

DRAFT NEW ELECTORAL BOUNDARIES COMMISSION BILL

EXPLANATORY MEMORANDUM

In carrying out its mandate from Executive Council to review all previous proposals for electoral reform, and to produce proposals for reforming Anguilla's law and procedure, the Constitutional and Electoral Reform Committee determined that it is necessary to set up an Electoral Boundaries Commission to review the electoral boundaries into which Anguilla is divided. In view of the proposal in the proposed new Constitution and in the proposed new Elections Act that Anguilla be divided into nine (9) local electoral districts and four (4) Island-wide electoral districts, it is particularly necessary that a Boundaries Commission be set up to carry out that task.

The following is a summary of the proposals that are contained in the draft Electoral Boundaries Commission Bill which the Committee has drafted. The Committee urges all interested persons to read the draft Bill, and welcome any invitation to engage in further public discussions on the proposals.

1. The Committee has prepared a draft new Bill for a Boundaries Commission Act. The Bill is based on the Cayman Islands constitutional provision which appears to us to be adequate for our purposes.
2. It is a short Bill consisting of a mere three sections.
3. Section 1 is the short title and commencement.
4. Section 2 provides for the establishment of the Commission. The Governor appoints the Chairman (who must not be a member of the legislature or a public officer). The Chief Minister and the Leader of the opposition each recommend the remaining two members.
5. Section 2 also provides for the Commission, with the permission of the Governor, to confer powers and impose duties on any public officer. It is envisaged that by this provision the Commission may enlist the professional and expert advice of demographic and geographic experts in the public service such as the Statistics

Department and the Lands and Surveys Department in mapping out nine new sets of boundaries of district constituencies with approximately equal populations. Members of the public will also be invited to participate by sharing their views.

6. The final section 3 provides for the Commission to submit its report to the Governor and to the House of Assembly, and for the Chief Minister to propose to the House the adoption of the report. Once the House approves the report, the draft Elections Bill can then be completed by inserting into its First Schedule the new boundaries of the nine local electoral districts. The proposed new Elections Bill can then be submitted to the House of Assembly for passage into law. In that way, the next general election will be contested on the basis of nine local electoral districts and four Island-wide electoral districts.

REVISED STATUTES OF ANGUILLA

A BILL FOR AN ELECTORAL BOUNDARIES COMMISSION ACT

An Act to establish an Electoral Boundaries Commission to prepare a Report for submission to the House of Assembly providing for the division of the island of Anguilla into nine approximately equal local district constituencies and to declare the boundaries of the new local district constituencies, and for purposes connected therewith and incidental thereto.

[Gazetted]

ENACTED by the House of Assembly of Anguilla as follows -

Short title and commencement

1. This Act may be cited as the Electoral Boundaries Commission Act and shall come into operation on such date as the Governor, by proclamation published in the Gazette, shall appoint.

Appointment of Commission

2. (1) An Electoral Boundary Commission shall be appointed from time to time at such time as the Governor, acting after consultation with the Chief Minister and the Leader of the Opposition, may determine; but -

- (a) the first such Commission shall be appointed as soon as practicable after the date of commencement of this Act; and
- (b) each subsequent Commission shall be appointed not later than eleven years after the last Commission submitted its report under section 1

(2) An Electoral Boundary Commission shall consist or –

- (a) a Chairman who shall be appointed by the Governor, acting in his discretion;
- (b) one member appointed by the Governor, acting in accordance with the advice of the Chief Minister; and
- (c) one member appointed by the Governor, acting in accordance with the advice of the Leader of the opposition.

(3) A person shall not be qualified to be appointed as the Chairman of an Electoral Boundary Commission if he or she is a member of the House of Assembly or a public officer.

(4) The Chairman of an Electoral Boundary Commission shall vacate his or her office –

- (a) on the day following the date of submission under section 3 of the report of the Commission;
- (b) if he or she becomes a member of the House of Assembly or a public officer; or
- (c) if the Governor, acting in his or her discretion, directs that he or she 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) Any other member of an Electoral Boundary Commission shall vacate his or her office –

- (a) on the day following the date of submission under section 3 of the Report of the Commission; or
- (b) if his or her appointment is revoked by the Governor, acting, in the case of a member appointed under subsection (2)(b), in accordance with the advice of the Chief Minister or, in the case of a member appointed under subsection (2)(c), in accordance with the advice of the Leader of the Opposition.

(6) An Electoral Boundary Commission may regulate its own procedure and, with the consent of the Governor, confer powers and impose duties on any public officer or on any authority of the Government for the purpose of the discharge of its functions.

(7) For the purpose of the discharge of its functions, an Electoral Boundary Commission shall invite views from members of the public and may seek such advice as it considers appropriate.

(8) An Electoral Boundary Commission may act notwithstanding any vacancy in its membership (including any vacancy not filled when appointments of members are first made) and its proceedings shall be valid even though some person who was not entitled

to do so took part in them, but any decision of the Commission shall require the concurrence of not less than two members of the Commission.

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

Review and alteration of electoral district boundaries

3. (1) An Electoral Boundary Commission shall, as soon as practicable after its appointment, review the boundaries of the electoral districts into which Anguilla is divided and, taking into account the proposed change from seven to nine in the number of local electoral districts, shall submit a report to the Governor and the House of Assembly containing its recommendations for any changes in the number and boundaries of the electoral districts.

(2) In preparing its report under this section, the Commission shall –

- (a) take no account of the racial distribution of voters within Anguilla;
- (b) take into account the natural boundaries within Anguilla;
- (c) have regard to existing electoral districts; and
- (d) subject to the foregoing provisions of this subsection, ensure that so far as reasonably practicable, across all electoral districts there will be an equal ratio between the number of elected members of the Legislative Assembly representing each electoral district and the number of persons qualified to be registered as voters under section 43 of the Constitution of Anguilla, 1982 in that district.

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

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

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

(6) If any draft order laid under this section is approved by resolution of the House of Assembly, the Chief Minister shall submit it to the Governor who shall make an order (which shall be published in the Official Gazette) in terms of the draft; and that order shall come into force for the determination of the boundaries of the electoral districts to which it relates upon the next dissolution of the Assembly after it is made.

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

Passed by the House of Assembly this

....., Speaker.

.....Clerk of the House of Assembly.

OBJECTS AND REASONS

1. The Constitutional and Electoral Reform Committee established by Government in September 2015 has submitted its report dated December 2016.

2. One of the recommendations in the report of the Committee is that the size of the House of Assembly should be increased from the present seven elected members in seven constituencies to nine elected members in nine local electoral districts, together with four members elected at large in four Island-wide electoral districts. The Executive Council has accepted this report and now wishes to give effect to the recommendations by introducing a Bill for a new Elections Act.

3. It is a prerequisite to the division of the island of Anguilla into nine new local electoral districts and to the introduction and passage into law of any new Elections Act that the boundaries of the nine districts be established and inserted into Schedule 1 of the new Elections Act.

4. It is envisaged that, once this Bill is passed, the Governor will establish the Commission in the manner proposed by section 2 of the Bill, and the Commission will

seek the professional advice of the Statistics Department and the Department of Lands and Surveys to map out nine new electoral districts which will each have approximately even populations in accordance with section 3 of the Bill, and to report accordingly to the Governor and to the House of Assembly.

5. Following the adoption of the report by the House of Assembly in accordance with section 3 of the Bill, it is anticipated that the new boundaries will be inserted into the First Schedule of the Bill for a new Elections Act which Bill will be submitted to the House of Assembly to be brought into law.

6. Any new general elections that will take place thereafter will be conducted under the new Elections Act with the intent that there shall be nine local electoral district representatives and four Island-wide electoral representatives sitting in the House whether or not any new Constitution has been brought into effect.