2001 No. 2579

CARIBBEAN AND NORTH ATLANTIC TERRITORIES

The Bermuda Constitution (Amendment) Order 2001

Made - - - - -	*18th July 2001*
Laid before Parliament	*30th July 2001*
Coming into force - -	*21st August 2001*

At the Court at Buckingham Palace, the 18th day of July 2001

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers vested in Her in that behalf by section 1 of the Bermuda Constitution Act 1967(**a**) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

Citation, construction and commencement

1.—(1) This Order may be cited as the Bermuda Constitution (Amendment) Order 2001 and shall be construed as one with the Bermuda Constitution Order 1968(**b**) (hereinafter referred to as "the principal Order").

(2) The principal Order and this Order may be cited together as the Bermuda Constitution Orders 1968 to 2001.

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

(4) This Order shall come into force on 21st August 2001.

Recommendations for single-member constituencies

2.—(1) Notwithstanding section 54 of the Constitution, the following provisions shall have effect in relation to a Constituency Boundaries Commission first appointed in accordance with section 53 of the Constitution after the date on which this Order comes into force.

(2) A Constituency Boundaries Commission so appointed shall, as soon as practicable after its appointment, prepare and submit to the Governor a report recommending the number, being no fewer than twenty nor greater than forty, and boundaries of constituencies into which Bermuda should be divided with a view to each such constituency returning one member to the House of Assembly.

(**a**) 1967 c. 63.
(**b**) S.I. 1968/182, amended by S.I. 1968/463, 726, 1973/233, 1979/452, 1310, 1989/151.

(3) In preparing its report under subsection (2) of this section the Commission shall ensure that the constituencies shall contain, so far as is reasonably practicable, equal numbers of persons qualified to be registered as electors under section 55 of the Constitution as amended by this Order; and in doing so the Commission—

(a) shall take no account of the racial distribution of electors within Bermuda;

(b) shall take account of geographical features and natural boundaries within Bermuda;

(c) may ignore the boundaries of parishes; and

(d) shall ensure, so far as is reasonably practicable, that each constituency is a contiguous unit.

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

(5) The Governor shall forthwith transmit to the Secretary of State a report submitted to him by the Commission under subsection (2) of this section, together with the record of any debate in the House of Assembly on that report including any motion approved by the House in relation to the report.

(6) Section 53 of the Constitution shall apply for the purposes of this section, save that in subsections (4)(a) and (5)(a) the references to section 54 of the Constitution shall have effect as if they were references to subsection (2) of this section.

Amendment of section 2 of Constitution

3. Section 2(1) of the Constitution is amended by deleting the words "save in execution of the sentence of a court in respect of a criminal offence of which he has been convicted".

Amendment of section 3 of Constitution

4. Section 3 of the Constitution is amended by deleting subsection (2).

Amendment of section 22 of Constitution

5. Section 22 of the Constitution is amended by deleting subsection (3).

Amendment of section 29 of Constitution

6. Section 29(a) of the Constitution is amended by substituting the words "Commonwealth citizen (within the meaning of the British Nationality Act 1981)" for the words "British subject".

Amendment of section 55 of Constitution

7. Section 55 of the Constitution is amended in subsection (1) by replacing paragraph (a) by the following:

"(a) is a Commonwealth citizen (within the meaning of the British Nationality Act 1981) who has attained the age of eighteen years;".

Amendment of references to Parliamentary Secretary in Constitution

8. Sections 42, 63, 64, 67, 68 and 103 of, and the Schedule to, the Constitution are amended by substituting the words "Junior Minister" for the words "Parliamentary Secretary" wherever they occur.

Amendment of references to Auditor in Constitution

9. Sections 82, 88, 93, 100, 101, 104 and 105 of the Constitution are amended by substituting the words "Auditor General" for the word "Auditor" wherever it occurs.

Addition of new Chapter VIA to Constitution

10. The following new Chapter and sections are inserted in the Constitution after section 93:

"CHAPTER VIA

OMBUDSMAN

The Ombudsman

93A.—(1) There shall be an Ombudsman for Bermuda.

(2) The Governor, acting after consultation with the Premier who shall first have consulted the Opposition Leader, shall, by instrument under the Public Seal, appoint the Ombudsman.

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

(a) a Senator or a member of, or a confirmed candidate for election to, the House of Assembly; or

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

(4) The office of Ombudsman shall become vacant:

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

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

(c) if he becomes a Senator or a member of, or a confirmed candidate for election to, the House of Assembly or the holder of any office in any political party; or

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

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

(6) Section 103(1)(b) of this Constitution shall have effect as if a reference to the Ombudsman were inserted after the reference to a judge of the Supreme Court or the Court of Appeal; and section 93(2)(a) of this Constitution shall have effect as if a reference to the Ombudsman were inserted after the reference to a judge of the Court of Appeal.

Functions of Ombudsman

93B.—(1) The Ombudsman shall have such functions and jurisdiction as may be prescribed by law.

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

(3) The Ombudsman shall have no jurisdiction to inquire into any question relating to the exercise of any function by the Governor or the Deputy Governor which under this Constitution shall not be inquired into by any court.".

Transitional provision

11. Any person who, immediately before the day on which this Order comes into force, holds or is acting in the office of Parliamentary Secretary or Auditor shall, on and after that day, continue to hold or act in the office of Junior Minister or Auditor General, as the case may be, as if he had been appointed to hold or act in it in accordance with the Constitution as amended by this Order.

A. K. Galloway
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order supplements the Constitution of Bermuda to enable a Constituency Boundaries Commission to make recommendations on the establishment of single-member constituencies for elections to the House of Assembly. It also amends the Constitution to alter or remove some outdated provisions, to change the title of the offices of Parliamentary Secretary and Auditor, and to make provision for an Ombudsman.

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