet.

Secretary to the Cabinet

31. (1) There shall be—

- (a) a Cabinet Office, which shall be an office in the Government of Anguilla; and
- (b) a Secretary to the Cabinet, whose office shall be a public office, who shall be a person who is an Anguillian as defined in section **45(2)** and who shall be appointed in accordance with **section 80(2)**.

¹⁰ To be discussed

(2) The Secretary to the Cabinet shall have charge of the Cabinet Office, attend meetings of the Cabinet and be responsible for keeping the minutes of the meetings of the Cabinet and for conveying the conclusions reached at the meetings to the appropriate person or authority.

(3) The Secretary to the Cabinet shall—

- (a) provide such advice and technical support to the Cabinet as the Cabinet may require;
- (b) transmit copies of all papers submitted for consideration by the Cabinet to its members;
- (c) inform all its members of the summoning of any meeting of the Cabinet and of the matters to be discussed at any such meeting;
- (d) furnish all its members, as soon as practicable after each meeting of the Cabinet, with a copy of the confirmed minutes of the previous meeting showing the matters discussed and the conclusions reached at the meeting;
- (e) promote and facilitate adherence to the rules of procedure of the Cabinet;
- (f) monitor the implementation of Cabinet decisions and report periodically to the Cabinet in respect thereof; and
- (g) perform such other functions as are incidental to the functions of the Secretary to the Cabinet.

(4) The functions conferred on the Secretary to the Cabinet by subsection (3)(b), (c) and (d) may be exercised by the Cabinet Secretary in person or by officers subordinate to him or her acting under and in accordance with his or her general or special instructions.

Appointment of Ministers

32. (1) The Governor shall appoint as **the Premier** the elected member of the Assembly who, in his judgment, is likely to command the support of a majority of the elected members of the Assembly.

(2) The other Ministers shall be appointed by the Governor in accordance with the advice of **the Premier** from among the elected members of the Assembly.

(3) The Governor, acting in accordance with the advice of the Premier, shall appoint one of the Ministers as Deputy Premier.

(4) The appointment of a Deputy Premier under subsection (3) may be revoked by the Governor, acting in accordance with the advice of the Premier, but such revocation shall not in itself affect the Minister's tenure of office as a Minister.

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

(6) Appointments made under this section shall be made by instrument under the public seal.

Appointment of Parliamentary Secretaries

33. (1) The Governor acting in accordance with the advice of the Premier, may appoint not more than 2 Parliamentary Secretaries from among the elected members of the Assembly.

(2) The provisions of section 2(3) and (4), 34 (3), (4) and 43 of this Constitution shall apply in relation to the Parliamentary Secretaries as they apply in relation to a Minister other than the Premier.

Tenure of office of members

34. (1) If a motion that the House of Assembly should declare a lack of confidence in the Government of Anguilla receives in the Assembly the affirmative votes of two-thirds of all the elected members thereof the Governor shall dissolve the Assembly and shall act in his discretion in appointing the date for the ensuing general election under section **70** of this Constitution.

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

(3) Any Minister shall vacate his office if—

(a) He ceases to be a member of the Assembly for any reason other than dissolution;

(b) He is not an elected member of the Assembly when it first meets after a general election;

(c) He is required under the provisions of section **47** of this Constitution to cease to perform his functions as a member of the Assembly; or

(d) He resigns it by writing under his hand addressed to the Governor.

(4) A Minister other than the Premier shall also vacate his office if—

(a) The Premier vacates his office; or

(b) His appointment is revoked by the Governor acting in accordance with the advice of the Premier, by instrument under the public seal.

Absence of Ministers from Anguilla

35. The Premier shall give notice to the Governor before being absent from Anguilla, and any other Minister shall obtain the written permission of the Premier before being absent from Anguilla; but where in either case the Premier or Minister is to be absent from Anguilla for a period not exceeding forty-eight

hours, prior verbal notification shall be given to the Governor or the Premier, as the case may be.

Performance of functions of Premier in certain events

36. (1) If the Premier is expected to be absent from Anguilla for more than forty-eight hours, the Governor shall authorize the Deputy Premier to perform the functions of the office of Premier; and the Governor shall revoke this authority on the return to Anguilla of the Premier.

(2) If both the Premier and the Deputy Premier are expected to be absent from Anguilla for more than forty-eight hours, the Governor shall authorize another Minister designated by the Premier to perform the functions of the office of Premier; and the Governor shall revoke this authority on the return to Anguilla of either the Premier or the Deputy Premier.

(3) If the Cabinet advised that the Premier is unable to perform his or her functions by reason of illness, the Governor shall authorize the Deputy Premier to perform the functions of the office of Premier; and the Governor shall revoke this authority if the Cabinet advises him or her that the Premier is again able to perform his or her functions.

(4) If the Cabinet advises the Governor that both the Premier and the Deputy Premier are unable to perform their functions by reason of absence or illness, the Governor shall authorize another Minister designated by the Premier (or, if the Premier makes no such designation, appointed by the Governor on the advice of Cabinet), to perform the functions of the office of Premier; and the Governor shall revoke this authority if the Cabinet advises him or her that the Premier or the Deputy Premier is again able to perform his or her functions.

(5) Any authority given or revoked by the Governor under this section shall be in writing.

Assignment of responsibilities to Ministers

37.(1) The Governor shall, acting in accordance with the advice of the Premier, by directions in writing, assign to any Minister responsibility for the conduct (subject to the provisions of this Constitution and of any other law) of any business of the Government of Anguilla including responsibility for the administration of any department of government:

(2) Without prejudice to section 36 (3), (4) and (5) a Minister shall not be charged with responsibility under this section for any of the matters mentioned in section 42 (1).

(3) A Minister charged with responsibility for any matter under this section shall exercise his responsibility in accordance with the policies of the Government as determined by the Cabinet and in accordance with the principle of the collective responsibility of the members of the Cabinet for the policies and decisions of the Government.

(4) The Governor may at any time request from a Minister any official papers or seek any official information or advice which is available to that Minister with respect to any matter for which that Minister is responsible under this section, and shall inform the Premier of any such request.

Governor to be kept informed

38. The Governor and the Premier shall confer on a regular basis and the Premier shall keep the Governor informed about the policies of the Government and the public affairs of Anguilla.

National Security Council

39. (1) There shall be in and for Anguilla a National Security Council which shall consist of –

- (a) the Governor, as Chairman;
- (b) the Premier;
- (c) one other Minister appointed in writing by the Governor, acting in accordance with the advice of the Premier;
- (d) the Attorney-General, *ex officio*; and
- (e) the Commissioner of Police, *ex officio*.

(2) A Minister appointed under subsection (1)(c) shall vacate his or her seat on the National Security Council if –

- (a) his or her seat becomes vacant under section **34**; or
- (b) the Governor so directs in writing, acting in accordance with the advice of the Premier.

(3) The National Security Council shall advise the Governor on matters relating to internal security and the Governor shall be obliged to act in accordance with the advice of the Council.

(4) The Commissioner of Police shall –

- (a) provide regular briefings to the National Security Council on matters of internal security, including the Police Service;
- (b) have responsibility for the day to day operation of the Police Service and shall report regularly on such matters to the Governor; and
- (c) inform the Premier of any significant security developments in Anguilla, including the occurrence of any significant criminal activity.

(5) The National Security Council may invite any person or summon any public officer to attend and participate in, or provide briefings to, the Council on the areas of their work bearing on internal security.

(6) The Governor, acting in his or her discretion, may summon a meeting of the National Security Council whenever he or she considers it desirable to do so, and the Governor shall summon such a meeting whenever the Premier so requests.

(7) Subject to this section, the National Security Council may regulate its own procedure.

(8) The Secretary to the Cabinet shall be the Secretary to the National Security Council.

Attorney-General

40. (1) There shall be an Attorney-General of Anguilla, whose office shall be a public office and who shall be appointed in accordance with section **83**.

(2) The Attorney-General shall be the principal legal adviser to the Government of Anguilla.

Director of Public Prosecutions

41. (1) There shall be a Director of Public Prosecutions, whose office shall be a public office and who shall be appointed in accordance with section **83**.

(2) The Director of Public Prosecutions shall have power, in any case in which he or she deems it desirable to do so –

- (a) to institute and undertake criminal proceedings against any person before any civil court in respect of any offence against any law in force in Anguilla;
- (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.

(3) The powers of the Director of Public Prosecutions under subsection (2) may be exercised by him or her in person or by officers subordinate to him or her acting under and in accordance with his or her general or special instructions.

(4) The powers conferred on the Director of Public Prosecutions by subsection (2)(b) and (c) shall be vested in him or her to the exclusion of any other person or authority; but 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 brought has been charged before the court.

(5) 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.

(6) In the exercise of the powers conferred on him or her by this section and section 52(2) the Director of Public Prosecutions shall not be subject to the direction or control of any other person or authority.

Exercise of Governor's functions

¹¹[40.—(1) Subject to this section, the Governor shall consult with the Cabinet in the exercise of all functions conferred on him or her by this Constitution or any other law for the time being in force in Anguilla, except—]

(a) when acting under instructions given to him or her by Her Majesty through a Secretary of State;

¹²[(b) when exercising any function conferred on him or her by this Constitution or any such other law which is expressed to be exercisable by the Governor in his or her discretion, or in accordance with the advice of, or after consultation with, any person or authority other than the Cabinet; or]

(c) in any case which, in his or her opinion, involves a matter for which he or she is responsible under section 42; but in exercising his or her powers in relation to matters to which paragraph (c) applies, the Governor shall consult with the Premier.

(2) The Governor shall not be obliged to consult with the Cabinet or the Premier if, in his or her judgement—

(a) Her Majesty's service would sustain material prejudice;

(b) the matter is not materially significant so as to require consultation; or

(c) the urgency of the matter requires the Governor to act before he or she can consult the Cabinet or the Premier, but in any case falling within paragraph (c) the Governor shall, as soon as practicable, communicate to the Cabinet the measures which he or she has adopted and the reasons for them.

(3) In any case in which the Governor is required under this section to consult the Cabinet, the Governor shall act in accordance with the advice of the Cabinet unless in his or her opinion such advice would affect a matter for which he or she is responsible under section 42.

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

(5) Whenever the Governor, in pursuance of subsection (3), acts contrary to the advice given by the Cabinet, he or she shall, as soon as practicable, report his or her action and the reasons for it to a Secretary of State.

¹¹ To be discussed

¹² To be discussed

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

Governor's special responsibilities

42. (1) The Governor shall be responsible for the conduct (subject to this Constitution and any other law) of any business of the Government of Anguilla with respect to the following matters –

- (a) external affairs; subject to subsection (4);
- (b) defence;
- (c) internal security, including the Police Service, without prejudice to section **39**; and
- (d) the terms and conditions of service of persons holding or acting in public office, without prejudice to section **80**.

(2) For the avoidance of doubt it is declared that any matter which falls outside the special responsibilities of the Governor set out in subsection (1), or which is not a function which this Constitution or any other law requires the Governor to exercise in his discretion, is the responsibility of Ministers.

(3) The Governor, acting after consultation with the Premier, may assign to any member of the Cabinet responsibility for the conduct, on behalf of the Governor, of any business in the House of Assembly with respect to any of the matters mentioned in subsection (1).

(4) The Governor may by directions in writing, delegate, with the prior approval of a Secretary of State, to the Premier or any other Minister designated by the Governor on the advice of the Premier such responsibility for matters of external affairs or internal security as the Governor may think fit upon such terms and conditions as he or she may impose.

(5) Notwithstanding subsection (3), the Governor shall, by directions in writing, delegate to the Premier or to any other Minister designated by the Governor on the advice of the Premier, on the terms and conditions set out in subsection (5), responsibility for the conduct of external affairs as they relate to any matters that fall under the portfolios of Ministers, including –

- (a) the Caribbean Community, the Organisation of Eastern Caribbean States, the Association of Caribbean States, the United Nations Economic Commission for Latin America and the Caribbean, or any other Caribbean regional organisation or institution;
- (b) other Caribbean regional affairs relating specifically to issues that are of interest to or affect Anguilla;

(c) the relationship between Anguilla and St Maarten/ St Martin, St.Barths, Saba and St.Eustatius in matters of mutual interest;

(d) European Union matters directly affecting the interests of Anguilla.

(6) The terms and conditions referred to in subsection (4) are the following –

(a) separate authority shall be required from or on behalf of a Secretary of State for the commencement of formal negotiation and the conclusion of any treaty or other international agreement by the Government of Anguilla, provided that general authority may be granted in specified matters to commence the formal negotiation of, and where it is deemed appropriate, to conclude any such treaty or international agreement;

(b) no understanding or arrangement in the field of foreign policy shall be signed or supported in the name of the Government of Anguilla without the prior approval of a Secretary of State;

(c) a formal invitation to a member of government or Head of State of another country to visit Anguilla shall not be issued without prior consultation with the Governor;

(d) the costs of any activities in pursuance of subsection (4) shall be borne by the Government of Anguilla;

(e) the Premier or other Ministers shall keep the Governor fully informed of any activities in pursuance of subsection (4); and

(f) the Premier or other Minister shall provide to the Governor on request all papers and information, including the text of any instrument under negotiation, available to the Premier or other Minister with respect to any activities in pursuance of subsection (4).

(7) Any matter that is delegated to the Premier or to any other Minister under subsection (4) shall be performed by the Premier or such other Minister in a manner that is in the best interests of Anguilla and not prejudicial to the interests of Her Majesty and, for this purpose, the Governor and the Premier shall from time to time hold conference to ensure the proper safeguard of those interests.

(8) In the event of any disagreement regarding the exercise of any delegated authority under subsection (4), the matter shall be referred to a Secretary of State whose decision on the matter shall be final and whose directions shall be complied with.

(9) Where the Governor, acting in his or her discretion, determines that the exercise of any function conferred on any other person or authority (other than the House of Assembly) would involve or affect any matter mentioned in subsection (1), the Governor may, acting after consultation with the Premier, give directions as to the exercise of that function, and the person or authority concerned shall exercise the function in accordance with those directions.

Oaths to be taken by members

43. Every member of the Cabinet and the Secretary to the Cabinet, and every member of the National Security Council (except the Governor) shall, before entering upon the duties of his office as a member, or as Secretary to the Cabinet make before the Governor an oath or affirmation of allegiance in the form set out in the Schedule to this Constitution and an oath or affirmation for the due execution of that office in such form as may be prescribed by any law in force in Anguilla or, if no law in that behalf is for the time being in force, in the form set out in the Schedule to this Constitution.

CHAPTER 4 THE HOUSE OF ASSEMBLY

House of Assembly

44. (1) There shall be a House of Assembly for Anguilla.

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

(a) the Speaker;

(c) not less than thirteen members elected in the manner provided by law.

Qualifications for elected membership

45.(1) Subject to the provisions of the next following section, a person shall be qualified to be elected as a member of the House of Assembly if, and shall not be qualified to be so elected unless, he is a person who —

(i) is an Anguillian of the age of twenty-one years or upwards; and

(ii) is otherwise qualified as a voter **under section 53.**

(2) Subject to subsections (3) and (4), for the purposes of subsection 1 (i) an “Anguillian” is a person who belongs to Anguilla by birth or descent who was—

(a) born in Anguilla of a father or mother who at the time of the birth was a British Overseas Territories Citizen (or a British Dependent Territories Citizen, Citizen of The United Kingdom and Colonies or British Subject) by virtue of birth in Anguilla or by virtue of descent from a father or mother who was born in Anguilla.

(b) born in Anguilla of a father or mother who at the time of the birth belonged to Anguilla by birth or descent; or

(c) born outside Anguilla of a father or mother who at the time of the birth belonged to Anguilla by birth or descent; or

- (3) **A person born outside Anguilla who belongs to Anguilla by descent shall not be qualified to be elected as a member of the House of Assembly unless one of his or her grandparents belonged to Anguilla by birth.**
- (4) **A person, who was born outside Anguilla, who would otherwise be qualified to be elected a member of the House of Assembly by virtue of subsection 1(i) shall not be so qualified unless—**
- (a) **where that person has never been domicile in Anguilla, he has resided in Anguilla for at least five years immediately before the date of his or her nomination for election; or**
 - (b) **where that person was formerly domiciled in Anguilla but lived outside Anguilla for a continuous period of at least ten years (excluding periods related to medical or educational purposes), he has resided in Anguilla for at least three years immediately before the date of his nomination for election and is domiciled in Anguilla at that date.**

Disqualifications for nominated or elected membership

46 (1) No person shall be qualified to be elected as a member of the Assembly who—

- (a) holds or is acting in any public office;
- (b) is a minister of religion;
- (c) is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in any country;
- (d) is a person certified to be insane or otherwise adjudged to be of unsound mind under any law in force in Anguilla;
- (e) is under sentence of death imposed on him by a court of law in any country or is under 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 court, provided that the act constituting the offence for which such sentence was imposed would, if committed in Anguilla, have constituted an offence under the law of Anguilla; or
- (f) is disqualified for membership of the Assembly by any law in force in Anguilla relating to offences connected with elections.

(2) For the purposes of subsection (1) (e) of this section-

- (a) when a person has been sentenced to two or more sentences of imprisonment that are required to be served consecutively

he shall be regarded as having been sentenced to a term of or exceeding twelve months if (but not unless) any one of those sentences amounts to or 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 members of Assembly

47. The seat of an elected member of the Assembly shall become vacant—

- (a) upon a dissolution of the Assembly;
- (b) if, without prior notice to the **Speaker**, he is absent from three consecutive meetings of the Assembly;
- (c) if he ceases to be an Anguillian;
- (d) if he ceases to be resident in Anguilla;
- (e) if he resigns his seat by writing under his hand addressed to the Governor;
- (f) if any of the circumstances arise that, if he were not a member of the Assembly, would cause him to be disqualified for election thereto by virtue of paragraph (a), (b), (c), (d), or (f) of subsection (1) of the last foregoing section; or
- (g) in the circumstances specified in the next following section.

Vacation of seat on sentence

48. (a) If circumstances such as are referred to in s 46(1)(e) arise because a member is declared bankrupt, adjudged to be of unsound mind, under sentence of death or imprisonment or 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) that member shall forthwith cease to perform his or her functions as a member of the House of Assembly, but, subject to paragraph (c), he or she shall not vacate his or her seat in the House until the expiration of a period of thirty days thereafter.

(b) The Governor, acting in his or her discretion, in the case of the Speaker, in the case of an elected member, may at the request of the member, from time to time, extend the period of thirty days to enable the member to pursue an 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, signified by resolution, of the House of Assembly.

(c) 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 limit for entering an appeal, it ceases to be open to the member to appeal, he or she shall forthwith vacate his or her seat.

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

Leader of the Opposition

49. (1) Subject to the provisions of this section, the Governor may appoint a Leader of the Opposition.

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

(a) the member of the Assembly who in the judgement of the Governor, is the leader of any opposition party whose numerical strength in the Assembly is greater than that of any other opposition party; or

(b) if there is no such party, the member of the Assembly who in the judgement of the Governor is best able to command the support of the members of the Assembly in opposition to the Government; or

(c) if there is no person who in the opinion of the Governor is able to command the support of the members of the Assembly in opposition to the Government, then the member in opposition to government who has the longest period of past service in the Assembly.

(3) If at any time between 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 may revoke the appointment of the Leader of the Opposition.

(4) 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 Council, or

(b) if the holder thereof is appointed as the Premier.

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

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

Determination of questions as to membership of Assembly

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

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

(i) a person who voted or had the right to vote at the election to which the application relates;

(ii) a person claiming to have had the right to be returned at such election;

(iii) a person alleging himself to have been a candidate at such election; or

(iv) the Attorney-General.

(b) An application to the High Court for the determination of any question whether an elected member of the Assembly has vacated his seat therein or is required by virtue of **section 48** of this Constitution to cease to perform his functions as a member may be made by—

(i) any elected member of the Assembly; or

(ii) the Attorney-General.

(c) If any application referred to in paragraph (a) or (b) of this subsection 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.

Penalty for sitting or voting in Assembly when unqualified

52. (1) Any person who sits or votes in the Assembly after it has been held by the High Court that he or she is not entitled to do so shall be liable to a penalty not exceeding **E.C 200.00** for each day upon which he sits or votes.

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

Qualification of voters

53. (1) Subject to subsection (3), a person shall be qualified to be registered as a voter for the purposes of elections if, and shall not be so qualified unless, he or she belongs to Anguilla and on the qualifying date has attained the age of eighteen years and is domiciled and resident in Anguilla for a period of not less than twelve months immediately before the qualifying date.

(2) Subject to subsection (3), any person who was qualified to be registered as a voter immediately before the commencement of this Constitution shall continue to be so qualified thereafter.

(3) No person shall be qualified to be registered as a voter under this section who on the qualifying date—

(a) is a person certified to be insane or otherwise adjudged to be of unsound mind under any law in force in Anguilla;

(b) is disqualified by or under any such law from being registered as a voter for the purposes of elections by reason of his or her having been convicted of an offence relating to elections; or

(c) is under sentence of death imposed on him or her by a court or is serving a sentence of imprisonment (by whatever name called) for a term exceeding twelve months imposed on him or her by a court or substituted by competent authority for some other sentence imposed on him or her by a court.

(4) In this section “the qualifying date” means such date as may be appointed by or under any law in force in Anguilla as the date with reference to which the qualifications of any person for registration are to be ascertained.

(5) For the purposes of subsection (3)(c)—

(a) two or more sentences of imprisonment that are required to be served consecutively shall be regarded as separate sentences if none of those sentences exceeds twelve months, but if any one of those sentences exceeds that term they shall be regarded as one sentence; 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.

Right to vote at elections

54. Any person who is registered as a voter in an electoral district shall, while so registered, be entitled to vote at any election for that district unless he is prohibited from so voting by any law in force in Anguilla—

(a) because he is a returning officer; or

(b) because he has been concerned in any offence connected with elections.

Laws as to elections

55. Subject to the provisions of this Constitution, the Legislature may provide for the following matters, that is to say—

(a) the registration of voters;

(b) the ascertainment of the qualification of voters and of candidates for election;

((c) the division of Anguilla into electoral districts for the purpose of elections;

(d) the holding of elections;

(e) 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;

(f) the definition and trial of offences connected with elections and the imposition of penalties therefore.

CHAPTER 5 POWERS AND PROCEDURE IN HOUSE OF ASSEMBLY

Power to make laws

56. Subject to the provisions of this Constitution, **the Legislature shall have power** to make laws for the peace, order and good government of Anguilla.

Rules of procedure

57. (1) Subject to the provisions of this Constitution, the Assembly may from time to time make, amend and revoke rules of procedure for the regulation and orderly conduct of its own proceedings and the dispatch of business, and for the passing, instituting and numbering of Bills for the presentation thereof to the Governor for assent.

(2) Rules of procedure made under this section may provide for the establishment of committees of the House of Assembly (in addition to the Standing Committees to be established under section 65) and for the proceedings and conduct of business before such committees.

Presiding in Assembly

58. (1) When the Assembly first meets after a general election, or after the office of Speaker has fallen vacant for any reason other than a dissolution of the Assembly, and before it proceeds to the dispatch of any other business, the Assembly shall elect a person to be Speaker of the Assembly.

(2) The Speaker shall be elected from among persons who are qualified for election to the Assembly but who are not members of the Cabinet.

(3) When the Assembly first meets after a general election and before it proceeds to the dispatch of any other business except the election of the Speaker, it shall elect a member of the Assembly other than an elected member to be Deputy Speaker of the Assembly; and if the office of Deputy Speaker falls vacant for any reason other than a dissolution of the Assembly, the Assembly shall, as soon as convenient, elect another such member to that office.

(4) A person shall vacate the office of Speaker or Deputy Speaker—

(a) on dissolution of the Assembly;

(b) if he resigns his office by written notice to the Governor;

(c) if a motion for his removal from office receives in the Assembly the affirmative votes of two-thirds of all the members thereof;

(d) if, being a member of the Assembly, he ceases to be a member for any reason other than a dissolution of the Assembly or if, by virtue of section 51 of this Constitution, he is required to cease to perform his functions as a member;

(e) in the case of the Speaker—

(i) if he becomes a member of the Cabinet;

(ii) if, not being a member of the Assembly, any circumstances arise that would cause him to be disqualified for election as a member of the Assembly by virtue of section 49(1) of this Constitution.

(5) The Speaker or, in his absence, the Deputy Speaker or, if they are both absent, a member of the Assembly elected by the Assembly for that sitting shall preside at each sitting of the Assembly.

(6) References in subsection (5) of this section to circumstances in which the Speaker or Deputy Speaker is absent include references to circumstances in which the office of Speaker or Deputy Speaker is vacant.

Assembly may transact business notwithstanding vacancies

59. The Assembly shall not be disqualified for the transaction of business by reason of any vacancy in the membership thereof (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

60. (1) If at or during any sitting of the House of 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 rules of procedure 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 **eight** of the elected members of the Assembly.

Voting

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

(2) Only the elected members of the House of Assembly shall be entitled to vote—

- (a) in an election of the Speaker or Deputy Speaker;
- (b) on a motion on the Order Paper for the removal from office of the Speaker or Deputy Speaker; or
- (c) on a motion on the Order Paper that the House of Assembly should declare a lack of confidence in the Government of the Anguilla.

(3) The person presiding shall not vote unless on any question the votes are equally divided in which case he or she shall have and exercise a casting vote; but where the motion before the House of Assembly is one to which subsection (2) applies the person presiding shall not have a casting vote unless he or she is an elected member.

(4) In the event of an equality of votes on any question in respect of subsection (2) the motion shall be lost.

Summoning of persons to assist Assembly

62. (1) The Speaker or other person presiding may, when in his opinion the business before the Assembly makes it desirable, summon any person to a meeting of the Assembly or to any committee 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 was a member in the proceedings of the Assembly or of the committee of the Assembly relating to the matter in respect of which he was summoned, except that he may not vote.

Introduction of Bills

63. (1) Subject to the provisions of this Constitution and of the rules of procedure of the 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 rules of procedure of the Assembly.

(2) 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 Anguilla or for altering any such charge otherwise than by reducing it or for compounding or remitting any debt due to Anguilla;

(b) 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.

Assent to Bills

64 (1) Subject to the provisions of this Constitution, the power of House of Assembly to make laws shall be exercised by bills passed by Assembly and assented to by the Governor on behalf of Her Majesty.

(2) When a bill is presented to the Governor for assent in accordance with this Constitution, he shall signify that he assents thereto.

(3) A bill shall not become law unless it has been duly passed and assented to in accordance with this Constitution.

Standing Committees

65 (1) Subject to subsection (2), the House of Assembly shall have power to establish such Standing Committees as it deems necessary for the purpose of monitoring the conduct of the business of the Government for which responsibility has been assigned to a minister or Ministers under section **37**.

(2) The House of Assembly shall establish at least two Standing Committees of the House, one of which shall be the Public Accounts Committee referred to at subsection (6).

(3) Each Standing Committee shall consist of members of the House of Assembly who are not Ministers.

(4) The composition of each Standing Committee shall, so far as possible, ensure that the representation of political parties in the Committee is proportionate to the numerical strength of those parties in the House of Assembly.

(5) Each Standing Committee shall have power –

(a) to summon any Minister, or any public officer of a department of government for which a Minister is responsible, to appear before it;

(b) subject to any law or Rules of Procedure, to require any person so summoned to answer questions and provide information about the conduct of business of the Government by the Minister or department concerned;

(c) to report upon its activities to the House of Assembly.

(6) It shall be the duty of the Public Accounts Committee each year to examine the accounts of the Government of Anguilla and such other accounts laid before the Assembly as the Committee may decide including the accounts of public

undertakings, government companies, statutory corporations and authorities to satisfy itself that all public monies have been properly disbursed.

(7) Each Standing Committee shall be presided over by a member of the House of Assembly in opposition to the Government, save for the Public Accounts Committee which shall be presided over by the Leader of the Opposition.

(8) In the event that the Leader of the Opposition is unwilling or unable to act as chair of the Public Accounts Committee then the Speaker or a member of the Assembly in opposition to Government appointed by the Speaker shall chair the Public Accounts Committee.

(9) The Public Accounts Committee shall have the power to co-opt experts or enlist the aid of other persons of appropriate expertise, whether or not such experts or other persons are members of the House of Assembly and in addition to the powers under subsection (5)(a) to summon such members of the public to appear before it who in the opinion of the chair may assist the Committee in the discharge of its functions.

(10) The House of Assembly shall publish reports submitted to it under subsection (5)(c).

(11) Subject to the foregoing provisions of this section, Rules of Procedure shall provide for the composition and functions of, and proceedings and conduct of business before, Standing Committees.

Oath of allegiance

66. Except for the purpose of enabling this section to be complied with, no member of the Assembly shall be permitted to take part in its proceedings until he has made before the Speaker an oath of allegiance in the form set out in the Schedule to the Constitution:

Provided that the election of a Speaker and Deputy Speaker of the Assembly may take place before the members thereof have made such oath.

Privileges of Assembly and members

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

Sessions of House of Assembly

68 (1) Subject to the provisions of this Constitution, the sessions of the Assembly shall be held at such places and at such times as the Governor acting in accordance with the advice of the premier, may appoint by proclamation published in the *Gazette* .

(2) When the House of Assembly is in Session, the Speaker may call meetings of the house from time to time and, if no meeting has been called sooner, shall call a meeting within three months of the previous meeting or at any time requested to do so by a majority of the members of the House.

(3) 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 the first sitting in the next session.

Prorogation and dissolution

69. (1) The Governor, acting in accordance with the advice of the Premier, may at any time, by Proclamation published in the Official Gazette, prorogue the Assembly.

(2) The Governor, acting in accordance with the advice of the Premier, may at any time, by Proclamation published in the Official Gazette, dissolve the Assembly.

(3) Where between a dissolution of the Assembly and the next ensuing general election of members to the Assembly, an emergency arises of such a nature that in the opinion of the Premier, it is necessary for the Assembly to be summoned before the general election can be held, the Governor, acting in accordance with the advice of the Premier, may summon the preceding House of Assembly but the election of members of the Assembly shall proceed and the Assembly that has been summoned shall, if not sooner dissolved, again stand dissolved on the day on which the general election is held.

(4) The Governor shall dissolve the Assembly at the expiration of five years from the date when the Assembly first meets after any general election unless it has been sooner dissolved.

General elections

70. There shall be a general election at such time within two months, **but not earlier than twenty-one days**, after every dissolution of the Assembly as the Governor shall by Proclamation appoint.

CHAPTER 6 THE JUDICATURE

Eastern Caribbean Supreme Court

71. The Supreme Court Order 1967(a) shall continue to apply to Anguilla as it applied immediately before the commencement of this Constitution, and accordingly the High Court and the Court of Appeal of the Eastern Caribbean Supreme Court shall continue to have jurisdiction in Anguilla.

Subordinate courts and tribunals

72. There shall be such courts and tribunals in and for Anguilla subordinate to the Eastern Caribbean Supreme Court, and such courts and tribunals shall have such jurisdiction and powers, as may be prescribed by any law for the time being in force in Anguilla.

ORIGINAL JURISDICTION, HIGH COURT CONSTITUTION QUESTIONS.

¹³76. (1) Any person who alleges that any provision of this Constitution (other than a provision of Chapter I) has been or is being or is likely to be contravened may, if he has a relevant interest, apply to the High Court for a declaration and for relief under this section.

(2) The High Court shall have jurisdiction on an application made under this section to determine whether any provision of this Constitution (other than a provision of Chapter 2) has been or is being or is likely to be contravened and to make a declaration accordingly.

(3) Where the High Court makes a declaration under this section that a provision of this Constitution has been or is being or is likely to be contravened and the person on whose application the declaration is made has also applied for relief, the High Court may grant to that person such remedy as it considers appropriate, being a remedy available generally under any law in proceedings in the High Court.

(4) The Chief Justice may make provision, or authorise the making of provision, with respect to the practice and procedure of the High Court in relation to the jurisdiction and powers conferred on the court by or under this section, including provision with respect to the time within which any application under this section may be made.

(5) A person shall be regarded as having a relevant interest for the purpose of an application under this section only if the contravention of this Constitution alleged by him is such as to affect his interests.

(6) The rights conferred on a person by this section to apply for a declaration and relief in respect of an alleged contravention of this Constitution shall be in addition to any other action in respect of the same matter that may be available to that person under any other law or any rule of law.

(7) Nothing in this section shall confer jurisdiction on the High Court to hear or determine any such question as is referred to in section 51 of this Constitution.

REFERENCE OF CONSTITUTIONAL QUESTIONS TO HIGH COURT.

77. (1) Where any question as to the interpretation of this Constitution arises in any court of law established for Anguilla (other than the Court of Appeal, the High Court or a court-martial) and the court is of the opinion that the question involves a substantial question of law, the court may, and shall if any party to the proceedings so requests, refer the question to the High Court.

(2) Where any question is referred to the High Court in pursuance of this section, the High Court shall give its decision upon the question and the court in which the question arose shall dispose of the case in accordance with that decision or, if the decision is the subject of an appeal to the Court of Appeal

¹³ To be discussed

or Her Majesty in Council, in accordance with the decision of the Court of Appeal or, as the case may be, Her Majesty in Council.

Appeals to Her Majesty in Council

78. (1) In the following cases, an appeal shall lie from decisions of the High Court to the Court of Appeal and thence to Her Majesty in Council as of right, that is to say—

- (a) final decisions, in any civil or criminal proceedings, on questions as to the interpretation of this Constitution;
- (b) final decisions in any civil proceedings where the matter in dispute on the appeal is of the value of EC\$2,500 or upwards or where the appeal involves, directly or indirectly a claim to or a question respecting property or a right of the value of EC\$2,500 or upwards;
- (c) final decisions in proceedings under section **17** of this Constitution;
- (d) final decisions in proceedings for dissolution or nullity of marriage; and
- (e) in such other cases as may be prescribed by the Legislature.

¹⁴[(2) In the following cases, an appeal shall lie from decisions of the High Court to the Court of Appeal with the leave of the High Court or of the Court of Appeal and hence to Her Majesty in Council with the leave of the Court of Appeal, that is to say—

- (a) where the decision appealed against is a final decision in civil proceedings and, in the opinion of the court giving leave, the question involved in the appeal is one that, by reason of its great general or public importance or otherwise, ought to be submitted to the Court of Appeal or to Her Majesty in Council, as the case may be; and
- (b) in such other cases as may be prescribed by the Legislature.]

(3) The foregoing provisions of this section shall be subject to the provisions of section **51(1)** of this Constitution.

(4) In this section the references to final decisions of a court do not include any determination thereof that any application made thereto is merely frivolous or vexatious.

(5) Nothing in this section shall affect any right of Her Majesty to grant special leave to appeal to Her Majesty in Council from the decision of any court in any civil or criminal matter.

CHAPTER 7 THE PUBLIC SERVICE Public Service—General

¹⁴ To be discussed

Public Service Commission

79. (1) There shall be in and for the Anguilla a Public Service Commission which shall consist of five members, of whom—

- (a) two shall be appointed by the Governor, acting in his discretion;
- (b) one shall be appointed by the Governor, acting in accordance with the advice of the Premier;
- (c) one shall be appointed by the Governor, acting in accordance with the advice of the Leader of the Opposition; and
- (d) one shall be appointed by the Governor, acting in accordance with the advice of the Civil Service Association;

(2) The Governor, acting after consultation with the Premier, shall appoint one of the five members of the Public Service Commission to be Chairman of the Commission.

(3) No person shall be qualified to be appointed as a member of the Public Service Commission if he or she is a member of, or a candidate for election to, the House of Assembly, or holds or is acting in any public office.

(4) The office of a member of the Public Service Commission shall become vacant—

- (a) at the expiration of three years from the date of his appointment or such earlier time as may be specified in the instrument by which he or she was appointed;
- (b) if he or she resigns office by writing under his or her hand addressed to the Governor;
- (c) if he becomes a member of, or a candidate for election to, the House of Assembly or is appointed to or to act in any public office; or
- (d) if the Governor directs that he shall be removed from office for inability to discharge the functions of that office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour.

(5) If the office of a member of the Public Service Commission is vacant or a member is for any reason unable to perform the functions of his office, the Governor, acting in the manner prescribed by subsection (1) for the appointment of that member, may appoint a person who is qualified for appointment as a member of the Commission to act as a member of the Commission, and any person so appointed shall, subject to subsection (4), continue so to act until he is notified by the Governor that the circumstances giving rise to the appointment have ceased to exist; but in the case of a vacancy in the office of the Chairman or the inability of the holder of that office to perform his or her functions, the functions of the office of Chairman shall be performed by such member of the Commission or person acting as a member as the Governor, acting after consultation with the Premier, may designate.

(6) No business shall be transacted at any meeting of the Public Service Commission if there are less than four members of the Commission present.

(7) Any question proposed for decision at any meeting of the Public Service Commission shall be determined by a majority of the votes of the members present and voting; and if on any question the votes are equally divided the Chairman shall defer the matter to a full meeting of the Commission for a decision.

(8) The Public Service Commission shall be served by a ¹⁵[secretariat], the members of which shall be public officers.

(9) Subject to this Constitution, in the exercise of its functions the Public Service Commission shall not be subject to the direction or control of any other person or authority.

Power to appoint, etc., to public offices

80. (1) Power to make appointments to public offices and to remove and to exercise disciplinary control over persons holding or acting in such offices shall vest in –

(a) the Governor after consultation with the Premier in relation to the offices of Deputy Governor and Chief Auditor; and

(b) the Governor –

(i) acting in accordance with the advice of the Teaching Service Commission in relation to the teaching service; and

(ii) in relation to all other offices in accordance with the advice of the Public Service Commission,

(2) Power to make appointments to the office of Secretary to the Cabinet is vested in the Governor, acting in accordance with the advice of the Premier

(3) Whenever occasion arises for making an appointment under subsection (2) the Public Service Commission shall submit to the Premier a list of persons who appear to the Commission to be qualified and competent for the appointment and the Premier shall advise the Governor to appoint a person whose name appears on the list, provided the Premier may request once an additional list of persons from the Public Service Commission from which to advise an appointment.

(5) The Premier may from time to time request a report from the Public Service Commission, the Police Service Commission or the Teaching Service Commission about the functioning of the public service, the police service or the teaching service.

(7) This section does not apply to any office to which **section 83** applies.

Teaching Service Commission

81. (1) There shall be in and for Anguilla a Teaching Service Commission which shall consist of three members, of whom –

¹⁵ To be discussed

- (a) two shall be appointed by the Governor, acting in his discretion;
- (b) one shall be appointed by the Governor, acting in accordance with the advice of the Anguilla Teachers Union.

(2) A quorum shall be two members.

Judicial and Legal Services Commission

82.(1) There shall be for Anguilla a Judicial and Legal Services Commission which shall consist of—

- (a) the Chief Justice, who shall be Chairman;
- (b) another judge of the Court of Appeal or the High Court nominated by the Chief Justice.
- (c) the Chairman of the Public Service Commission; and
- ¹⁶[(d) two other members appointed by the Governor, acting in accordance with the advice of the Premier and the Leader of the Opposition who will each nominate one member, at least one of whom shall be a legal practitioner.]

¹⁷[(2) For the purpose of subsection (1)(d), the Premier and the Leader of the Opposition shall alternate in nominating a legal practitioner, with the Premier making the first such nomination upon the commencement of this Constitution, provided that such nomination shall not be construed as precluding the nomination of two legal practitioners under subsection (1)(d).]

(5) If the office of a member of the Judicial and Legal Services Commission appointed under subsection (1)(d) becomes vacant or if such a member is for any reason unable to perform the functions of that office, the Governor acting in accordance with the advice of the Premier or the Leader of the Opposition, as the case may be, may appoint another suitably qualified person to that office for the unexpired term of the previous holder of the office or until the holder of the office is able to resume his or her functions.

(6) Any decision of the Judicial and Legal Services Commission shall require the concurrence of not less than three members of the Commission, and the Commission shall take its decisions in such form and manner as it may determine.

(7) In the exercise of its functions, the Judicial and Legal Services Commission –

- (a) shall not be subject to the direction or control of any other person or authority; and

¹⁶ To be discussed

¹⁷ To be discussed

(b) may regulate its own procedure.

Power to appoint, etc, to legal offices

83. (1) Power to make appointments to the offices to which this section applies, and to remove and to exercise disciplinary control over persons holding or acting in such offices, shall vest in the Governor, acting in accordance with the advice of the Judicial and Legal Services Commission appointed under **section 82** of this Constitution.

(2.) This section applies to the offices of –

(a) Attorney-General;

(b) Director of Public Prosecutions;

(c) Magistrate;

(d) Any office in the public service of the Attorney General’s Chambers or of any Registrar or other officer of the High Court who is required to possess legal qualifications;

and to such other offices in the public service, for appointment to which persons are required to possess legal qualifications, as may be prescribed by any law or Government policy for the time being in force in Anguilla.

(5) No person shall be appointed to the office of Attorney-General unless he is qualified to be admitted in Anguilla as a legal practitioner and has had at least ten years practical experience as a legal practitioner.

¹⁸[(6) No person shall be appointed to the office of Attorney-General unless he belongs to Anguilla unless, the Judicial and Legal Services Commission, certifies that there is no such person who is suitably qualified and able and willing to be so appointed.]

(7) No person shall be appointed to the office of Director of Public Prosecutions unless he or she is qualified to be admitted in Anguilla as a legal practitioner and has had at least seven years practical experience as a legal practitioner.

(8) A person qualified under subsection (7) shall be appointed to act in the office of Director of Public Prosecutions whenever the office falls vacant and until a person is appointed substantively to that office, or whenever the holder of that office is for any reason unable to perform his functions (including by reason of suspension under subsection (10)).

(9) A person holding the office of Attorney-General, Director of Public Prosecutions or Magistrate may only be removed from office for inability to discharge the functions of his or her office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour.

¹⁸ To be discussed

(10) Where the issue of the removal of the Director of Public Prosecutions from office has been referred to the Judicial and Legal Services Commission, the Governor shall suspend the Director of Public Prosecutions from performing the functions of his or her office pending the outcome of the referral.

Police Service Commission

84. (1) There shall be in and for Anguilla a Police Service Commission which shall consist of five members, of whom –

- (a) one shall be appointed by the Governor, acting in his or her discretion;
- (b) one shall be appointed by the Governor, acting in accordance with the advice of the National Security Council;
- (c) one shall be appointed by the Governor, acting in accordance with the advice of the Premier;
- (d) one shall be appointed by the Governor, acting in accordance with the advice of the Leader of the Opposition; and
- (e) one shall be appointed by the Governor, acting after consultation with the Police Welfare Association.

(2) A quorum shall be four members.

Power to appoint, etc, to offices in the Police Service

¹⁹**85.** (1) Power to make appointments to offices in the Police Service and to remove and to exercise disciplinary control over persons holding or acting in such offices shall vest in the Governor, acting in accordance with the advice of the Police Service Commission appointed in accordance with section **86** of this Constitution.

(2) Where the Police Service Commission advises that any person should be appointed to an office in the Police Service of a rank superior to Chief Inspector, that advice shall require the approval of the National Security Council before being submitted to the Governor.

(3) Before exercising the powers vested in the Governor by subsection (1), the Governor may, acting in his discretion, once refer the advice of the Police Service Commission back to the Commission for reconsideration by it.]

Legislation regarding Commissions

86. (1) Subject to the provisions of this Constitution, the House of Assembly may by law make provision for –

¹⁹ To be discussed

- (a) the organisation of the work of a Commission and the manner in which it performs its functions;
- (b) consultation by a Commission with persons or authorities other than its members;
- (c) the protection and privileges of members of a Commission in respect of the performance of their functions and the privilege of communications to and from a Commission and its members in the case of legal proceedings;
- (d) the definition and trial of offences in relation to the functions of a Commission and the imposition of penalties for such offences; and
- (e) conferring on a Commission other related functions, without prejudice to the functions conferred on such Commission by this Constitution.

(2) In this section "Commission" means the Public Service Commission, the Teaching Service Commission, the Judicial and Legal Services Commission or the Police Service Commission.

(3) If the Premier represents to the Governor that the question of removing a member of a Commission, The Attorney General, The Director of Public Prosecution, The Commissioner of Police, the Magistrate, Registrar or other legal officer 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 Chief Justice from among persons who hold or have held office as a 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; and
- (b) the tribunal shall enquire into the matter and report on the facts thereof to the Governor and recommend to him whether the member ought to be removed under this section.
- (c) if the question of removal has been referred to a tribunal under this section, the Governor, acting in accordance with the advice of the relevant commission or appointing body, may suspend that member or officer from the functions of his office and any such suspension may at any time be revoked by the Governor, acting in accordance with such advice as aforesaid, and shall in any case cease to have effect if the tribunal recommends to the Governor that the member should not be removed.

Pensions

Applicability of pension law

87. (1) Subject to the provisions of section **89** of this Constitution, 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 and the two next following sections 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 1st April 1982 the day on which the award was granted;

(b) in relation to an award granted or to be granted on or after that 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 that day, the day on which he becomes a public officer.

(3) For the purposes of this section, in so far 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.

Pensions, etc., charged on revenues of Anguilla

88. Awards granted under any law for the time being in force in Anguilla shall be charged on and paid out of the Consolidated Fund of Anguilla.

Grant and withholding of pensions, etc.

89. (1) The power to grant any award under any pensions law in force in Anguilla (other than an award to which, under that law, the person to whom it is payable is entitled as of right), and, in accordance with any provisions in that behalf contained in any such law, to withhold, reduce in amount or suspend any award payable under any such law is hereby vested in the Governor acting in his discretion.

(2) In this section “pension law” means any law relating to the grant to any person, or to the widow, children, dependants or personal representatives of that person, of an award in respect of the services of that person in a public office, and includes any instrument made under any such law.

CHAPTER 8 FINANCE

Consolidated Fund

90. All revenues or other moneys raised or received by or for the purposes of the Government of Anguilla (not being revenues or other moneys that are payable by or under any law into some other fund established for any specific purpose or that may, by or under any law, be retained by the authority that received them for the purpose of defraying the expenses of that authority) shall be paid into and form a Consolidated Fund.

Withdrawal of money from Consolidated Fund or other public funds

91. (1) No money shall be withdrawn from the Consolidated Fund except on the authority of a warrant under the hand of the Minister charged with responsibility for finance (in this Chapter referred to as “the Minister”); but where, in the opinion of the Governor, acting in his or her discretion, moneys are required to enable the Governor to discharge his or her responsibilities under section **42**, such moneys may be withdrawn from the Consolidated Fund either—

(a) on the authority of a warrant under the hand of the Minister; or

(b) on the authority of a warrant under the hand of the Governor, acting in his discretion.

(2) No warrant shall be issued by the Minister for the purpose of meeting any expenditure unless—

(a) the expenditure has been authorised for the financial year during which the withdrawal is to take place—

(i) by an Appropriation Act; or

(ii) by a supplementary estimate approved by resolution of the House of Assembly;

(b) the expenditure has been authorised in accordance with section **93**; or

(c) it is expenditure (in this Chapter referred to as “statutory expenditure”) that is charged on the Consolidated Fund by this Constitution or any other law.

(3) No moneys shall be withdrawn from any public fund other than the Consolidated Fund unless the issue of those moneys had been authorised by or under any law.

Authorisation of expenditure

92. (1) The Minister shall cause to be prepared and laid before the House of Assembly as soon as practicable before the beginning of each financial year estimates of the revenues and expenditure of Anguilla Virgin Islands for that year; but if the House is dissolved less than three months before the beginning of any financial year, the estimates for that year may be laid before the House as soon as practicable after the beginning of that year.

(2) The heads of expenditure contained in the estimates (other than statutory expenditure) shall be included in a Bill to be known as an Appropriation Bill which shall be introduced into the House of Assembly to provide for the issue from the Consolidated Fund of the sums necessary to meet that expenditure and for the appropriation of those sums to the purposes specified in it.

(3) If in respect of any financial year it is found—

(a) that the amount appropriated by the Appropriation Act to any purpose is insufficient or that a need has arisen for expenditure for a purpose to which no amount has been appropriated by that Act; or

(b) that any moneys have been expended for any purpose in excess of the amount appropriated to that purpose by the Appropriation Act or for a purpose to which no amount has been appropriated by that Act,

a supplementary estimate, showing the sums required or spent, shall be laid before the House of Assembly.

(4) Where in respect of any financial year any supplementary estimates have been laid before the House of Assembly in accordance with subsection (3) and approved by resolution of the House, a Supplementary Appropriation Bill shall, as soon as practicable after the end of that year, be introduced into the House to provide for the appropriation to the purposes in question of the sums included in such estimates that have been expended for that year.

(5) Where in respect of any financial year moneys have been withdrawn from the Consolidated Fund on the authority of a warrant issued by the Governor by virtue of section 91(1)(b), the Minister shall, if the circumstances of the case so require, cause a statement of expenditure in respect of such moneys to be prepared and laid before the House of Assembly.

Authorisation of expenditure in advance of appropriation

93. If the Appropriation Act in respect of any financial year has not come into force by the beginning of that financial year, the House of Assembly may by resolution empower the Minister to authorise the withdrawal of moneys from the Consolidated Fund for the purpose of meeting expenditure necessary to carry on the services of the Government of Anguilla until the expiration of four months from the beginning of that financial year or the coming into force of the Appropriation Act, whichever is the earlier.

Contingencies Fund

94. (1) The Legislature may by law make provision for the establishment of a Contingencies Fund and for authorising the Minister to make advances from that fund if he or she is satisfied that there is an urgent and unforeseen need for expenditure for which no other provision exists.

(2) When any advance is made from the Contingencies Fund a supplementary estimate shall, as soon as practicable, be laid before the House of Assembly for the purpose of authorising the replacement of the amount so advanced.

Public debt

95. (1) All debt charges for which the Government of Anguilla is liable shall be a charge on the Consolidated Fund or the Debt Service Fund.

(2) For the purposes of this section, debt charges include interest, sinking fund charges, the repayment or amortisation of debt, and all expenditure in connection with the raising of loans on the security of the revenues of Anguilla or the Consolidated Fund and the service and redemption of debt thereby created.

Remuneration of certain officers

96. (1) There shall be paid to the holders of the offices to which this section applies such salary or other remuneration and such allowances as may be prescribed by or under any law enacted by the Legislature.

(2) The remuneration and allowances payable or owing to the holders of those offices shall be a charge on the Consolidated Fund.

(3) The remuneration prescribed in pursuance of this section in respect of the holder of any such office and his or her other terms of service (other than allowances that are not taken into account in computing, under any law in that

respect, any pension payable in respect of his or her service in that office) shall not without the consent of that person be altered to his or her disadvantage after his or her appointment.

(4) Where a person's remuneration or other terms of service depend upon his or her option, the remuneration or terms for which he or she opts shall, for the purpose of subsection (3), be deemed to be more advantageous to that person than any others for which he or she might have opted.

(5) This section applies to the offices of Deputy Governor, Chairman or other member of the Public Service Commission, the Teaching Service Commission, the Judicial and Legal Services Commission and the Police Service Commission, Attorney General, Director of Public Prosecutions, Magistrate, Auditor General, Complaints Commissioner and Registrar of Interests.

The Auditor General

97. (1) There shall be an Auditor General whose office shall be a public office.

(2) The accounts of the House of Assembly and all Government departments and offices (including the Public Service Commission, the Teaching Service Commission, the Police Service Commission and such other body as may be designated by law) shall be audited and reported on annually by the Auditor General, and for that purpose the Auditor General or any person authorised by him or her shall have access to all books, records, returns and other documents relating to such accounts.

(3) The Auditor General shall submit his or her reports made under subsection (2) to the Minister who shall, within three months of the receipt of the reports, cause them to be laid before the House of Assembly.

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

CHAPTER 9

THE COMPLAINTS COMMISSIONER AND REGISTER OF INTERESTS

The Complaints Commissioner

98. (1) There shall be a Complaints Commissioner for Anguilla.

(2) The Complaints Commissioner shall be appointed by the Governor, acting after consultation with the Premier 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 or she is or has been within the preceding three years—

- (a) an elected member of the House of 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 office by writing under his or her hand addressed to the Governor;

(c) if he she becomes an elected member of the House of Assembly or the holder of any office in any political party; or

(d) if the Governor directs that he shall be removed from office for inability to discharge the functions of the office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour, or for contravention of subsection (5).

(5) Subject to such exceptions as the Governor, acting in his or her 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 or her office.

Functions of Complaints Commissioner

99. (1) The Complaints Commissioner shall have such functions and jurisdiction as may be prescribed by law.

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

Registration of interests

100. (1) There shall be an Interests Commissioner for Anguilla who shall maintain a Register of Interests.

(2) The Interests Commissioner shall be appointed, and may be removed from office, by the Governor acting in his discretion.

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

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

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

(6) A law made under this Constitution may make further provision for giving effect to this section, including the sanctions which may be imposed for a failure to comply with, or the making of false statements in purported compliance with, subsections (2) and (3) and, notwithstanding anything contained in **Chapter 5**, the sanctions which may be imposed may include the suspension of a member of the House of Assembly for such period as may be prescribed in such a law.

General provisions relating to Commissioners

101. (1) Subject to any specific provision made above, the following shall apply to any Commissioner appointed under this Constitution.

(2) Subject to s 100(2) a Commissioner shall be appointed by the Governor, acting after consultation with the Premier and the Leader of the Opposition, by instrument under the public seal.

(3) No person shall be qualified to be appointed as a Commissioner if he or she has been within the preceding three years –

(a) an elected member of the House of Assembly; or

(b) the holder of any office in any political party.

(4) The office of a Commissioner shall become vacant –

(a) at the expiration of the period specified in the instrument by which he or she was appointed;

(b) if he or she resigns office by writing under his or her hand addressed to the Governor;

(c) if he or she becomes an elected member of the House of Assembly or the holder of any office in any political party; or

(d) if the Governor directs that he or she shall be removed from office for inability to discharge the functions of the office (whether arising from infirmity of body or mind) or for misbehaviour, or for contravention of subsection (5).

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

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

(7) There shall be charged on the revenues of Anguilla and paid thereout to every Commissioner such emoluments as may be prescribed by any law for the time being in force in Anguilla:

Provided that the emoluments of a member of the Commission shall not be reduced during his continuance in office.

(8) Each Commissioner shall report annually to the House of Assembly on the performance of his office.

(10) The House of Assembly shall within one month of receipt of each annual report publish it in a widely accessible form.

CHAPTER 10 CROWN LANDS

Grants of Land

102. (1) Subject to subsection (4) and the provisions of any law for the time being in force in Anguilla, the Governor or **the Minister** when duly authorised by the Governor in writing under his hand may, in Her Majesty's name and on Her behalf, make and execute under the public seal grants and dispositions of any land or other immovable property within Anguilla **or interests in such property that are vested in Her Majesty for the purposes of the Government of Anguilla; but any such grant or disposition shall require the prior approval of the Cabinet.**

(2) The Minister shall have responsibility for administering all lands and other property referred to in subsection (1).

(3) In this section "the Minister" means the Minister charged with responsibility for Crown Lands.

(4) No Crown land in Anguilla in excess of one acre may be sold, leased, charged, exchanged, or otherwise disposed of without a resolution of the House of Assembly authorising the transaction.

CHAPTER 11 MISCELLANEOUS

Public Seal

103. The Governor shall keep and use the public seal for sealing all things that are required to be sealed.

Governor's power of pardon

104. Subject to any Instructions given to him by Her Majesty under Her Sign Manual and Signet, the Governor may, in Her Majesty's name and on Her behalf—

(a) grant to any person concerned in the commission of any offence for which he may be tried in Anguilla, or to any person convicted of any offence under any law in force in Anguilla, a pardon, either free or subject to lawful conditions;

(b) grant to any person so convicted a respite, either indefinite or for a specified period, of the execution of any sentence passed on him in respect of the conviction;

(c) substitute a less severe form of punishment for that imposed on any such person by any such sentence; or

(d) remit the whole or any part of any such sentence or of any penalty or forfeiture due to Her Majesty by reason of the conviction.

(2) In the exercise of the powers conferred on the Governor by this section, the Governor shall act in his own discretion but shall first consult the Cabinet unless in any particular case the matter is in his judgement too urgent to permit such consultation.

Belonger Status

105. (1) There shall be an Anguillian Belonger **Status** Commission (hereinafter referred to as the Commission) the composition and function of which shall, subject to the provision of this section be prescribed by law.

(2) For the purposes of this Constitution a person shall be regarded as belonging to Anguilla if that person-

- (a) is born in Anguilla and at the time of the birth his father or mother is or was a British Overseas Territories Citizen (or a British Dependent Territories Citizen, Citizen of The United Kingdom and Colonies or British Subject) by virtue of birth, registration or naturalization in Anguilla or by virtue of descent from a father or mother who was born in Anguilla;
- (b) is born outside Anguilla of a father or mother who is a British Overseas Territories Citizen (or a British Dependent Territories Citizen, Citizen of The United Kingdom and Colonies or British Subject) by virtue of birth in Anguilla or descent or who belongs to Anguilla by virtue of birth in Anguilla or descent;
- (c) is a person born in or outside of Anguilla with a grandparent who was born in Anguilla and who belongs to Anguilla by birth or descent or who, if deceased, would if alive, so belong to Anguilla; or
- (d) is a child adopted in Anguilla by a person who belongs to Anguilla by birth or descent;
- ²⁰[(e) is domicile in Anguilla, has been ordinarily resident in Anguilla for not less than 15 years, and has been granted belonger status by the Commission.; Such a person must apply to the Anguilla Belonger Status Commission for a grant of Anguillian belonger status, which grant may be withdrawn at any time on conviction of an indictable offence.
- (f) is a person who is married to a belonger for a period of not less than 7 years. Such person must apply to the Anguilla Belonger Status Commission for a grant of belonger status, which grant may be withdrawn at any time on conviction of an indictable offence,]
- (g) Was born outside Anguilla and has satisfied the Commission that his father or mother was born in Anguilla and is regarded (or if deceased, would if alive be regarded) as belonging to Anguilla by virtue of this subsection;

²⁰ To be discussed

(h) a person with a great-grandparent who was born in Anguilla and who is regarded as being a believer by virtue of this or any previous Constitution, provided that person has been living (i.e. physically present) in Anguilla for a continuous period of 5 years and his absences from Anguilla do not exceed a total of ninety (90) days in each of those years, save for good and sufficient cause. Such a person must apply to the believer Status Commission for a grant of believer status, which grant may be withdrawn at any time on conviction of an indictable offence.

(3) An application for believer status under subsection (2) (e) (f) (g) and (h) of this section may be refused in any case in which the Commission is satisfied that there are reasonable grounds for refusing the application in the interests of defence, public safety, public morality or public order.

(4) There shall be such provision as may be made by the Legislature for depriving of his citizenship any person who is a citizen by virtue of registration if such registration as a citizen was obtained by false representation or fraud or willful concealment of material facts or if he is convicted in Anguilla of an indictable offence.

Provided that any law enacted for the purposes of paragraph 4 of this subsection shall include provisions under which the person concerned shall have a right of appeal to a court of competent jurisdiction or other independent authority and shall be permitted to have legal representation of his own choice.

INTERPRETATION

106. Interpretation

(1) In this Constitution, unless it is otherwise provided or required by the context –

“Assembly” means the House of Assembly;

“the Chief Justice” means the Chief Justice of the Eastern Caribbean Supreme Court;

“the Court of Appeal” means the Court of Appeal established by the Supreme Court Order 1967;

“dollars” means dollars in the currency of Anguilla or the Eastern Caribbean Currency Authority;

“election” means election of an elected member of the House of Assembly and “general election” shall be construed accordingly;

“functions” includes jurisdictions, powers and duties;

“the Gazette” means the official Gazette of Anguilla;

“the High Court” means the High Court established by the Supreme Court Order 1967;

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

“legal practitioner” means a person qualified as a legal practitioner as prescribed by law;

“legal representative” means a person qualified as a legal practitioner;

“public office” means, subject to section 3, any office of emolument in the public service;

“public officer” means the holder of any public office and includes any person appointed to act in any such office;

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

“session”, in relation to the House of Assembly, means the sittings of the House commencing when the House first meets after being constituted by this Constitution, or after its prorogation or dissolution at any time, and terminating when the House is next prorogued or is dissolved without having been prorogued;

“sitting”, in relation to the House of Assembly, means a period during which the House is sitting continuously without adjournment and includes any period during which the House is in committee.

(2) In this Constitution, unless it is otherwise provided or required by the context, any reference to the holder of an office by a term designating or describing his or her office shall be construed as including a reference to any person who, under and to the extent of any authority in that respect, is for the time being performing the functions of that office.

References to public office

2. (1) For the purposes of this Constitution, a person shall not be considered to hold a public office by reason only that –

- (a) he is in receipt of a pension or other like allowance in respect of public service; or
- (b) he or she is in receipt of any remuneration or allowances in respect of his or her tenure of the office of Minister, Speaker, Deputy Speaker or Member of the House of Assembly, or member of the Public Service Commission, the Teaching Service Commission, the Judicial and Legal Services Commission, or the Police Service Commission.

(2) References in section 46 and Chapter 7 to public offices shall not be construed as including references to –

- (a) the office of a member of any board, committee or other similar body (whether incorporated or not) established by any law in force in Anguilla; or
- (b) any office of emolument under any local government council or authority in Anguilla.

Appointments

3. (1) In this Constitution, unless it is otherwise provided or required by the context, any reference to power to make appointments to any office shall be construed as including a reference to power to make appointments on promotion or transfer to that office and the power to appoint a person to perform the functions of that office during any period when it is vacant or the holder of it is unable (whether by reason of absence or infirmity of body or mind or any other cause) to perform those functions.

(2) Where by this Constitution any person is directed, or power is conferred on any person or authority to appoint a person, to perform the functions of an office if the holder of that office is unable to perform those functions, the validity of any performance of those functions by the person so directed or of any appointment made in exercise of that power shall not be called in question in any court on the ground that the holder of the office is not unable to perform the functions of that office.

(3) Where this Constitution vests in any person power to make appointments to any office, a person may be appointed that office, notwithstanding that some other person may be holding that office, when that other person is on leave of absence pending relinquishment of that office; and where two or more persons are holding the same office by reason of an appointment made in pursuance of this subsection, then, for the purposes of any function conferred on the holder of that office, the person last appointed to the office shall be deemed to be the sole holder of the office.

Re-election or reappointment

4. Any person who has vacated his or her seat in the House of Assembly or has vacated any office constituted by or under this Constitution may, if qualified, again be elected as a member of the House or appointed to that office, as the case may be, from time to time in accordance with this Constitution.

Removal from office

5. In this Constitution, unless it is otherwise provided or required by the context, any reference to power to remove a public officer from office shall be construed as including a reference to a power conferred by any law to remove or permit that officer to retire from the public service.

Resignation

6. For the purposes of this Constitution, the resignation of the holder of any office that is required to be addressed to any person shall have effect from the time that it is received by that person, unless otherwise specified in the letter of resignation.

Power to amend or revoke instruments

7. Where any power is conferred by this Constitution to make any proclamation, order or regulations or to give any directions, the power shall be construed as including a power exercisable in like manner to amend or revoke any such proclamation, order, regulations or directions.

CHAPTER 2

**THE 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, in the office
(*here insert the description of the office*). So help me God.

3. *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.

Transitional provisions (To be formulated)

26. (2) The person who, immediately before the commencement of this Order, holds the office of Speaker of the Assembly shall be deemed, on and after such commencement, to have been elected to that office in accordance with section xx of the Constitution as amended by this Order.

Addendum

****For future discussion by the Committee working on the Draft Constitution***

PART V

POWERS AND PROCEDURE OF HOUSE OF ASSEMBLY

Power to make laws

59. Subject to this Constitution, the Governor with the advice and consent of the House of Assembly may make laws for the peace, order and good government of Anguilla.

Standing Orders of House of Assembly

60.-(1) Subject to this Constitution and to any Instructions under Her Majesty's Sign Manual and Signet, the House of Assembly may make, amend and revoke Standing Orders for the regulation and orderly conduct of its own proceedings, and for the passing, instituting and numbering of bills and their presentation to the Governor for assent, but such Standing Orders shall not have effect until approved by the Governor.

(2) Standing Orders made under this section may provide for the establishment of committees of the House of Assembly (in addition to the Standing Committees to be established under section (61) and for the proceedings and conduct of business before any such committees.

Standing Committees

61.-(1) The House of Assembly shall establish at least two Standing Committees of the House, each of which shall be charged with responsibility for monitoring the conduct of business of the Government for which responsibility has been assigned to a Minister or Ministers under section 32(1).

(2) Each Standing Committee shall consist of members of the House of Assembly who are not Ministers.

(3) The composition of each Standing Committee shall, so far as possible, ensure that the representation of political parties in the Committee is proportionate to the numerical strength of those parties in the House of Assembly.

(4) At least one Standing Committee shall be presided over by a member of the House of Assembly in opposition to the Government.

(5) Each Standing Committee shall have power-

(a) to summon any Minister, or any public officer of a department of government for which a Minister is responsible, to appear before it;

(b) subject to any law or Standing Orders, to require any person so summoned to answer questions and provide information about the conduct of business of the Government by the Minister or department concerned;

(c) to report upon its activities to the House of Assembly.

(6) The House of Assembly shall publish reports submitted to it under subsection (5)(c). 34

(7) Subject to the foregoing provisions of this section, Standing Orders shall provide for the composition and functions of, and proceedings and conduct of business before, Standing Committees.

Oaths by members of House of Assembly

62. No member of the House of Assembly shall be permitted to take part in the proceedings of the House, other than proceedings necessary for the purposes of this section, until he or she has made and subscribed before the House an oath of allegiance in the form set out in the Schedule to this Constitution; but the election of a Speaker and Deputy Speaker may take place before the members of the House make such oath.

Presiding in House of Assembly

63.-(1) The Speaker or, in his or her absence, the Deputy Speaker or, if they are both absent, an elected or appointed member of the House of Assembly (not being a member of the Cabinet) elected by the elected and appointed members of the House, shall preside in the House.

(2) References in this section to absence of the Speaker or the Deputy Speaker shall include circumstances in which either office is vacant.

Voting

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

(2) The person presiding shall not vote unless on any question the votes are equally divided in which case he or she shall have and exercise a casting vote if, but not unless, in the case of the Speaker, he or she is an elected or appointed member.

Validity of proceedings

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

Quorum

66.-(1) A quorum of the House of Assembly shall be eight members not including the person presiding, of whom five are elected members.

(2) If at any sitting of the House of Assembly any member who is present draws the attention of the person presiding at the sitting to the absence of a quorum and, after such interval as may be prescribed in Standing Orders, the person presiding at the sitting ascertains that a quorum of the House is still not present, the House shall be adjourned.

Introduction of bills, etc

67.-(1) Subject to this Constitution and to Standing Orders, any member may introduce any bill or propose any motion for debate in, or may present any petition to, the House of Assembly, and the same shall be debated and disposed of according to Standing Orders.

(2) Except upon the recommendation of a Minister, the House of Assembly shall not-

(a) proceed upon any bill (including any amendment to a bill) which, in the opinion of the person presiding in the House, makes provision for imposing or increasing any tax, for imposing or increasing any charge on the revenues or other funds of Anguilla or for altering any such charge otherwise than by reducing it, or for compounding or remitting any debt due to Anguilla; or

(b) proceed upon any motion (including any amendment to a motion) the effect of which in the opinion of the person presiding in the House is that provision would be made for any of the purposes aforesaid.

Governor's reserved power

68.-(1) If the Governor considers it urgently necessary, for the purpose of securing compliance with an international obligation, that any bill introduced, or any motion to which this section applies proposed, in the House of Assembly should have effect, then, if the House fails to pass the bill or carry the motion within such time and in such form as the Governor thinks fit, and notwithstanding any provisions of this Constitution or any other law or any Standing Orders, the Governor may declare that such bill or motion shall have effect as if it had been passed or carried by the House, 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 House or any committee of the House; and such bill or 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 the Governor 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 the Governor that the declaration should be made, then 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 authorizes the Governor to make the declaration.

(3) If any member of the Cabinet so desires, he or she 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 or her comments on the making of such declaration, and the Governor shall forward such statement, or a copy of it, as soon as practicable to a Secretary of State.

(4) 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 House of 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.

(5) For the purposes of this section, a bill shall be validly introduced, and a motion shall be validly proposed, if it is introduced or proposed by anyone member of the House of Assembly.

(6) The powers conferred upon the Governor by subsections (1) and (2) shall be exercised by the Governor in his or her discretion.

Assent to bills

69.-(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 or her 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 published in the *Gazette*.

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

(a) any bill which in his or her judgement is in any way repugnant to, or inconsistent with, this Constitution; and

(b) any bill which determines or regulates the privileges, immunities or powers of the House of Assembly or of its members, unless he or she has been authorised by a Secretary of State to assent to it.

Return of bills by Governor

70. The Governor may return to the House of Assembly any bill presented to him or her for his or her assent, transmitting with it any amendments which he or she may recommend, and the House shall deal with such recommendation.

Disallowance of laws

71.-(1) Any law to which the Governor has given his or her 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 in the *Gazette* and the law shall be annulled with effect from the date of the publication of that notice.

(3) Section 16(1) of the Interpretation Act 1978(a) shall apply to the annulment of any law under this section as it applies 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.