

Falkland Islands Constitutional Review – 2023

The Role of the Legislative Assembly

The third topic which the Select Committee on the Constitution would like to discuss is the Role of the Legislative Assembly. This will be considered at a meeting of 23 November 2023.

This document provides some guidance on the relevant part of the Constitution.

This document is structured as follows:

Part 1: What is the Falkland Islands Legislative Assembly?

Part 2: How does the Falkland Islands Legislative Assembly work?

Part 3: How does the role of the Falkland Islands Legislative Assembly compare with similar bodies in other British Overseas Territories?

Part 4: What are the key policy issues which are relevant to potential changes to the role of the Falkland Islands Legislative Assembly?

Part 5: Questions to think about and how to respond to the Select Committee:

- Suggests some questions for you to consider (page 14)
- Invites you to give your views to the Select Committee (page 15)
- Provides guidance on making a written submission to the Select Committee (pages 16-18)

Part 6: Annexes

- **Annex 1** – Copy of Chapters 3 & 4 of the Constitution

- **Annex 2** – Summary of history of the Falkland Islands Legislative Assembly
- **Annex 3** – Summary of role of the legislature in other British overseas territories

Part 1: What is the Falkland Islands Legislative Assembly?

The Legislative Assembly of the Falkland Islands can be described, in very generalised terms, as the group of people who make our laws (our Legislature)

However, as a British overseas territory, the system for making laws in the Falkland Islands is not that simple.

In particular, under the Constitution, Falkland Islands laws are made “by the Governor, with the advice and consent of the Legislative Assembly”.

The position is explained in more detail below.

General background – systems of government

Democratic political systems are often based on the principle of separating government into different branches. The branches are, generally:

- a **legislature** (which makes the law)
- an **executive** (which enforces the law and has overall responsibility for governing the country); and
- the **judiciary**, (which interprets the law).

This system of government is intended to provide checks and balances; to prevent power being held by only one person or one group of people.

However, the Falkland Islands legislature and executive do not neatly fit this model:

- Falkland Islands Legislature - the Governor makes laws, and generally requires the agreement of the Legislative Assembly to do so
- Falkland Islands Executive - the Governor exercises executive authority, and generally must follow the advice of Executive Council when doing so

The role of the Governor and of the Executive Council will be covered in future guidance documents and Select Committee discussions.

Background to the Falkland Islands Legislative Assembly

The history of the Legislative Assembly is summarised in **Annex 2**.

The starting point to understanding the system of Government in the Falkland Islands is that the Falkland Islands is a British overseas territory, and the British Government has reserved its power to make laws for the Falkland Islands (section 11 of the Falkland Islands Constitution Order). In other words, the Falkland Islands is not a country or state in its own right.

The Falkland Islands Constitution is a UK law which sets out what powers there are for the Falkland Islands Government to make its own laws.

As long as the Falkland Islands remains a British overseas territory, the powers of the Falkland Islands Legislative Assembly are inherently limited to a degree, because of the supremacy of the British Parliament over the British overseas territories.

However, United Kingdom policy is one of partnership with the British overseas territories (UK Government White Papers 1999 & 2012), and there are a range of different structures of governance across the British overseas territories, so there is the clear potential for different arrangements to be put in place for the Falkland Islands Legislative Assembly.

The particular arrangements for other British overseas territories are summarised in **Part 3** below.

A brief summary of the policy issues likely to be relevant to potential change in the role of the Falkland Islands Legislative Assembly is set out in **Part 4** below.

Who makes up the Falkland Islands Legislative Assembly?

Chapter 3 of the Constitution provides for establishment of a Falkland Islands Legislative Assembly (see **Annex 1**).

The Legislative Assembly consists of:

- 8 Members who are elected

- the Falkland Islands Government's Chief Executive
 - the Falkland Islands Government's Financial Secretary
 - the Speaker
- (section 26 of the Constitution)

The eight elected Members are made up of 3 Members elected by the Camp constituency, and 5 Members elected by the Stanley constituency (section 27).

The Speaker is chosen by the 8 elected Members (section 39).

The Chief Executive and Financial Secretary are Members of the Assembly by virtue of their roles in Government (they are "*ex officio*" Members).

Only the elected Members may vote on matters to be decided by the Legislative Assembly (section 26(3)).

The Commander of British Forces in the Falkland Islands has the right to take part in proceedings of the Legislative Assembly, but not to vote (section 41(1)).

The Attorney General may take part in proceedings, if permitted by the Speaker, but may not vote (section 41(2)).

The question of which members of the public are qualified to vote to elect a Member of the Legislative Assembly, and who is qualified to stand for election will be covered in a future guidance document and Select Committee discussion.

Part 2: How does the Falkland Islands Legislative Assembly work?

Chapter 4 of the Constitution (see **Annex 1**) sets out the powers and procedures of the Falkland Islands Legislative Assembly, which are summarised below.

What are the powers of the Falkland Islands Legislative Assembly?

Section 37 of the Constitution states:

“Subject to this Constitution, the Governor, with the advice and consent of the Legislative Assembly, may make laws for the peace, order and good government of the Falkland Islands”.

This means that the Legislative Assembly does not have the power to make laws itself, but that the Governor must have the Assembly’s consent to make laws. The requirement for the Assembly’s consent to make laws is subject to a number of exceptions, which are described below.

Most other British overseas territories (except Anguilla) have a different structure of legislature. However, all British overseas territories legislature are subject to some limitations in their power to make laws, and in all cases either the King, or his representative, the Governor, takes part in the making of laws.

What are the rules for making laws in the Falkland Islands?

The Constitution

The Constitution also contains a number of other rules about how laws must be made in the Falkland Islands. These create wide ranging restrictions on the powers of the Legislative Assembly:

1. Introduction of laws

Any Member of the Assembly may introduce a draft law (a Bill) to be considered by the Legislative Assembly, but some laws may only be progressed through the Assembly on the recommendation of the Governor – for example, a new tax law (section 51). In this context “the Governor” generally means the Governor acting on the advice of Executive Council.

2. Approval of laws

A draft law which the Legislative Assembly has passed/advised the Governor to make, does not become law until the Governor has “assented” to it on behalf of the King (section 52). In this context, “the Governor” means the Governor acting in their discretion, or acting on instructions given to them by a Secretary of State (a Minister of the United Kingdom Government). So the Governor may refuse to “assent” to a draft law, meaning it will not have any effect.

3. “Disallowance” of laws

The UK Government has the right under the Constitution to “disallow” a Falkland Islands law (section 54). This means that the law would not have any effect (regardless whether or not the law has been properly made).

4. Governor’s “reserved powers” in connection with laws

The Governor has the power under the Constitution to effectively force a draft law through the Legislative Assembly, regardless that the Assembly has not approved it (section 55).

5. Annex A rules for the enactment of laws

Section 50 of the Constitution provides that the Governor and the Legislative Assembly must follow the rules set out in Annex A to the Constitution when making laws.

Rule 5 contains restrictions on making laws in connection with a number of areas (some of which are, arguably, quite broad).

The rules require Falkland Islands laws to be called Ordinances (a name associated with colonial times, which some territories have since changed).

Colonial Laws Validity Act 1865

The Colonial Laws Validity Act 1865 is a UK Act which is still in force in the Falkland Islands. Its effect, in very general terms, is to provide that a law made in the Falkland Islands is “void and inoperative” if it is “repugnant” to a UK law which applies in the Falkland Islands.

So this Act also has effect to limit the powers of the legislature of the Falkland Islands.

What are the procedures of the Legislative Assembly?

The Constitution sets out some procedural matters, some of which are significant; for example in relation to how proceedings in the Assembly are voted on (section 44).

Another matter is how many Members of the Assembly are needed to take part in a meeting of it. The minimum number of Members is six (section 43 – quorum). The Constitution was amended during the pandemic to allow Members to attend a meeting remotely (eg using video conferencing technology).

The Legislative Assembly may make Standing Orders to regulate its procedures (section 46).

Part 3: How does the role of the Falkland Islands Legislative Assembly compare with similar bodies in other British Overseas Territories etc?

The British overseas territories all have slightly different arrangements in place in respect of their Legislatures; reflecting different stages of post-colonial development. Although in all cases, the Legislature includes the Sovereign or their representative, and the UK has reserved the right to make laws for all territories.

Relevant details of the relevant provisions of the territories' Constitutional arrangements are set out in Annex 3, with some key details set out the comparative table below.

Territory	Legislature	Composition of relevant body	Name of locally made laws
Anguilla	Governor acting with advice/consent of the House of Assembly	House of Assembly: - Speaker - 2 <i>ex officio</i> members - 2 nominated members - Not less than 7 elected Members	Acts
Ascension & Tristan da Cunha	Governor acting after consultation with relevant Island Council (of Asi./TdC)	Island Council: Composition and functions may be prescribed by law	Ordinances
Bermuda	The Sovereign, the Senate and the House of Assembly	Senate: 11 appointed members House of Assembly: 36 elected members	Acts

British Antarctic Territory	Commissioner	N/A	Ordinances
British Indian Ocean Territory	Commissioner	N/A	Ordinances
Cayman Islands	The Sovereign & the Legislative Assembly	Legislative Assembly: - Speaker -18 elected members -2 <i>ex officio</i> members	Laws
Falkland Islands	Governor acting with the advice/consent of the Legislative Assembly	Legislative Assembly: -Speaker -8 elected members -2 <i>ex officio</i> members	Ordinances
Gibraltar	The Sovereign & the Gibraltar Parliament	Gibraltar Parliament: -Speaker -At least 17 elected members	Acts
Montserrat	The Sovereign & the House of Assembly	House of Assembly: - 2 <i>ex officio</i> members - 9 elected members	Acts
Pitcairn, Henderson, Ducie & Oneo Islands	Governor, acting after consultation with the Island Council	Island Council: Composition and functions may be prescribed by law	Ordinances

St Helena	The Sovereign & the Legislative Council	Legislative Council: -Speaker & Deputy Speaker - 3 <i>ex officio</i> members - 12 elected members	Ordinances
South Georgia & the South Sandwich Islands	Commissioner	N/A	Ordinances
Sovereign Base Areas of Akrotiri and Dhekelia	Administrator	N/A	Ordinances
Turks & Caicos Islands	The Sovereign & the House of Assembly	House of Assembly: - Speaker - Attorney General - 4 appointed members - 15 elected members	Ordinances
Virgin Islands	The Sovereign & the House of Assembly	House of Assembly: - Speaker - 13 elected members - 1 <i>ex officio</i> member	Acts

Part 4: What are the key policy issues which are relevant to potential changes to the role of the Falkland Islands Legislative Assembly?

1. Should the Legislative Assembly have more power in relation to making laws in the Falkland Islands?

There are a number of potentially different policy considerations in connection with potential changes to the Constitution regarding the role of the Legislative Assembly:

- (a) the legal effect of the relevant provisions;
- (b) the perception of where the power and control lies; and
- (c) how the provisions are followed in practice.

For example, the legal effect of the Constitution is to place significant restrictions on the power of the Legislative Assembly in the process of making laws. It is difficult to reconcile assertions that the Falkland Islands are a largely self-governing territory with some relevant parts of the Constitution, when read and interpreted literally.

However, people's perception of the issues may be different, on the basis of how the powers are actually exercised in practice. The Legislative Assembly may be perceived, by its Members and by others, to have effective power and control in the making of laws in the Falkland Islands.

For example, the following restrictive powers are not believed to have been exercised by UK authorities in the Falkland Islands for many decades (and it is possible that one or more of the powers have never been exercised):

- UK's power to "disallow" a law in the Falkland Islands
- UK's power to withhold consent to a Bill which has been approved by the Legislative Assembly
- UK's power to "force through" a Bill which has not been approved by the Legislative Assembly

Comparison with other British overseas territories constitutions doesn't reveal one single solution to reflecting an ideal balance of power and control – all the relevant provisions need to be looked at together; and the following matters are relevant for consideration:

- a. The power to amend the Constitution is critical to control. In respect of the Falkland Islands this power appears to currently largely rest with UK authorities, but greater power for the Legislative Assembly to amend the Constitution (at least in part) would give flexibility to continue to develop and mature the role of the Legislative Assembly.
- b. The effective development of powers of the Legislative Assembly necessarily invites consideration of the legislature oversight function, ie the ability of the Assembly to have oversight of the executive in its implementation of the laws and policy made by the Legislature. Are existing oversight tools (such as the Public Accounts Committee) used effectively, and are additional tools necessary? (for example, should the public have any opportunity to participate?).
- c. If a number of restrictions on the Legislative Assembly's powers have not been used for decades, are they necessary? What are the policy reasons for them? Do the restrictions reflect the right balance, or could the UK government reasonably agree to removing many restrictions and instead rely on its reserved power to legislate directly in respect of the Falkland Islands?
- d. Are there advantages in the current position (ie a gap between what the Constitution provides, and how it actually operates in practice), which fosters pragmatism and flexibility, which may be lost in making changes to explicitly provide the Legislative Assembly with more power?

2. *Is the membership of the Legislative Assembly and the involvement of its Members in proceedings right?*

Debate about the role of the Legislative Assembly invites consideration of its authenticity as a representative body.

Whilst the question of eligibility to stand for election for and to vote to elect Members of the Assembly is to be considered in a separate meeting of the Assembly, there are issues around representation which come up during consideration of the other provisions of the Constitution dealing with the Legislative Assembly.

For example, the current provision requiring six elected Members of the Assembly to make up the quorum for a meeting ensures that there is always an elected Member present from the Camp constituency present at the meeting. Electors living in Camp are a minority, but are currently proportionately over-represented on the Assembly (by population size). Is there a different way of ensuring appropriate representation of Camp representatives during meetings of the Assembly?

Are such matters better addressed in Legislative Assembly Standing Orders; which can be readily amended by the Assembly, giving greater flexibility? Are other administrative matters in relation to meetings better removed from the Constitution and perhaps included in Standing Orders?

Should the Chief Executive and Financial Secretary continue to be Members of the Legislative Assembly? (is this perhaps linked to enabling oversight of the legislature in the absence of a Ministerial system?)

Is the right of the Commander British Forces to participate in the Legislative Assembly necessary? If not, is it appropriate?

Is the Attorney General's ability to participate in the Legislative Assembly adequate? Is it necessary?

Part 5: Questions to think about and how to respond to the Select Committee:

We set out some questions below which you might want to use to give your views to the Select Committee.

But you do not have to answer all or any of the questions - please see more information below about how to make submissions to the Select Committee

- 1. What do you think the role of the Legislative Assembly of the Falkland Islands should be?**
- 2. Do you think the current role of the Legislative Assembly under the Constitution is right, or should that change? If you think it should change, please explain how and why.**
- 3. Do you think that the current membership of the Legislative Assembly under the Constitution is right, or should the membership change? If you think it should change, please explain how and why.**
- 4. Do you think that the procedures of the Legislative Assembly under the Constitution are right, or should the procedures change? If you think they should change, please explain how and why?**
- 5. Under the Constitution the Governor makes laws with the advice and consent of the Legislative Assembly.**

Do you think that is right, or should change? If you think this should change, please explain what change you think is necessary, and why?

You are invited to give your views to the Select Committee

You are invited to give your views to the Select Committee about Falkland Islands status and the Constitution.

You can address any of the issues raised above, and/or raise any other issues relevant to the Legislative Assembly and the Constitution.

1. You can make a **written submission** in any format, but you may like to use the dedicated form of response. The form is available at:

www.falklands.gov.fk/assembly/the-constitution/select-committee

Your written submission should be received by **16 November 2023** to enable the Select Committee to consider your submission at its meeting of 23 November 2023 (the Committee may consider any submission received after this date at the meeting on 23 September, but that cannot be guaranteed).

Please submit your response:

- by emailing it to: constitutionalreview@sec.gov.fk (this method is strongly recommended); or
- by placing it in the box provided in the Post Office in Stanley; or
- by sending by post to Gilbert House, Stanley

See further guidance below about making a written submission.

2. You can also make an **oral submission** to the Committee on the morning of 23 November 2023.

You can include a request to make an oral submission when you make your written submission; or

You can make a request to make an oral submission by e-mailing constitutionalreview@sec.gov.fk or by calling Gilbert House on 27451.

Your request should be received by **17 November 2023** to enable the clerk to the Committee to schedule all oral submissions to be made at the meeting of 23 November.

Making a submission of written evidence to the Select Committee for the review of the Falkland Islands Constitution

The following guidance is about making a submission to the Select Committee. It also discusses what happens once your submission is received by the Committee.

How to make a submission

A box will be available in the Post Office for the return of written submissions, but you are strongly encouraged to submit your comments electronically via email: constitutionalreview@sec.gov.fk

How many submissions can I make?

The Select Committee will review the Constitution by subject area. Each subject area will be discussed at a meeting which is held in public. The Committee will invite submissions on each subject area by reference to the meeting scheduled to discuss that particular subject. You can make a submission to one or more meetings.

When do I make a submission?

Invitations for submissions will be regularly published in the Penguin News and online (www.falklands.gov.fk/assembly/the-constitution/select-committee). The invitation in connection with Falkland Islands status and the Constitution is set out above at page 15.

What if I only want to make one submission - just covering the areas of the Constitution that I am interested in?

You can make a submission at any time covering any area of the Constitution and the Committee will endeavour to consider that submission, regardless that it is not received in connection with a particular meeting.

What a submission should look like

You can make up your own format for a submission or you can use the standard form of response - see:

www.falklands.gov.fk/assembly/the-constitution/select-committee

Submissions of written evidence should:

- Be in Word or PDF
- Comprise a single document. If there are any annexes or appendices, these should ideally be included in the same document (although that may not be possible if you are using the standard form of response).
- State clearly who the submission is from, i.e. whether from yourself in a personal capacity or sent on behalf of an organisation.
- Be concise – we recommend no more than 3,000 words in length.
- Include any factual information you have to offer from which the committee might be able to draw conclusions, or which could be put to other witnesses for their reactions.
- Include any recommendations for action by the Government or others which you would like the committee to consider.

It also assists the committee if those submitting evidence adhere to the following guidelines. Although not essential, your submission should ideally:

- Begin with an executive summary in bullet point form of the main points made in the submission.
- Have numbered paragraphs

Those making a submission should note the following:

- Material already published elsewhere should not form the basis of a submission, but may be referred to within or attached to a submission, in which case it should be clearly referenced.
- You should be careful not to comment on matters currently before a court of law, or matters in respect of which court proceedings are imminent. If you anticipate such issues arising, you should discuss with the clerk of the Committee how this might affect the written evidence you can submit (email constitutionalreview@sec.gov.fk).
- Select Committees do not normally investigate individual cases of complaint or allegations of maladministration.

What happens to the evidence once submitted?

- The Select Committee will publish most of the written evidence they receive on the internet with the transcript of the proceedings.
- **If you do not wish your submission to be published**, you must clearly say so and explain your reasons for not wishing its disclosure. The Committee will take this into account in deciding whether to publish. If you wish to include private or confidential information in your submission to the Committee, please contact the clerk of the Committee to discuss this.
- A Committee is not obliged to accept your submission as evidence, nor to publish any or all of the submission even if it has been accepted as evidence. This may occur where a submission is very long or contains material to which it is inappropriate to give parliamentary privilege.
- Once submitted, no public use should be made of any submission prepared specifically for the committee unless you have first obtained permission from the clerk of the Committee. If you are given permission by the Committee to publish your evidence separately, you should be aware that you will be legally responsible for its content.

(Adapted from the House of Commons Guide for Witnesses giving written or oral evidence)

Part 6: Annexes

Annex 1 - Copy of Chapters 3 and 4 of the Constitution—

CHAPTER 3 - THE LEGISLATURE

Establishment and composition of the Legislative Assembly

26.—(1) There shall be a Legislative Assembly for the Falkland Islands.

(2) The Legislative Assembly shall consist of eight elected members and two *ex officio* members, namely the Chief Executive and the Director of Finance, and the Speaker.

(3) The *ex officio* members shall not have the right to vote in the Legislative Assembly.

Constituencies

27.—(1) The Falkland Islands shall be divided into two constituencies, Camp and Stanley. Camp shall return three elected members to the Legislative Assembly and Stanley five elected members and the members shall be elected in such a manner as shall be prescribed by Ordinance.

(2) For the purposes of this section the boundaries of the Stanley constituency shall be such as shall be prescribed by the Ordinance which shall make provision for elections to the Legislative Assembly and “Camp” shall be the remainder of the Falkland Islands.

(3) Subsections (1) and (2) may be amended by Ordinance; but no Bill for any such Ordinance shall be enacted unless it has been supported in a referendum by at least two-thirds of those voting who are registered as electors in each constituency.

(4) In any referendum held under subsection (3), any person registered as an elector pursuant to section 32 at the time of the referendum shall be entitled to vote.

Qualifications for election

28. Subject to section 29, any person who has attained the age of eighteen years and who is registered as an elector pursuant to section 32 is qualified to be elected as a member of the Legislative Assembly in respect of either constituency.

Disqualifications for election

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

- (a) is, by virtue of his or her own act, under any acknowledgement of allegiance, obedience or adherence to a foreign Power or State;

- (b) is a member of the regular armed forces of Her Majesty;
- (c) holds, or is acting in, a public office except as may be specified (either individually or by reference to a class of office or otherwise) by Ordinance;
- (d) has been adjudged or otherwise declared bankrupt under any law in force in any country and has not been discharged;
- (e) is a person certified to be insane or otherwise adjudged to be of unsound mind under any law;
- (f) at the date of election, is serving or has at any time within the period of five years immediately preceding that date been serving any part of a sentence of imprisonment (by whatever name called) of at least twelve months imposed on him or her by a court in any country or substituted by competent authority for some other sentence imposed on him or her by such a court; or is under such a sentence of imprisonment the execution of which has been suspended;
- (g) is disqualified for membership of the Legislative Assembly by any law relating to offences connected with elections; or
- (h) is disqualified for election by any law by reason of his or her holding, or acting in, any office the functions of which involve—
 - (i) any responsibility for, or in connection with, the conduct of any election; or
 - (ii) any responsibility for the compilation or revision of any register of electors.

(2) The reference in subsection (1)(b) to a member of the regular armed forces of Her Majesty shall not include a reference to a member of the Falkland Islands Defence Force.

(3) For the purposes of subsection (1)(f)—

- (a) where a person is serving two or more terms of imprisonment that are required to be served consecutively he or she shall be regarded as serving a single term of imprisonment for the aggregate period of those terms; 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.

(4) If it is so prescribed by Ordinance—

- (a) a person may stand as a candidate for election even though he or she holds or is acting in a public office which has not been specified, in the manner prescribed in subsection (1)(c), if he or she undertakes to relinquish or, as the case may be, to cease to act in that office if he or she is elected as a member of the Legislative Assembly; and

(b) any office the emoluments of which are paid, directly or indirectly, out of public funds, but which would not otherwise be a public office for the purposes of this section, shall be deemed to be a public office for those purposes.

(5) Any Ordinance made in pursuance of subsection (1)(c) or subsection (4)(a) may contain incidental and consequential provisions, including provision that a member who has given such an undertaking as is referred to in subsection (4)(a) shall be incapable of taking his or her seat in the Legislative Assembly until he or she has fulfilled that undertaking and shall vacate his or her seat if he or she has not fulfilled it within such time as is specified by such Ordinance; and for the avoidance of doubt it is hereby declared that, where provision is made in pursuance of subsection (4)(b) in respect of any office, provision may also be made in pursuance of subsection (1)(c) or subsection (4)(a) in respect of that office.

Vacation of seats

30.—(1) The seat of an elected member of the Legislative Assembly shall become vacant—

- (a) at the next dissolution of the Legislative Assembly after his or her election;
- (b) if he or she resigns it by writing under his or her hand addressed to the Governor;
- (c) if he or she is absent from the meetings of the Legislative Assembly in such circumstances and for such period as may be prescribed by the Standing Orders of the Assembly;
- (d) if he or she ceases to have Falkland Islands status;
- (e) if any circumstances arise that, if he or she were not a member of the Legislative Assembly, would cause him or her to be disqualified for election to the Assembly by virtue of paragraph (a), (b), (c), (d), (e), (g) or (h) of section 29(1); or
- (f) in the circumstances specified in section 31.

(2) In this section, “Falkland Islands status” has the meaning defined in section 22(5).

Vacation of seat on sentence

31.—(1) Subject to the provisions of this section, if a member of the Legislative Assembly is sentenced by a court in any country to imprisonment (by whatever name called) for a term of at least twelve months, he or she shall forthwith cease to perform his or her functions as a member of the Assembly and his or her seat shall become vacant at the expiration of a period of thirty days thereafter; but the Governor may, at the request of the member, from time to time extend that period for thirty days to enable the member to pursue any appeal in respect of his or her conviction and sentence.

(2) If at any time before the member vacates his or her seat he or she is granted a free pardon or his or her conviction is set aside or his or her sentence is reduced to a term of

imprisonment of less than twelve months or a punishment other than imprisonment is substituted, the seat of that member in the Legislative Assembly shall not become vacant under subsection (1), and that member may again perform his or her functions as a member of the Assembly.

(3) For the purposes of this section—

(a) where a person is sentenced to two or more terms of imprisonment that are required to be served consecutively he or she shall be regarded as serving a single term of imprisonment for the aggregate period of those terms; and

(b) no account shall be taken of a sentence of imprisonment as an alternative to or in default of the payment of a fine.

Qualifications of electors

32.—(1) Subject to subsection (2), a person shall be qualified to be registered as an elector for the purpose of the election of members of the Legislative Assembly if he or she has attained the age of eighteen years and either—

(a) he or she is a citizen and has Falkland Islands status; or

(b) his or her name appeared on the register of electors for a constituency in force on the date of commencement of this Constitution,

and, in either case, he or she was resident in the Falkland Islands on the qualifying date in relation to which his or her entitlement to be registered as an elector falls to be considered and had on that qualifying date been so resident for the qualifying period.

(2) No person shall be qualified to be registered as an elector 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;

(b) is serving a sentence of imprisonment (by whatever name called) for a term of at least twelve months imposed on him or her by a court in any country or substituted by competent authority for some other sentence imposed on him or her by such a court;

(c) is disqualified by or under any law from being registered as an elector by reason of having been convicted of an offence relating to elections;

(d) is a member of the regular armed forces of Her Majesty, unless he or she possesses Falkland Islands status; or

(e) is, by virtue of his or her own act, under any acknowledgement of allegiance, obedience or adherence to a foreign Power or State.

(3) Section 29(3) shall apply for the purposes of subsection (2)(b) as it applies for the purposes of section 29(1)(f).

(4) The reference in subsection (2)(d) to a member of the regular armed forces of Her Majesty shall not include a reference to a member of the Falkland Islands Defence Force.

(5) In this section—

(a) “citizen” means a British citizen, a British overseas territories citizen or a British Overseas citizen;

(b) “Falkland Islands status” has the meaning defined in section 22(5);

(c) “qualifying date” and “qualifying period” means such date or period as may be prescribed by or under any Ordinance as the date or period with reference to which the qualifications of persons for registration as electors for elections of members of the Legislative Assembly are to be ascertained; and a different qualifying period may be prescribed in respect of persons not born in the Falkland Islands;

(d) “resident” has such meaning as may be prescribed by or under any Ordinance.

General elections and filling vacant seats

33.—(1) A general election shall be held at such time after every dissolution of the Legislative Assembly as the Governor shall appoint by proclamation published in the Gazette; but the date so appointed shall not be more than 70 days after the date of dissolution.

(2) Whenever an elected member of the Legislative Assembly vacates his or her seat for any reason other than a dissolution of the Assembly, an election shall be held to fill the vacancy, on such date as the Governor shall appoint by proclamation published in the Gazette, within 70 days of the occurrence of the vacancy unless the Assembly is sooner dissolved or under section 34(2) will be dissolved within 126 days of the occurrence of the vacancy.

Dissolution

34.—(1) The Governor may dissolve the Legislative Assembly by proclamation published in the Gazette.

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

Recalling dissolved Legislative Assembly in case of emergency

35. If, between a dissolution of the Legislative Assembly and the next ensuing general election, an emergency arises of such a nature that, in the opinion of the Governor, it is necessary for the Assembly to be recalled, the Governor may summon the Assembly that has been dissolved, and that Assembly shall thereupon be deemed (except for the purposes of

section 33(1)) not to have been dissolved, but shall be deemed (except as aforesaid) to be dissolved on the date on which the next ensuing general election is held.

Determination of questions as to membership

36.—(1) The Supreme Court shall have jurisdiction to hear and determine any question whether—

- (a) any person has been validly elected as a member of the Legislative Assembly; or
- (b) any member of the Legislative Assembly has vacated his or her seat or is required, under section 31, to cease to perform his or her functions as such.

(2) An application to the Supreme Court for the determination of—

- (a) any question under subsection (1)(a) may be made by any person entitled to vote in the election to which the application relates, or by any person who was a candidate at the election, or by the Attorney General;
- (b) any question under subsection (1)(b) may be made by any person registered as an elector in the constituency for which the member concerned was elected, or by any elected member of the Legislative Assembly, or by the Attorney General,

and if any application under 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.

(3) Provision may be made by Ordinance with respect to—

- (a) the circumstances and manner in which, and the imposition of conditions on which, any application may be made to the Supreme Court for the determination of any question under this section; and
- (b) the powers, practice and procedure of the Supreme Court in relation to any such application.

(4) No appeal shall lie from any determination by the Supreme Court in proceedings under this section.

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

CHAPTER 4 - POWERS AND PROCEDURES OF THE LEGISLATIVE ASSEMBLY

Power to make laws

37. Subject to this Constitution, the Governor, with the advice and consent of the Legislative Assembly, may make laws for the peace, order and good government of the Falkland Islands.

Sittings of the Legislative Assembly

38.—(1) Each sitting of the Legislative Assembly shall be held at such place within the Falkland Islands and shall begin at such time as the Governor may appoint by proclamation published in the Gazette; but a period of twelve months shall not elapse between the date when the Assembly last sat and the date appointed for its next sitting.

(2) Each sitting of the Legislative Assembly shall terminate when the Assembly is adjourned or is dissolved without having been adjourned.

Presiding

39.—(1) Subject to subsection (4), there shall preside at each sitting of the Legislative Assembly—

(a) the Speaker;

(b) in the absence of the Speaker, the Deputy Speaker; or

(c) in the absence of the Speaker and the Deputy Speaker, such member of the Assembly as shall be elected to preside at that sitting by the Assembly.

(2) The Legislative Assembly shall elect a Speaker and a Deputy Speaker, who shall be persons, whether or not members of the Assembly, who are qualified and not disqualified to be members of the Assembly.

(3) The Speaker and the Deputy Speaker shall be elected for the life of the Legislative Assembly and shall be removable by a vote of no fewer than six of the elected members voting in favour of the motion.

(4) The Legislative Assembly shall elect a Speaker before proceeding to any other business, and the Attorney General shall preside for the purpose of that election.

Clerk of the Legislative Assembly

40. There shall be a Clerk of the Legislative Assembly whose office shall be a public office.

Participation by non-members

41.—(1) The Commander British Forces shall have the right to take part in the proceedings of the Legislative Assembly, except that he or she may not vote.

(2) The Attorney General shall, with the consent of the person presiding, have the right to take part in the proceedings of the Legislative Assembly, except that he or she may not vote.

(3) The person presiding may, provided the Legislative Assembly considers it desirable, summon any other person to a meeting of the Assembly even though that person is not a member of the Assembly.

Oaths

42.—(1) No *ex officio* or elected member of the Legislative Assembly shall take part in its proceedings (other than proceedings for the purposes of this subsection) unless he or she has made and subscribed before the Speaker, or other person presiding at the sitting, the oath of allegiance and the oath of office.

(2) Neither the Commander British Forces nor the Attorney General shall take part in the proceedings of the Legislative Assembly (other than proceedings for the purposes of this subsection) unless he or she has made and subscribed before the Speaker, or other person presiding at the sitting, the oath of allegiance.

Quorum

43.—(1) If at any sitting of the Legislative Assembly any member of the Assembly 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 the Standing Orders of the Assembly the person presiding at the sitting ascertains that a quorum is still not present, the Assembly shall be adjourned.

(2) For the purpose of subsection (1) a quorum shall consist of six elected members excluding the person presiding at the sitting.

Voting

44.—(1) Save as otherwise provided in this Constitution, any question proposed for decision at a sitting of the Legislative Assembly shall be determined by a majority of the votes of the elected members present and voting.

(2) Subject to subsection (3), the person presiding at a sitting of the Legislative Assembly shall not vote unless on any question the votes are equally divided, in which case he or she shall have and shall exercise a casting vote.

(3) The person presiding shall have a casting vote if he or she is an elected member of the Legislative Assembly; and if on any question before the Assembly the votes of the members are equally divided and the person presiding is not an elected member, the motion shall be declared lost.

Transaction of business notwithstanding vacancies

45. Subject to section 43, the Legislative Assembly shall not be disqualified for the transaction of business by reason of any vacancy in its membership (including any vacancy not filled when the Assembly is first constituted or is reconstituted at any time) and any proceedings in the Assembly shall be valid even though some person who was not entitled to do so took part in them.

Standing Orders

46.—(1) Subject to this Constitution, the Legislative Assembly may make Standing Orders for—

- (a) the regulation and orderly conduct of its own proceedings and the despatch of business at its sittings; and
- (b) for the passing, entitling, numbering and publication of Bills and their presentation to the Governor for assent.

(2) Subject as aforesaid the procedure of the Legislative Assembly at any sitting shall be determined by the person presiding at the sitting.

Penalty for sitting or voting when unqualified

47.—(1) Any person who sits or votes in the Legislative Assembly knowing or having reasonable grounds for knowing that he or she is not entitled to do so shall, if the Attorney General refers the matter to the Assembly and the Assembly so decides, be liable to such fine as may be determined by the Assembly; but no such fine shall exceed the maximum from time to time provided for by the Standing Orders of the Assembly.

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

Privileges of Legislative Assembly and members

48. Provision may be made by Ordinance prescribing the privileges, immunities and powers of the Legislative Assembly and its committees, or the privileges and immunities of the members and officers of the Assembly or of other persons concerned in the business of the Assembly or its committees, for the purpose of ensuring the due discharge of the functions of the Assembly and its members at sittings of the Assembly; but no such privileges, immunities or powers shall exceed those of the Commons House of Parliament of the United Kingdom or of the members of that House.

Freedom of speech in proceedings

49. Without prejudice to any provision made by Ordinance pursuant to section 48, no civil or criminal proceedings may be instituted against any member of the Legislative Assembly for words spoken before, or written in a report to, the Assembly or any of its committees or by reason of any matter or thing brought by such member therein by petition, Bill, resolution, motion or otherwise.

Rules for the enactment of laws

50.—(1) All laws made under section 37 shall be styled “Ordinances” and the words of enactment shall be “Enacted by the Legislature of the Falkland Islands, as follows”.

(2) The Governor and the Legislative Assembly shall in the making of laws observe the rules set forth in Annex A to this Constitution.

Introduction of Bills, etc

51.—(1) Subject to this Constitution and the Standing Orders of the Legislative 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 Standing Orders of the Assembly.

(2) Except on the recommendation of the Governor, the Legislative Assembly shall not—

(a) proceed upon any Bill (including any amendment to a Bill) which, in the opinion of the person presiding—

(i) makes provision for imposing or altering any tax, imposing or altering any charge on the revenues or other funds of the Falkland Islands, or for compounding or remitting any debt due to the Government; or

(ii) would constitute any public office, or effect any alteration in the salary, allowances or other conditions of service (including leave, passages and promotion) of any public officer or in the law, regulations or practice governing the payment of pensions, gratuities or other like benefits to any public officer or his or her widow or widower, children, dependants or personal representatives; or

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

Assent to Bills

52.—(1) A Bill passed by the Legislative Assembly 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 that assent by proclamation published in the Gazette.

(2) When a Bill is presented to the Governor for his or her assent, the Governor shall, acting in his or her discretion but subject to this Constitution and any instructions given 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 any Bill which in his or her judgement is in any way repugnant to, or inconsistent with, this Constitution.

(3) Before refusing assent to any Bill, the Governor shall explain to the members of the Legislative Assembly the reasons why he or she proposes to do so, if necessary in confidence, and shall allow those members the opportunity to submit their views on the matter in writing to a Secretary of State.

Publication and commencement of laws

53. No law made under section 37 shall come into operation until it has been published in the Gazette, but, where the law in question expressly so provides, the coming into operation of any such law may be postponed and any such law may be given retrospective effect.

Disallowance of laws

54.—(1) Any Ordinance to which the Governor has given his or her assent may be disallowed by Her Majesty through a Secretary of State; but no Ordinance shall be disallowed until the expiration of a period notified by a Secretary of State to the Governor, who shall advise the Speaker of that period, in order to give the Legislative Assembly an opportunity to reconsider the Ordinance in question.

(2) Whenever any Ordinance has been disallowed by Her Majesty the Governor shall, as soon as practicable, cause notice of such disallowance to be published in the Gazette and the Ordinance shall be annulled with effect from the date of the publication of that notice.

(3) Section 16(1) of the Interpretation Act 1978(2) shall apply to the annulment of any Ordinance under this section as it applies to the repeal of an Act of Parliament of the United Kingdom, save that any enactment repealed or amended by or in pursuance of that Ordinance shall have effect as from the date of the annulment as if that Ordinance had not been made.

Governor's reserved power

55.—(1) If the Governor considers that it is necessary that any Bill introduced or any motion proposed at any sitting of the Legislative Assembly held in accordance with this Chapter should have effect, then, if the Assembly fails to pass the Bill or to carry the motion within such time and in such form as the Governor thinks reasonable, the Governor may, at any time that he or she thinks fit, and notwithstanding any provision of this Constitution or of any Standing Order of the Assembly, declare that the Bill or motion shall have effect as if it had been passed or carried by the Assembly either in the form in which it was introduced or proposed or with such amendments as the Governor thinks fit that have been moved or proposed in the Assembly, including any committee of the Assembly; and the 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) Before exercising his or her powers under subsection (1) the Governor shall inform the Executive Council of his or her intention to do so and his or her reasons, and shall allow members of the Council the opportunity to express their views.

(3) The Governor shall not exercise his or her powers under subsection (1) without prior instructions from a Secretary of State.

(4) If any member of the Legislative Assembly objects to any declaration made under this section, he or she may, within fourteen days of its making, submit to the Governor a statement in writing of his or her reasons for so objecting and the Governor shall forthwith forward a copy of such statement to a Secretary of State.

(5) Any declaration made under this section, other than a declaration relating to a Bill, may be revoked by a Secretary of State and the Governor shall forthwith cause notice of the revocation to be published in the Gazette; and from the date of such publication any motion that is deemed to have been carried by virtue of the declaration shall cease to have effect and section 16(1) of the Interpretation Act 1978 shall apply to the revocation as it applies to the repeal of an Act of Parliament.

(6) The powers conferred on the Governor by this section shall be exercised by the Governor in his or her discretion.

(7) The motions to which this section applies are—

(a) any motion relating to or for the purposes of a Bill;

(b) any motion proposing or amending a resolution which, if passed by the Legislative Assembly, would have the force of law; and

(c) any motion proposing or amending a resolution upon which the coming into force or continuance in force of any subordinate legislation depends.

Annex 2 - Summary of history of the Falkland Islands Legislative Assembly

1. Letters Patent 1843

A Legislative Council was first established in the Falkland Islands in 1845 in accordance with Falkland Islands Letters Patent 1843.

The Letters Patent (which are effectively an order or instructions from the UK Government to the Governor of the Falkland Islands) effectively formed an early Constitution, and provided that:

- the Legislative Council should be made up of the Governor and two other persons to be appointed by the Crown (the Governor)
- the two persons appointed should be “Public Officers or of such other persons within the said Settlements and their Dependencies as should from time to time be named or designated for that purpose”
- the Legislative Council had “all authority to make and establish all such Laws, Institutions and Ordinances, as might be required for the peace, order and good Government of the said Settlements and their Dependencies...”

2. Letters Patent 1948 and the Falkland Islands (Legislative Council) Order 1948

The Legislative Council now consisted of:

- The Governor (President)
- The Colonial Secretary, the Senior Medical Officer and the Agricultural Officer (“Ex officio members”)
- 3 other Government officers, appointed by the Governor (“Nominated Official Members”)
- 3 other persons who were not Government officers, appointed by the Governor (“Nominated Unofficial Members”)
- 4 Elected Members (to be elected by resident British subjects who are over 21)

The Order provided for the “Governor, with the advice and consent of the Council, to make laws for the peace, order and good government of the Colony”.

3. Falkland Islands (Legislative Council) (Amendment) Order 1951

The number of “Nominated Official Members” of the Council was reduced from 3 to 2.

4. The Falkland Islands Legislative Council (Amendment) Order 1964

The number of “Ex-officio” Members was reduced from 3 to 2.

“Nominated Unofficial Members” were re-labelled “Nominated Independent Members” (but were still appointed by the Governor).

5. The Falkland Islands (Legislative Council) (Amendment) Order 1977

Significant change was made to the Membership of the Legislative Council as follows:

- Governor (President)
- Chief Secretary and Financial Secretary (“Ex-officio Members”)
- 6 Elected Members (representing East Stanley, West Stanley, all of Stanley, East Falkland, West Falkland, and all of Camp)

This represents the first time in the Falkland Islands that the legislature included a majority of democratically elected Members.

6. Falkland Islands Constitution Order 1985 (SI 1985/444)

The “Ex-Officio Members” were no longer entitled to vote.

Number of Elected Members increased from 6 to 8 (4 from Camp, and 4 from Stanley).

7. Falkland Islands Constitution (Amendment) Order 1997 (SI 1997/864)

8 Elected Members changed to: 3 to represent Camp, 5 to represent Stanley (and a further change in 1997 removed the requirement for a candidate to be registered to vote in the Constituency they wanted to represent).

Provision made for a Speaker elected by the Council to replace the Governor as President.

8. 2002

The first Speaker was elected by the Council.

9. The Falkland Islands Constitution Order 2008 (SI 2008/2846)

The Legislative Council was re-named the Legislative Assembly (and some other changes made to other aspects of the Constitution).

Annex 3 – Summary of role of the legislature in other British overseas territories

Anguilla Constitution Order 1982

- The Sovereign has reserved power, with the advice of the Privy Council, to make laws for the peace, order and good government of Anguilla. (paragraph 9 of the Constitution Order).
- Section 35(1) establishes a House of Assembly for Anguilla.
- Subject to the Constitution, the Assembly consists of—
 - (a) the Speaker;
 - (b) 2 ex-officio members, namely the Attorney-General and the Permanent Secretary for Finance;
 - (c) not less than 7 members elected in the manner provided by law; and
 - (d) 2 nominated members, being persons who belong to Anguilla for the purposes of Chapter I of the Constitution of the age of 21 years or upwards, appointed by the Governor, one in accordance with the advice of the Chief Minister and the other after consultation with the Chief Minister (s 35(2))
- Subject to the 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. (s 47)
- Subject to the Constitution, the Governor and the Assembly shall, in the transaction of business and the making of laws, conform as nearly as maybe to the directions contained in any Royal Instructions that may from time to time be addressed to the Governor. (s 48)
- Subject to the Constitution and of any Royal Instructions, the Assembly may make rules of procedure. (s 49)
- A quorum consists of two-thirds of the members of the Assembly in addition to the person presiding. (s 52(2))
- The Speaker or other person presiding may, when in their opinion the business before the Assembly makes it desirable, summon any person to a meeting of the Assembly notwithstanding that that person is not a member of the Assembly. (s 54(1))
- Any person summoned under section 54(1) is entitled to take part as if they were a member in the proceedings of the Assembly relating to the matter in respect of which the person was summoned, except that they may not vote. (s 54(2))
- Subject to the 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 Bill will be debated and disposed of according to the rules of procedure of the Assembly. (s 55(1))
- The Assembly may only proceed on any Bill introducing financial provisions (such as provision for imposing or increasing any tax, for imposing or increasing any charge on the revenues or other funds of Anguilla); or any motion which has that effect; or receive any petition requesting financial provisions, after recommendation by the Governor. (s 55(2))
- The Governor has reserved power to declare that a Bill has effect as if it had been passed or carried by the Assembly if the Governor considers that it is expedient, in the interests of public order or public faith, that any Bill introduced in the Assembly in relation to certain matters should have that effect despite the Assembly failing to pass the Bill. Such matters include the responsibility of Anguilla as a territory within the

Commonwealth, matters relating to the creation or abolition of any public office or the salary/conditions of service of any public officer. The Governor may only exercise powers under this subsection with prior written instructions from a Secretary of State, unless in their judgment the matter is so urgent that it is necessary to do so before having consulted a Secretary of State. (s 56(1))

- If any member of the Assembly objects to any declaration made under section 56, they may, within 14 days, submit to the Governor a statement in writing of the reasons for so objecting, and a copy of the submitted statement will be forwarded by the Governor as soon as is practicable to a Secretary of State (s. 56(3))
- Any declaration made under section 56 other than a declaration relating to a Bill may be revoked by a Secretary of State. (s 56(4))
- Under section 57(1), a Bill will only become law once-
 - (a) the Governor has assented to on behalf of the Sovereign; or
 - (b) the Sovereign has given assent to it through a Secretary of State.
- When a Bill is presented to the Governor for assent, the Governor may assent to it, or reserve the Bill for the signification of the Sovereign's pleasure. The Governor must reserve for the signification of the Sovereign's pleasure—
 - (a) any Bill which appears to the Governor to be in any way repugnant to, or inconsistent with, the provisions of this Constitution; and
 - (b) any Bill which determines or regulates the privileges, immunities or powers of the Assembly or of its members,
 unless the Governor has been authorised by a Secretary of State to assent to it. (s 57(2))
- The Governor may return to the Assembly any Bill presented to them for assent, with proposed amendments which they may recommend, and the Assembly must deal with such recommendation. (s 58)
- Any law to which the Governor has given assent may be disallowed by the Sovereign through a Secretary of State. (s59(1))
- If a law is disallowed by the Sovereign the Governor must give notice of the disallowance in the Gazette and the law is annulled from the date of publication of that notice. (s59(2))

Bermuda Constitution Order 1968

- The Legislature is established in terms of section 26 and consists of the Sovereign, a Senate and a House of Assembly.
- The Senate consists of 11 members who are appointed by the Governor by instrument under the Public Seal in accordance with the provisions of this section. (s 27(1))
- Of the Senators-
 - (a) 5 are appointed by the Governor acting in accordance with the advice of the Premier;
 - (b) 3 are appointed by the Governor acting in accordance with the advice of the Opposition Leader; and
 - (c) 3 are appointed by the Governor acting in his discretion. (s 27(2))
- The House of Assembly consists of 36 members who, subject to the Constitution, are elected in the manner prescribed by any law in force in Bermuda. (s 28)
- The Legislature may make laws for the peace, order and good government of Bermuda. (s 34)

- Subject to the Constitution, the power of the Legislature to make laws is exercised by Bills passed by both Houses, either without amendment or with such amendments only as are agreed to by both Houses, and assented to by the Sovereign or by the Governor on their behalf (s 35(1))
- When a Bill is presented to the Governor for assent, they may assent to it or reserve the Bill for the signification of the Sovereign's pleasure. Unless the Governor has been authorised by a Secretary of State to assent, the Governor must reserve for the signification of the Sovereign's pleasure any Bill which appears to the Governor, acting in their discretion—
 - (a) to be inconsistent with any obligation of the Sovereign or of the UK Government towards any other state or power or any international organisation;
 - (b) to be likely to prejudice the Royal prerogative;
 - (c) to be in any way repugnant to or inconsistent with the provisions of the Constitution;
 - (d) to affect any matter for which the Governor is responsible under section 62 of this Constitution; or
 - (e) to relate to currency or banking. (s 35(2))
- A Bill assented to by the Sovereign becomes law when the Governor has signified assent by proclamation published in the Gazette. (s 35(3))
- The Senate is restricted from proceeding with certain financial Bills for e.g. any money Bill, other than a money Bill sent from the House of Assembly. (s 36(1))
- The House of Assembly may, only on the recommendation of the Governor signified by a Minister, proceed on -
 - (a) any Bill that makes provision for any of the following purposes:
 - for the imposition of taxation or the alteration of taxation otherwise than by reduction;
 - for the imposition of any charge upon the Consolidated Fund or any other public fund of Bermuda or the alteration of any such charge otherwise than by reduction;
 - for the payment, issue or withdrawal from the Consolidated Fund or any other public fund of Bermuda of any moneys not charged thereon or any increase in the amount of such a payment, issue or withdrawal; or
 - for the composition or remission of any debt due to the Government; or
 - (b) any motion, the effect of which, in the opinion of the person presiding, would be to make provision for any of those purposes. (s 36(3))
- Section 37 deals with restriction on powers of Senate as to money Bills which are not taxation Bills. In terms of section 37(2), if any Bill to which section 37 applies, having been passed by the House of Assembly and sent to the Senate at least 2 months before the end of the session, is not passed by the Senate within 2 months after it is sent to the Senate, the Bill must, unless the House of Assembly otherwise resolves, be presented to the Governor for assent notwithstanding that the Senate has not consented to the Bill.
- Section 38 deals with restriction on powers of Senate as to other public Bills. If a Bill to which section 38 applies is passed by the House of Assembly in 2 successive sessions and, having been sent to the Senate in each of those sessions at least one month before the end of the session, is rejected by the Senate in each of those sessions, that Bill must, on its rejection for the second time by the Senate, unless the House of Assembly

otherwise resolves, be presented to the Governor for assent notwithstanding that the Senate has not consented to the Bill:

Provided that does not have effect unless at least 12 months have elapsed between the date on which the Bill is passed by the House of Assembly in the first session and the date on which it is passed by that House in the second session. (s 38(1))

- A quorum of the Senate consists of the President or the Senator presiding and four other Senators; and a quorum of the House of Assembly consists of the Speaker or other member presiding and 14 other members of the House. (s43(2))
- Each House may make rules of procedure. (s 45(1))
- Any law enacted by the Legislature which has been assented to by the Governor and which appears to the Sovereign's Government in the UK to alter, to the injury of the stockholder, any provision relating to any stock to which this section applies or to involve a departure from the original contract in respect of any such stock, may be disallowed by the Sovereign through a Secretary of State. (s 47(1))
- If a law is disallowed by the Sovereign the Governor must give notice of the disallowance in the Gazette and the law is annulled from the date of publication of that notice. (s 47(2))
- The stock to which section 47 applies is stock forming the whole or any part of the public debt of Bermuda by the conditions of issue of which it is provided that the section applies to it. (s 47(4))
- The House of Assembly must also consider and approve the draft order that gives effect to the recommendations contained in the report on review of boundaries of the electoral districts prepared by the Constituency Boundary Commission in terms of section 54(1). (s 54(6))

British Antarctic Territory Order 1989

- Section 4 establishes a Commissioner for the Territory who is appointed by the Sovereign by instructions given through a Secretary of State and holds office during the Sovereign's pleasure.
- The Commissioner may make laws, to be styled Ordinances, for the peace, order and good government of the Territory. (s 13(1))
- The Sovereign has reserved power, with the advice of the Privy Council, to make laws for the peace, order and good government of the Territory. (s 20).
- All Ordinances made by the Commissioner in exercise of the powers conferred by this Order must be published in the Gazette. (s 13(3))
- Every Ordinance comes into operation on the date on which it is published, unless provided otherwise. (s 13(4))
- Any Ordinance made by the Commissioner in exercise of the powers conferred by this Order may be disallowed by the Sovereign through a Secretary of State. (14(1))
- If an Ordinance is disallowed by the Sovereign, the Commissioner must give notice of the disallowance in the Gazette. (s14(2))
- The Commissioner must not, without having previously obtained instructions through a Secretary of State, enact any Ordinances of the following types, unless the Ordinance contains a clause suspending operation until the signification of the Sovereign's pleasure—
 - (a) any Ordinance for the divorce of married persons;

- (b) any Ordinance allowing for any grant of land or money or other donation or gratuity to the Commissioner;
- (c) any Ordinance affecting the currency of the Territory or relating to the issue of bank notes;
- (d) any Ordinance establishing any banking association or altering the constitution, rights or duties of any such association;
- (e) any Ordinance imposing differential duties;
- (f) any Ordinance the provisions of which appear to the Commissioner to be inconsistent with obligations imposed upon the United Kingdom by treaty;
- (g) any Ordinance affecting the discipline or control of the Sovereign's armed forces;
- (h) any Ordinance of an extraordinary nature and importance which might prejudice; the Royal prerogative; the rights or property of the Sovereign's subjects not residing in the Territory; or the trade, transport or communications of any other Sovereign territory;
- (i) any Ordinance whereby persons of any community or religion may be subjected or made liable to disabilities or restrictions to which persons of other communities or religions are not also made liable, or become entitled to any privilege or advantage which is not conferred on persons of other communities or religions; and
- (j) any Ordinance containing provisions which have been disallowed:

This provision is subject to an exception if the Commissioner believes there is urgent necessity to enact the Ordinance (paragraph 6 of Schedule 2 of the Constitution)

- When any Ordinance has been enacted, the Commissioner must transmit through a Secretary of State, for the signification of the Sovereign's pleasure, duplicate authenticated copies, together with an explanation of the Ordinance. (paragraph 7 of Schedule 2 of the Constitution)

British Indian Ocean Territory (Constitution) Order 2004

- Section 4(1) establishes a Commissioner for the Territory who is appointed by the Sovereign by instructions given through a Secretary of State and holds office during the Sovereign's pleasure.
- In terms of section 10(1), the Commissioner may make laws for the peace, order and good government of the Territory.
- In the exercise of his law-making powers, the Commissioner may make any provision they consider expedient for or in connection with the administration of the Territory. (s10(2))
- Any laws made by the Commissioner in exercise of powers conferred under subsection (1) must be published in the Gazette in such manner as the Commissioner may direct. (s 10(3))
- Every law made by the Commissioner comes into force on the date on which it is published, unless provided otherwise. (s 10(4))
- Any law made by the Commissioner may be disallowed by the Sovereign through a Secretary of State. (s 11(1))
- If a law is disallowed by the Sovereign the Commissioner must give notice of the disallowance in the Gazette, and the law is annulled from the date of publication of the notice. (s 11(2))

- The Sovereign has reserved power to make laws for the peace, order and good government of the Territory. In the exercise of the law-making powers, the Sovereign may make such provision as they consider expedient for or in connection with the administration of the Territory (s 15(1))

Cayman Islands Constitution Order 2009

- The Legislature is established under section 59(1) and consists of the Sovereign and a Legislative Assembly.
- The Legislature may make laws for the peace, order and good government of the Cayman Islands. (s 59(2))
- The Legislative Assembly consists of—
 - (a) the Speaker;
 - (b) 18 elected members, who are persons qualified for election in accordance with the Constitution and elected in the manner provided for in a law; and
 - (c) the Deputy Governor and the Attorney General, *ex officio*. (s 60(1))
- A law enacted by the Legislature may make provision to hold a referendum amongst persons registered as electors, on a matter or matters of national importance, when resolved by the majority of the elected members of the Assembly. (s 69))
- Subject to the Constitution, the Legislative Assembly may make Standing Orders for the regulation its own proceedings. (s 71(1))
- Standing Orders must make provision for the establishment of a Finance Committee of the Legislative Assembly to consider the estimates of revenue and expenditure laid before the Assembly by the Minister responsible for finance, and to examine and consider all financial Bills and such other matters relating to the finances of the Cayman Islands as referred to it by the Assembly and to report on them to the Assembly. (s 71(6))
- The Finance Committee consists of all the elected members of the Legislative Assembly and is chaired by the Minister responsible for finance. (s 71(7))
- Standing Orders may also establish one or more other standing committees of the Legislative Assembly, which may be given responsibility for monitoring the conduct of Government business. (s 71(8))
- The composition of all standing committees must, so far as possible, proportionately reflect (numerically), the political parties or groups making up the elected membership of the Legislative Assembly. (s 71(9))
- A standing committee has power to summon a Minister, the Deputy Governor, the Attorney General or any public officer, and to require any Minister or other person summoned to answer questions and provide information about Government business, and to report on its activities to the Legislative Assembly. (s 71(10))
- The Speaker or other person presiding may, when in their opinion the business of the Assembly makes it desirable, summon any person to a meeting of the Assembly. (s 76)
- Subject to the Constitution and the Standing Orders, any member may introduce a Bill or propose a motion for debate in, or may present any petition to, the Assembly. (s 77(1))
- A Bill or motion that has the effect of making provision for imposing or increasing any tax, for imposing or increasing any charge on the revenues or other funds of the Cayman Islands or for altering any charge otherwise than by reducing it or for compounding or

remitting any debt due to the Cayman Islands may only proceed in the Legislative Assembly on the recommendation of the Minister responsible for finance (s 77(3))

- A Bill becomes a law when-
 - (a) the Governor has assented to it in the Sovereign's name and on the Sovereign's behalf and has signed it in token of their assent; or
 - (b) The Sovereign has given assent to it through a Secretary of State and the Governor has signified such assent by proclamation. (s 78(1))
- The Governor may declare refuse to assent to a Bill or that they reserve the Bill for the signification of the Sovereign's pleasure any Bill which appears to -
 - (a) to be in any way repugnant to, or inconsistent with, the Constitution;
 - (b) to determine or regulate the privileges, immunities or powers of the Legislative Assembly or of its members;
 - (c) to be inconsistent with any obligation of the Sovereign or of the UK Government to any other State or any international organisation;
 - (d) to be likely to prejudice the Royal prerogative;
 - (e) to affect any matter for which the Governor is responsible under section 55 such as defence; or
 - (f) to affect the integrity or independence of the public service or of the administration of justice. (s78(2))
- Before the Governor refuses to assent to a Bill, they must give reasons to the members of the Legislative Assembly and must give members the opportunity to submit their views to a Secretary of State. (s78(3))
- Where the Governor decides to return any Bill to the Legislative Assembly, they must do so within 60 days of receiving it, including any amendments recommended and the reasons for them, and the Assembly must consider such recommendation. (s 79(1))
- Any law assented to by the Governor may be disallowed by the Sovereign through a Secretary of State; but no law may be disallowed until the Legislative Assembly has been given an opportunity to reconsider the law in question. (s80(1))
- If a law is disallowed by the Sovereign, the Governor must publish a notice of the disallowance and the law is annulled from the date of publication. (s 80(2))
- The Governor has reserved powers to enact legislation which they consider is necessary or desirable with respect to or in the interests of any matter for which they are responsible under section 55 (such as defence) when, after consultation with the Premier, it appears to the Governor that the Cabinet is unwilling to support the introduction into the Legislative Assembly of a Bill for the purpose or that the Assembly is unlikely to pass a Bill introduced into it for the purpose. In such instances the Governor may, with the prior approval of a Secretary of State, cause a Bill for those purposes to be published in a Government Notice and may (notwithstanding that the Bill has not been passed by the Assembly) assent to it on behalf of the Sovereign (s 81)
- Section 87(1) establishes a Public Accounts Committee of the Legislative Assembly with power and responsibility to examine the public accounts of the Cayman Islands and the accounts and financial dealings of all authorities, offices and departments of Government, of all courts, and of all Government-owned companies.
- The members of the Public Accounts Committee, and any person authorised by it to act on its behalf, must have access to all books, records etc relating to the accounts referred to section 87(1). (s 87(2))
- The Public Accounts Committee receives reports from the Auditor General. (s 87(3))

- The Legislative Assembly must also consider and approve the draft order that gives effect to the recommendations contained in the report on review of boundaries of the electoral districts prepared by the Electoral Boundary Commission. (s 89)
- The Sovereign reserves the power to make laws for the peace, order and good government of the Cayman Islands. (s 125)

Gibraltar Constitution Order 2006

- The Legislature is established under section 24 and consists of the Sovereign and the Gibraltar Parliament.
- The Parliament consists of the Speaker; and at least 17 Elected Members. (s 25(2))
- The following are officers of the Parliament –
 - (a) the Principal Auditor;
 - (b) the Ombudsman;
 - (c) the Clerk to the Parliament;
 - (d) any other officer prescribed by Act. (s 25(3))
- The officers of the Parliament have such powers as may be prescribed by Act. (s 25(4))
- Subject to the Constitution, the Legislature may make laws for the peace, order and good government of Gibraltar. (s 32)
- Subject to section 34, the power of the Legislature to make laws is exercisable by Bills passed by the Parliament and assented to by the Sovereign or by the Governor on behalf of the Sovereign. (s 33(1))
- Parliament may make rules of procedure for the regulation of its proceedings. (s 39)
- When a Bill is submitted to the Governor for assent they may assent, withhold assent, or reserve the Bill for the signification of the Sovereign's pleasure; provided that the Governor –
 - (a) may only reserve for the signification of the Sovereign's pleasure any Bill which appears to them, acting in their discretion, to be in any way repugnant to or inconsistent with the Constitution;
 - (b) may only withhold assent to any Bill which appears to them, acting in their discretion, to be in any way repugnant to good government or incompatible with any international legal obligation, unless the Governor has been authorised by a Secretary of State to assent to it. (s 33(2))
- When a Bill has been reserved for the signification of the Sovereign's pleasure and the Governor is informed by a Secretary of State that the Sovereign is pleased to assent, the Governor must signify assent by Proclamation published in the Gazette. (s 33(3))
- No law made by the Legislature comes into operation until it has been published in the Gazette but the Legislature may postpone the coming into operation of any law and may make laws with retrospective effect. (s 33(4))
- The Governor has special legislative powers, with the prior approval of the Secretary of State, to enact legislation which the Governor considers necessary or desirable with respect to or in the interests of any matter for which they are responsible under section 47(1), after consultation with the Chief Minister, it appears to that the Government is unwilling to support the introduction of a Bill for the purpose or that Parliament is unlikely to pass a Bill introduced therein for the purpose. The Governor may publish a Bill

for that purpose in the Gazette and may (notwithstanding that the Bill has not been passed by the Parliament) assent the Bill on behalf of the Sovereign. (s 34)

- Parliament may only proceed with a Bill or any motion that has the effect of introducing financial provisions (e.g. if the Bill imposes or increases any tax, rate or duty, imposes or increases any charge on the revenues or other funds of Gibraltar) on recommendation from the Minister responsible of Finance. (s 35(1))
- Parliament may only proceed with a Bill that concerns a matter for which the Governor is responsible for under section 47(1) (such as defence and external affairs) with the Governor's prior consent. (s 35(2))
- Every Bill must be published in the Gazette, and the Parliament may not proceed upon any Bill until 6 weeks after the date on which the Bill was published, unless the Chief Minister certifies that consideration of the Bill is too urgent for such delay. (s 35(3))
- A quorum of the Parliament consists of 30% of the number of Elected Members comprising the Parliament (rounded up to the nearest full number) besides the Speaker or other person presiding at the sitting. (s 42(1))
- The Sovereign reserves the power to make laws from time to time for the peace, order and good government of Gibraltar. (paragraph 8 of Annex 2 to the Constitution Order)

Montserrat Constitution Order 2010

- The Legislature is established under section 47 and consists of the Sovereign and a House of Assembly.
- The House of Assembly consists of 9 elected members, and two ex officio members, namely the Attorney General and the Financial Secretary. (s 48)
- The Deputy Governor may attend and take part in the Legislative Assembly proceedings but is not a member of the Assembly and has no right to vote. (s 50(1))
- The Speaker has power to summon to the Legislative Assembly any public officer if, in the Speaker's opinion, the business of the Assembly makes that desirable. (s 50(2))
- The officer is entitled to take part in the Legislative Assembly proceedings relating to the matter, but does not become a member of the Assembly and has no right to vote. (s 50(3))
- The Governor has the right to address the Legislative Assembly. (s 62)
- The Legislative Assembly must set up at least 2 Standing Committees of the Assembly with the responsibility of monitoring the conduct of Government business, and of monitoring the public accounts (the Public Accounts Committee). (s 63(1))
- Each Standing Committee consists of members of the Legislative Assembly who are not members of Cabinet and at least one of the Committees is presided over by a member of the Assembly in opposition to the Government. (s 63 (2))
- Each Standing Committee has the power to:
 - (a) Summon any Minister or public officer of a Government department; and
 - (b) Subject to any law or Standing Orders, require a person summoned to answer questions and provide information about Government business. (s 63(3))
- Each Standing Committee reports to the Legislative Assembly on its activities as often as necessary, but at least once annually. (s63(4))
- A quorum of the Legislative Assembly consists of 6 members excluding the person presiding. (s 65(2))

- All questions proposed for decision in the Legislative Assembly are determined by a majority of the votes of the members present and voting. (s 66(1))
- Subject to the Constitution and the Standing Orders, any member of the Legislative Assembly may introduce a Bill, or propose a motion for debate, or present a petition to, the Assembly. (s 70(1))
- The Legislative Assembly may not, except with the approval of the Cabinet signified by a Minister—
 - (a) proceed on a Bill which, in the opinion of the person presiding in the Assembly, would dispose of or charge any public revenue or public funds of Montserrat or alter any disposition of them or charge on them or impose, alter or repeal any rate, tax or duty;
 - (b) proceed on any motion the effect of which, in the opinion of the person presiding in the Assembly, is that provision should be made for any of those purposes; or
 - (c) receive any petition which, in the opinion of the person presiding in the Assembly, requests that provision be made for any of those purposes. (s 70(2))
- Subject to the Constitution, the Legislature has power to make laws for the peace, order and good government of Montserrat. (s 71)
- Subject to the Constitution, the Legislative Assembly may make Standing Orders for the regulation of proceedings. (s 72)
- A Bill becomes a law (s. 74(1)) once either—
 - (a) the Governor has assented to it in the Sovereign's name and on the Sovereign's behalf and has signed it in token of assent; or
 - (b) the Sovereign has given assent to it through a Secretary of State and the Governor has signified such assent by proclamation published in the Gazette.
- When a Bill is presented to the Governor for assent the Governor may assent, or refuse to assent or reserve the Bill for the signification of the Sovereign's pleasure; but, unless they have been authorised by a Secretary of State to assent to it, the Governor must reserve for the signification of the Sovereign's pleasure any Bill which appears to them—
 - (a) to be inconsistent with any international obligation of the UK Government;
 - (b) to be likely to prejudice the Royal prerogative, or the efficiency of the judiciary, or to affect any of the matters mentioned in section 39 (e.g. defence or external affairs); or
 - (c) to be in any way repugnant to or inconsistent with the Constitution. (s 74(2))
- A law assented to by the Governor comes into force on the date of assent, unless provided otherwise. (s 74(3))
- A Bill reserved for the signification of the Sovereign's pleasure becomes a law as soon as the Sovereign has given assent to it, through a Secretary of State, and assent has been signified by proclamation published in the Gazette; and every such law comes into force on the date of the proclamation, unless provided otherwise. (s 74(4))
- A law assented to by the Governor may be disallowed by the Sovereign through a Secretary of State; but no law may be disallowed until the Legislative Assembly has been provided with an opportunity to reconsider the law in question. (s 76(1))
- If a law is disallowed by the Sovereign the Governor must give notice of the disallowance in the Gazette and the law is annulled from the date of publication of the notice. (s 76(2))

- The Legislative Assembly may, by resolution, request the Electoral Commission to review electoral districts or boundaries of electoral districts of Montserrat. (s 79(1))
- The Sovereign reserves the power, with the advice of the Privy Council, to make laws for the peace, order and good government of Montserrat. (s 121)

Pitcairn, Henderson, Ducie and Oeno Islands Constitution Order 2010

- The Sovereign has reserved power to make laws for the peace, order and good government of Pitcairn. (paragraph 10 of the Constitution Order)
- Section 34(1) establishes an Island Council for Pitcairn, which is composed, and has such functions in relation to the government of Pitcairn, as may be prescribed by law.
- The members of the Island Council are elected to office in free and fair elections held at regular intervals in such manner as may be prescribed by law. (s 34(2))
- The Governor, acting after consultation with the Island Council, may make laws for the peace, order and good government of Pitcairn. (s 36(1))
- The Governor is not obliged to act in accordance with the advice of the Island Council in exercising the power under subsection (1), but where the Governor acts contrary to the advice of the Council a member of the Council has the right to submit their views on the matter to a Secretary of State. (s 36(2))
- The Governor may exercise the power conferred by subsection (1) without consulting the Island Council whenever instructed to do so by the Sovereign through a Secretary of State. (s 36(3))
- The Governor may not, without having previously obtained instructions through a Secretary of State, make any law within any of the following classes, unless such law contains a clause suspending its operation until the signification of the Sovereign's pleasure on it—
 - (a) any law permitting any grant of land or money, or other donation or gratuity to the Governor;
 - (b) any law affecting the currency of Pitcairn or relating to the issue of banknotes;
 - (c) any law the provisions of which shall appear to the Governor to be inconsistent with obligations imposed on the United Kingdom by treaty;
 - (d) any law of an extraordinary nature and importance whereby the Sovereign's prerogative, or the rights or property of subjects not residing in Pitcairn, or the trade, transport or communications of any other Sovereign territory may be prejudiced;
 - (e) any law containing provisions which have been disallowed by the Sovereign;

This provision is subject to an exception if the Commissioner believes there is urgent necessity to enact the Ordinance
(s 38)
- All laws made by the Governor must be published in such manner and at such place or places in Pitcairn as the Governor may direct. (s 39(1))
- When any law has been made, the Governor must transmit to the Secretary of State an authenticated copy, in duplicate, together with an explanation of the law. (s 40)
- Any law made by the Governor may be disallowed by the Sovereign through a Secretary of State. (s 41(1))
- If a law is disallowed by the Sovereign the Governor must give notice of disallowance, and the law is annulled from the date of publication of that notice. (s 41(2))

St Helena, Ascension and Tristan da Cunha Constitution Order 2009

- There is reserved to the Sovereign full power to make laws for the peace, order and good government of St Helena, Ascension and Tristan da Cunha including laws amending or revoking the Constitution. (Paragraph 14 of the Constitution's Order)

(a) St Helena

- The Legislature is established under section 47 and consists of the Sovereign and the Legislative Council.
- The Legislative Council consists of—
 - a Speaker and a Deputy Speaker; and
 - 12 Elected Members, who must be persons qualified for election and elected in accordance with the Constitution; and
 - 3 *ex officio* Members, namely the Chief Secretary, the Financial Secretary and the Attorney General. (s48)
- There may be Council Committees as determined by the Governor. (s 56(1))
- A Council Committee consists of—
 - Members of the Legislative Council; and
 - Other persons appointed by the Governor, acting after consultation with the Chairman of the Committee. (s 56(2))
- A Council Committee is appointed by the Governor for such general or special purposes as would be most suitably regulated or managed by means of a committee. (s 58(1))
- The Governor may give any Council Committee responsibility for any subject or department of government, except for any matter relating to the Governor's special responsibilities such as defence. (s 58(2))
- The Governor may by order make the rules of procedure of Council Committees and may determine the quorum and place of meeting of each Committee. (s 59)
- Subject to the Constitution, the Legislature may make laws for the peace, order and good government of St Helena. (s 60)
- A quorum consists of 7 Elected Members of the Legislative Council (including any Member presiding). (s 64(1))
- The Governor, acting in his or her discretion, has the right to address the Legislative Council at a time during a meeting of the Council fixed by the Speaker at the Governor's request. (s 65)
- The Speaker or other person presiding, may, in their discretion require Public Service officer to attend a meeting of the Legislative Council when, in the opinion of the Speaker or other person presiding, that is desirable for the business of the Council. (s 66)
- The Legislative Council may make, amend Standing Orders consistent with the Constitution for the regulation of proceedings. (s 68)
- A Public Accounts Committee is established in terms of section 69(1) and consists of—
 - a chairman and one other member (who are not Council Members) appointed by the Governor, acting after consultation with the Elected Members of the Legislative Council; and
 - 3 Elected Members of the Legislative Council, who are elected by the Council by a majority of the votes of all its Elected Members.

- The Public Accounts Committee may invite any person to assist it in its work and to participate in its proceedings. (s 69(5))
- The Public Accounts Committee must examine and report to the Legislative Council on—
 - the annual statement of accounts as audited by the Chief Auditor and laid before the Council; and
 - such management letters and reports of the Chief Auditor as have been laid before the Council or as the Chief Auditor has brought to the attention of the Council; and has such other functions, and operates under such procedures, as may be prescribed by Ordinance or by Standing Orders of the Council. (s 69(6))
- The Public Accounts Committee has power (s 69(7))—
 - to summon any person to appear before it; and
 - subject to the provisions of any law, to require any person so summoned to answer questions and to provide information to the Committee.
- The Public Accounts Committee must report to the Legislative Council by the date set by the Council or by its terms of reference. (s 69(8))
- The Public Accounts Committee must act independently and is not subject to the direction or control of the Governor, the Executive Council or any other person/authority. (s 69(10))
- Subject to the Constitution and to the Standing Orders of the Legislative Council, any Member may introduce a Bill or propose a motion for debate in, or may present a petition to, the Council (s 73(1))
- Except on the recommendation of the Governor, the Legislative Council may not proceed on any Bill introducing financial provision (e.g. a Bill imposing or increasing any tax, imposing or increasing any charge on the revenues or other funds of St Helena, or for compounding or remitting any debt due to St Helena) or proceed with any motion having such effect or receive any petition which requests provision for those purposes. (s 73(2))
- A Bill becomes law once-
 - (a) the Governor has assented to it in the Sovereign's name and on the Sovereign's behalf and has signed it in token of that assent; or
 - (b) The Sovereign has given assent to it through a Secretary of State and the Governor has signified that assent by a proclamation published in the *Gazette*. (s 74(1))
- When a Bill is presented for assent, the Governor, acting in their discretion, may either assent to it or reserve the Bill for the signification of the Sovereign's pleasure. (s74(2))
- Unless authorised by a Secretary of State to assent to it, the Governor must reserve for the signification of the Sovereign's pleasure any Bill which appears to them, acting in their discretion—
 - (a) to be inconsistent with one or more of the partnership values declared in section 2;
 - (b) to be repugnant to or inconsistent with the Constitution; or
 - (c) to determine or regulate the privileges, immunities or powers of the Legislative Council or its Members. (s 74(3))
- A Bill assented to by the Governor becomes law on the date of assent. (s 74(4))
- A Bill reserved for the signification of the Sovereign's pleasure becomes law on the date on which the Governor's proclamation signifying the giving of that assent is published in the *Gazette*. (s 74(5))

- Any law made by the Governor may be disallowed by the Sovereign through a Secretary of State. (s 75(1))
- If a law is disallowed by the Sovereign the Governor must give notice of such disallowance in the Gazette, and the law is annulled from the date of publication of that notice. (s 75(2))

(b) Ascension

- An Island Council for Ascension is established under section 149, and its composition and functions in relation to the government of Ascension may be prescribed by law.
- In terms of section 151(1), the Governor, acting after consultation with the Island Council, may make laws for the peace, order and good government of Ascension.
- Any law made by the Governor may be disallowed by the Sovereign through a Secretary of State. (s 152(1))
- If a law is disallowed by the Sovereign the Governor must give notice of such disallowance in the Gazette, and the law is annulled from the date of publication of that notice. (s 152(2))

(c) Tristan da Cunha

- An Island Council for Tristan da Cunha is established under section 214 and its composition and functions in relation to the government of Tristan da Cunha may be prescribed by law.
- The Governor, acting after consultation with the Island Council, may make laws for the peace, order and good government of Tristan da Cunha. (s 216(1))
- Any law made by the Governor may be disallowed by the Sovereign through a Secretary of State. (s 217(1))
- Whenever a law has been disallowed by the Sovereign the Governor must give notice of the disallowance in the Gazette, and the law is annulled from the date of publication of that notice. (s 217(2))

South Georgia and South Sandwich Islands Order 1985

- Section 4 establishes a Commissioner for the Territories.
- The Commissioner may make laws for the peace, order and good government of the Territories. (s 9(1))
- Any law made by the Commissioner may be disallowed by the Sovereign through a Secretary of State. (s 10(1))
- If a law has been disallowed by the Sovereign the Commissioner must give notice of such disallowance in the Gazette and the law is annulled from the date of publication of that notice. (s 10(2) & (3))
- Section 15 gives the Sovereign reserved power to make laws for the peace, order and good government of the Territories.

Sovereign Base Areas of Akrotiri and Dhekelia Order 1960

- Section 1 establishes an Administrator for the Sovereign Base Areas who is a serving officer of the Sovereign's Forces.
- The Administrator may make laws for the peace, order and good government of the Sovereign Base Areas. (s 4(1))

- Any law made by an Administrator may be disallowed by the Sovereign through a Secretary of State. (s 4(3)(a))
- If a law has been disallowed by the Sovereign the Administrator must give notice of such disallowance in the Gazette and the law is annulled from the date of publication of that notice. (s 4(3)(b))

Turks and Caicos Islands Constitution Order 2011

- There is reserved to the Sovereign power, with the advice and consent of the Privy Council, to make laws for the peace, order and good government of the Turks and Caicos Islands. (paragraph 14 of the Constitution Order)
- The Legislature is established under section 42 and consist of the Sovereign and the House of Assembly.
- The House of Assembly consists of—
 - a Speaker;
 - 15 elected members;
 - 4 appointed members; and
 - the Attorney General. (s 43(1))
- The Attorney General does not have the right to vote in the House of Assembly. (s 43(2))
- The House of Assembly must consider a Bill that gives effect to the recommendations of the report on the review of boundaries of the electoral districts of the Commission. (s 61)
- The Legislature may make laws for the peace, order and good government of the Islands. (s 62)
- Subject to the Constitution and to any Royal Instructions, the House of Assembly may make Standing Orders for the regulation of proceedings. (s 63(1))
- Standing Orders made under section 63 may provide for the establishment of committees of the House of Assembly (in addition to the Standing Committees to be established under section 64) and for the committee's proceedings. (s 63(2))
- The House of Assembly must establish at least 2 Standing Committees of the House (which are in addition to the Appropriations Committee and the Public Accounts Committee), with responsibility for monitoring the conduct of Government business. (s 64(1))
- Standing Committees consist of members of the House of Assembly who are not Ministers. (s 64(2))
- The composition of each Standing Committee must, as far as possible, proportionately reflect the parties in the House of Assembly. (s 64(3))
- At least one Standing Committee must be presided over by a member of the House of Assembly in opposition to the Government. (s 64(4))
- Each Standing Committee has 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) to require any person summoned to answer questions and provide information about the conduct of Government business; and
 - (c) to report on its activities to the House of Assembly. (s 64(5))
- In terms of section 64(6), the House of Assembly must publish reports submitted to it under subsection (5).

- Subject to the Constitution and to Standing Orders, any member may introduce a Bill or propose a motion for debate in, or present a petition to, the House of Assembly. (s 71(1))
- The House of Assembly may only proceed with a Bill or any motion that has the effect of introducing financial provisions (e.g. if the Bill imposes or increases any tax, or increases any charge on the revenues or other funds of the Islands) on recommendation of Government signified by a Minister or Governor. (s 71(2))
- The Governor has reserved powers, with the prior approval of a Secretary of State, and after consultation with the Premier, where it appears that the Cabinet is unwilling to support the introduction into the House or that the House is unlikely to pass a Bill introduced for a specific purpose, to cause the Bill to be published in the Gazette and to assent to it on behalf of the Sovereign (notwithstanding that the Bill has not been passed by the House), if the Governor considers the enactment is necessary or desirable for the following purposes:
 - (a) For securing compliance with an international obligation;
 - (b) to ensure compliance with the Statement of Governance Principles in effect;
 - (c) to ensure that sufficient funds have been appropriated, within 4 months of the commencement of each financial year, for the effective operation of committees of the House of Assembly, the courts, the Attorney General's Chambers, and each institution protecting good governance; or
 - (d) to give effect, with or without modifications, to the recommendations contained in a report of an Electoral District Boundary Commission. (s 72(1))
- A member of the Cabinet may, within 30 days of the publication of a Bill under subsection (1), submit to the Governor a statement of their comments on it, and the Governor must forward the statement, as soon as practicable, to a Secretary of State. (s 72(2))
- A Bill becomes law once-
 - (a) the Governor has assented to it in the Sovereign's name and on the Sovereign's behalf and has signed it in token of their assent; or
 - (b) The Sovereign has given assent to it through a Secretary of State and the Governor has signified assent by proclamation published in the Gazette. (s 73(1))
- When a Bill is presented to the Governor for assent, the Governor must, subject to the relevant Constitutional provisions, assent, or refuse to assent, to it, or reserves the Bill for the signification of the Sovereign's pleasure; but the Governor must reserve for the signification of the Sovereign's pleasure any Bill which appears to them -
 - (a) to be in any way repugnant to, or inconsistent with, the Constitution;
 - (b) to be in any way inconsistent with the Statement of Governance Principles;
 - (c) to be in any way inconsistent with any international obligation;
 - (d) to affect any matter for which the Governor is responsible under section 37 (such as defence);
 - (e) to affect the integrity or independence of the public service, of the administration of justice or of any institution protecting good governance; or
 - (f) to determine or regulate the privileges, immunities or powers of the House of Assembly or of its members,
 unless the Governor has been authorised by a Secretary of State to assent to it. (s 73(2))

- The Governor, acting in their discretion, may return to the House of Assembly any Bill presented for assent, transmitting with it any amendments which they recommend, and the House must deal with such recommendation. (s 74)
- Any law to which the Governor has given their assent may be disallowed by the Sovereign through a Secretary of State. (s 75(1))
- If a law has been disallowed by the Sovereign the Governor must give notice of such disallowance in the *Gazette* and the law is annulled from the date of the publication of that notice. (s 75(2))
- Section 114(1) establishes an Appropriations Committee of the House of Assembly, which consists of at least 3 members of the House appointed by the Speaker from among members who are not Ministers, at least 1 of whom must a member of the opposition.
- The Appropriations Committee may co-opt to its membership up to 2 persons who are not members of the House of Assembly, either on a continuing basis or for the purpose of a specific enquiry conducted by the Committee, and are assisted in its work by the Permanent Secretary, Finance or their nominee and permanent Committee staff. (s114(2))
- The Appropriations Committee has power to compel the production of documents and evidence from Ministers, government departments and public officers, and meets in public. (s 114(3))
- The Appropriations Committee exercises the functions conferred on it by the Constitution, by any other law or by Standing Orders. (s 114(4))
- The House of Assembly must publish all reports of the Appropriations Committee without delay. (s 114(5))
- The Appropriations Committee must scrutinise the estimates of revenues and expenditure of the Government for each financial year and make recommendations in relation to them to the House of Assembly in sufficient time for an Appropriation Bill to be passed by the House before the beginning of the financial year in question. (s 115(2))
- There is a Public Accounts Committee of the House of Assembly which consists of—
 - (a) at least 3 members of the House appointed by the Speaker from among members who are not Ministers; and
 - (b) 2 persons expert in public finance who are not members of the House, 1 appointed by the Speaker and 1 appointed by the Governor, acting in their discretion. (s 122(1))
- The Chairman of the Public Accounts Committee must be a member of the opposition. (s 122(2))
- The Public Accounts Committee must examine and report to the House of Assembly on—
 - (a) the reports submitted to the Committee by the Auditor General under section 126(4); and
 - (b) management letters and reports of the Auditor General submitted to the Committee or laid before the House or as the Auditor General has brought to the attention of the House; and has such other functions and procedures, as are prescribed by the Constitution or by Ordinance or by Standing Orders. (s122(5))
- The Public Accounts Committee has power to compel the production of documents and evidence from Ministers, departments of government and public officers, and must meet in public. (s122(6))

- The Public Accounts Committee must report to the House of Assembly by the date set by the House or by its terms of reference, whichever is the earlier. (s 122(7))
- The Auditor General is an adviser to the Public Accounts Committee, and the Committee may not meet without the Auditor General or their nominee being present. (s 122(9))
- The Public Accounts Committee may invite any person to assist it in its work and to participate in its proceedings. (s 122(10))

Virgin Islands Constitution Order 2007

- The Legislature is established under 62 and consists of the Sovereign and a House of Assembly.
- The House of Assembly consists of a Speaker, 13 elected members, and one non-voting ex officio member (the Attorney General). (s63(1))
- The Legislature has power to make laws for the peace, order and good government of the Virgin Islands. (s71)
- The House of Assembly may make Standing Orders for the regulation of proceedings. (s72)
- Subject to the Constitution, all questions proposed for decision in the House of Assembly must be determined by a majority of the votes of the members present and voting. (s 75(1))
- Only the elected members of the House of Assembly have the right to vote—
 - (a) in an election of the Speaker or Deputy Speaker;
 - (b) on a motion for the removal from office of the Speaker or Deputy Speaker; or
 - (c) on a motion that the House of Assembly should declare a lack of confidence in the Government of the Virgin Islands. (s 75(2))
- The person presiding does not vote unless the votes are equally divided in which case they have a casting vote; but where the motion is under subsection (2) the person presiding does not have a casting vote unless they are an elected member. (s75(3))
- If there are equal votes for a motion under subsection (2) the motion is lost. (s 75(4))
- Subject to the Constitution, a quorum of the House of Assembly consists of 7 members besides the person presiding at the sitting. (s 77(1))
- Subject to the Constitution and the Standing Orders, any member may introduce a Bill or propose a motion for debate in, or may present a petition to the House. (s 78(1))
- A Bill or motion making provision for imposing or increasing any tax, for imposing or increasing any charge on the revenues or other funds of the Virgin Islands or for altering any such charge otherwise than by reducing it or for compounding or remitting any debt due to the Virgin Islands may only proceed in the House of Assembly on the recommendation of the Minister responsible for finance (s 78(2))
- A Bill passed by the House of Assembly becomes a law when-
 - (a) the Governor has assented to it in the Sovereign's name and on the Sovereign's behalf and has signed it in token of such assent; or
 - (b) The Sovereign has given assent to it through a Secretary of State and the Governor has signified such assent by proclamation published in the *Gazette*. (s 79(1))
- When a Bill is presented to the Governor for assent, they may assent to it, or reserve the Bill for the signification of the Sovereign's pleasure; but unless the Governor has been

authorised by a Secretary of State to assent to it, the Governor must reserve for the signification of the Sovereign's pleasure any Bill which appears to them-

- (a) to be inconsistent with any obligation of The Sovereign or the UK Government towards any other state or power or any international organisation;
 - (b) to be likely to prejudice the Royal prerogative; or
 - (c) to be in any way repugnant to or inconsistent with the Constitution. (s 79(2))
- A law assented to by the Governor may be disallowed by the Sovereign through a Secretary of State; but no law may be disallowed until the House of Assembly has been provided with an opportunity to reconsider the law in question. (s 80(1))
 - If a law is disallowed by the Sovereign the Governor must publish a notice of the disallowance in the *Gazette* and the law is annulled from the date of publication of that notice. (s 80(2))
 - The Governor has, in their discretion, reserved powers to declare a Bill or motion as having the effect as if it had been passed or carried by the House, if the Governor considers it urgently necessary, for the purpose of complying with any international obligation applicable to the Virgin Islands, if the House fails to pass the Bill or carry the motion within such time and in such form as the Governor thinks fit. (s 81(1) &(6))
 - A Cabinet member may, within 30 days of the date of the making of a declaration under section 81, submit to the Governor a statement in writing of their comments, and the Governor must forward such statement to a Secretary of State. (s 81(3))
 - Section 81 applies to any motion—
 - (a) relating to 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 for coming into force or continuance in force of any secondary legislation. (s 81(4))
 - There is reserved to the Sovereign full power to make laws for the peace, order and good government of the Virgin Islands. (s 119)