

CAYMAN ISLANDS



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**A BILL FOR A LAW TO PROVIDE FOR THE ESTABLISHMENT OF
ADVISORY DISTRICT COUNCILS TO OPERATE AS ADVISORY
BODIES TO THE ELECTED MEMBERS OF THE LEGISLATIVE
ASSEMBLY; AND FOR INCIDENTAL AND CONNECTED PURPOSES**

THE ADVISORY DISTRICT COUNCILS BILL, 2010

MEMORANDUM OF OBJECTS AND REASONS

This Bill seeks to provide for the establishment of Advisory District Councils to operate as advisory bodies to the elected Members of the Legislative Assembly. The legislation is enacted pursuant to section 119 of the Constitution which provides -

“119. Subject to this Constitution, a law enacted by the Legislature shall provide for the establishment, functions and jurisdiction of Councils for each electoral district to operate as advisory bodies to the elected members of the Legislative Assembly.”.

Clause 1 of the Bill provides the short title and commencement of the legislation.

Clause 2 defines various expressions for the purposes of the legislation.

Clause 3 and Schedules 1 and 2 name the various Councils that would be established to operate as advisory bodies to the elected members of the Legislative Assembly and provide details as to how the Councils would function. The matters in respect of which the Councils would advise are finance, tourism development, immigration-related matters, district administration, works, gender affairs, education, training, employment, community affairs, housing, health, environment, youth, sports, culture and any other matters affecting the electoral districts.

In Schedule 2, provision is made in respect of -

- (a) the tenure of Council members (paragraph 1);
- (b) conflict of interest (paragraph 2);
- (c) Council meetings (paragraph 3);
- (d) the provision of information to members (paragraph 4); and
- (e) the regulation of Council business (paragraph 5).

Clause 4 of the Bill deals with the composition of the Councils including a requirement that a member of a Council must be a person who lives in the relevant district and who is by reason of his special qualifications, training, experience or knowledge of the district, suitable for appointment to the respective Council.

Clause 5 sets out the Councils' functions and these are -

- (a) to advise on policies and develop programmes intended for the more effective discharge of the Member's duties in relation to the district, after consultation with such persons or organisations, or both, as the Council considers appropriate;
- (b) to advise the Member on policies and programmes intended for the more effective discharge of the Member's responsibilities; and
- (c) to establish, maintain and operate information systems and facilities, and to encourage and support the exchange of information of all kinds in respect of policies and programmes proposed by the Member.

Clause 6 of the Bill makes provision for the funding of Councils, including the payment of allowances to Council members who are not public officers. Councils will not have power to charge to the general revenues of the Islands any of their expenditure.

Clause 7 enables the amendment of the Schedules by Order of the Governor in Cabinet.

Clause 8 enables the making of regulations.

THE ADVISORY DISTRICT COUNCILS BILL, 2010

ARRANGEMENT OF CLAUSES

1. Short title and commencement
 2. Interpretation
 3. The Advisory District Councils
 4. Composition of the Councils
 5. Functions of the Councils
 6. Funding, and remuneration of members
 7. Amendment of Schedules
 8. Regulations
- Schedule 1 - District business
Schedule 2 - Constitution and general proceedings of Councils

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Enacted by the Legislature of the Cayman Islands.

1. (1) This Law may be cited as the Advisory District Councils Law, 2010. Short title and commencement

(2) This Law shall come into force on such date as may be appointed by Order made by the Governor in Cabinet.

2. (1) In this Law - Interpretation

“Chairman” means the Chairman of the Council appointed under section 4(1)(a);

“Constitution” means the Constitution set out in Schedule 2 to the Cayman Islands Constitution Order 2009; S.I. 2009/1379

“Council” means a Council established under section 3;

“electoral district” means an electoral district constituted under section 5 of the Elections Law (2009 Revision); (2009 Revision)

“member” means a member of a Council and includes the Chairman, Vice Chairman, Secretary and Treasurer;

“Member” means a member of the Legislative Assembly; and

“Premier” means the Premier appointed under section 49 of the Constitution.

(2) Wherever in this Law reference is made to a Member of the Legislative Assembly for an electoral district but there is more than one Member for a particular district, the reference shall be read as referring to the Members jointly and severally, as the case may be.

The Advisory District
Councils
Schedule 1

3. (1) Pursuant to section 119 of the Constitution, the Councils specified in the first column of Schedule 1 are established to operate as advisory bodies to the elected members of the Legislative Assembly respectively specified in the second column of that Schedule.

Schedule 2

(2) The Councils shall have such functions, duties and powers as are conferred by this Law or regulations made under this Law, and Schedule 2 shall have effect with respect to the Councils.

(3) Without limiting the scope of subsection (2), the Council for an electoral district may advise in relation to finance, tourism development, immigration-related matters, district administration, works, gender affairs, education, training, employment, community affairs, housing, health, environment, youth, sports, culture and any other matters affecting the district.

(4) Each Council shall be subject to the directions of the relevant Member.

Composition of the
Councils

4. (1) A Council shall consist of the following members, all of whom shall be appointed by the Governor in Cabinet -

- (a) a Chairman;
- (b) a Vice Chairman;
- (c) a Secretary;
- (d) a Treasurer; and
- (e) not exceeding six other members at least two of whom shall, subject to subsection (2), be recommended by the Leader of the Opposition appointed under section 68 of the Constitution,

and in making the appointments, the Governor in Cabinet shall be cognizant of recommendations made to him from within the electoral districts.

(2) Where the representation in the Legislative Assembly for any given electoral district is split between two or more political parties, each party may make recommendations for appointments to the Council for the district but where the recommendations for the party in opposition are accepted, subsection (1)(e) shall have no effect.

(3) A member of a Council shall be a person who lives in the relevant electoral district and who is by reason of his special qualifications, training, experience or knowledge of the district suitable for appointment to a Council.

(4) Where an electoral district does not have a Member who belongs to the party whose leader has been appointed Premier under section 49(2) of the Constitution, the party shall be entitled to nominate up to three members to the relevant Council.

(5) If single member constituencies were to be introduced or new electoral districts added, subsection (4) shall apply to them in the same way as it applies to constituencies existing at the commencement of this Law.

(6) A person appointed to be a member shall be appointed for a term of one year and on such terms and conditions as may be determined by the Governor in Cabinet at the time of the appointment; and in considering re-appointments, the Governor in Cabinet shall take into account the need to ensure continuity on the Council by ensuring that not more than two-thirds of the members are replaced at any given instance.

(7) At the expiration of their term of office, the members of each Council shall be eligible for re-appointment.

(8) The Governor in Cabinet may give such directions as he may consider necessary or expedient, with respect to the content of proposals for appointment under this section, including the manner in which nominations may be made from the communities involved, for consideration by the Governor in Cabinet.

5. (1) The functions of a Council are -

Functions of the
Councils

- (a) to advise on policies and develop programmes intended for the more effective discharge of the relevant Member's duties in relation to the relevant electoral district, after consultation with such persons or organisations, or both, as the Council considers appropriate;
- (b) to advise the Member on policies and programmes intended for the more effective discharge of the Member's responsibilities;

- (c) to establish, maintain and operate information systems and facilities; and
- (d) to encourage and support among residents the formal and informal exchange of information of all kinds in respect of policies and programmes proposed by the Member.

(2) The relevant Member shall consider the advice given by a Council and determine what to recommend to the relevant Minister.

(3) In the performance of its functions, a Council may -

- (a) consider any proposals which may be referred to it by any person;
- (b) prepare and submit to the relevant Member from time to time, recommendations for the more effective discharge of the Member's responsibilities; and
- (c) initiate and carry out or direct the initiation and carrying out of, studies and research necessary for the more effective discharge of the Member's responsibilities.

(4) In the operation of this section, regard shall be had to section 47 of the Constitution.

Funding, and
remuneration of
members

6. (1) The funds available for the purpose of enabling the Councils to perform their functions under this Law shall consist of such sums as -

- (a) may be provided for those purposes in the estimates of revenue and expenditure of the Islands for the purpose and approved by the Legislative Assembly, in such years as the Legislative Assembly may, on the recommendation of the Minister responsible for finance, choose to do so;
- (b) the Councils may receive as donations; and
- (c) the Councils may raise through community and other activities.

(2) Councils shall have no power to charge to the general revenues of the Islands any of their expenditure.

(3) Members who are not public officers as defined in the Constitution shall be paid such allowances as the Governor in Cabinet may determine.

(4) The payment of such allowances shall be paid out of the revenue of the Islands.

(5) Councils shall keep proper records of their accounts and comply with such regulations as the Governor in Cabinet may make in relation thereto.

7. The Governor in Cabinet may, by Order, amend any of the Schedules. Amendment of Schedules
8. The Governor in Cabinet may make regulations for the proper and efficient carrying out of the functions of the Councils. Regulations

SCHEDULE 1

(Section 3(1))

DISTRICT BUSINESS

| Name of Advisory District Council | Member of the Legislative Assembly to be advised |
|---|---|
| The West Bay Advisory District Council | Members for West Bay |
| The George Town Advisory District Council | Members for George Town |
| The Bodden Town Advisory District Council | Members for Bodden Town |
| The North Side Advisory District Council | Member for North Side |
| The East End Advisory District Council | Member for East End |
| The Cayman Brac and Little Cayman Advisory District Council | Members for Cayman Brac and Little Cayman |

SCHEDULE 2

(Section 3(2))

CONSTITUTION AND GENERAL PROCEEDINGS OF COUNCILS

1. (1) Subject to the following provisions of this paragraph, members of each Council shall hold and vacate office in accordance with the terms of their appointment. Tenure

(2) A member of a Council may at any time, by notice in writing addressed to the Governor in Cabinet with a copy to the relevant Member, resign his membership.

(3) The Governor in Cabinet with a copy to the relevant Member may, in his discretion, terminate the appointment of any member of a Council and shall terminate the appointment of any member of a Council if he is satisfied that -

- (a) the member has been absent from any three out of five consecutive meetings of the Council without the prior written consent of the Chairman;
- (b) the member has been adjudged bankrupt;
- (c) the member is incapacitated by reason of physical or mental illness; or
- (d) the member is otherwise unable or unfit to discharge the functions of a member.

(4) Where a member of a Council ceases to be a member before the normal expiration of his office, the Governor in Cabinet may appoint another person qualifying for that appointment to hold that office until the time that member's office would have expired.

Members' interests

2. (1) If a member has any pecuniary interest, direct or indirect, in any contract, proposed contract or other matter and is present at a meeting of the Council at which the contract, proposed contract or other matter is the subject of consideration, he shall, at the meeting and as soon as practicable after its commencement, disclose the fact and shall not take part in the consideration or discussion of the contract, proposed contract or other matter or vote on any question with respect to it, and shall be excluded from the meeting for the duration of the consideration, discussion and voting procedure.

(2) Where a member fails to comply with subparagraph (1), the Chairman shall, or in the case of the Chairman, any member may, inform the Governor in Cabinet who, upon examination of the evidence and any expulcatory statement made by the Chairman or member concerned, shall remove the member unless he proves that he did not know that the contract, proposed contract or other matter in which he had a pecuniary interest was the subject of consideration at that meeting.

(3) Where a member is being removed under subsection (2), the Governor in Cabinet may direct that the member be not considered for membership of a Council for five years from the date on which the decision of the Governor in Cabinet is made.

(4) A disclosure under subsection (1) shall be recorded in the minutes of the Council.

(5) No act or proceeding of the Council shall be questioned on the ground that a member has contravened this paragraph.

3. (1) A Council shall meet as often as it considers necessary but not less than once every three months. Meetings

(2) Subject to the provisions of this Schedule, the quorum of each Council shall be five and the procedure of each Council shall be determined by such Council but, notwithstanding a quorum, no decision shall be carried if it is supported by less than four members.

(3) The Chairman of a Council shall call a meeting of the Council if so directed by the relevant Member or if requested to do so in writing by two members; and such a direction or request shall include a statement of the agenda proposed for the meeting.

(4) Except as provided in subsection (2), each of the Councils shall reach its decisions by a majority of the votes of the members present and voting at the meeting and, where there is a tie, the Chairman shall have a casting vote.

(5) Minutes of each meeting shall be kept in a proper form and shall be confirmed by the Chairman as soon as practicable at a subsequent meeting; and a copy of the minutes as confirmed by the Chairman shall be sent to the Governor in Cabinet and to the relevant Member on a timely basis.

(6) Meetings of Councils shall be open to the public but the Chairman may determine that a particular meeting or matter shall be discussed in camera.

4. (1) All documents issued by a Council and all decisions of the Council shall be signed by the Chairman. Provision of information

(2) Each Council shall provide the relevant Member with such information as he may from time to time require with respect to the activities or proposed activities of the Council, but a requirement imposed under this paragraph shall not impose upon a Council the duty of providing the Member with information the Council does not possess and cannot reasonably be expected to obtain.

5. (1) A Council may, subject to this Law, make such non-statutory rules as it thinks fit to regulate its own internal management. Regulation of Council business

(2) The validity of any proceedings of a Council shall not be affected by any vacancy among the members of the Council or by any defect in the appointment or any disqualification of any of the members of the Council.

Passed by the Legislative Assembly the day of , 2010.

Speaker.

Clerk of the Legislative Assembly.