

2019-03-21

OBJECTS AND REASONS

This Bill would amend the *Constitution* by

- (a) expanding the grounds on which a judge may be removed from office;
and
- (b) abolishing
 - (i) the Public Service Commission and establishing an Administrative, General and Professional Service Commission;
and
 - (ii) the Police Service Commission and establishing a Protective Services Commission

and provide for related matters.

Arrangement of Sections

1. Short title
2. Amendment of section 31 of the *Constitution*
3. Amendment of section 84 of the *Constitution*
4. Amendment of section 89 of the *Constitution*
5. Amendment of section 90 of the *Constitution*
6. Amendment of section 91 of the *Constitution*
7. Amendment of section 93A of the *Constitution*
8. Amendment of section 93B of the *Constitution*
9. Amendment of section 94 of the *Constitution*
10. Amendment of section 95 of the *Constitution*
11. Repeal and replacement of section 96 of the *Constitution*
12. Amendment of section 97 of the *Constitution*
13. Amendment of section 99 of the *Constitution*
14. Amendment of section 100 of the *Constitution*
15. Amendment of section 102 of the *Constitution*

16. Amendment of section 104 of the *Constitution*
17. Amendment of section 112 of the *Constitution*
18. Amendment of section 112A of the *Constitution*
19. Amendment of section 113 of the *Constitution*
20. Amendment of section 117 of the *Constitution*
21. Termination of tenure
22. Commencement

BARBADOS

A Bill entitled

An Act to amend the *Constitution*.

ENACTED by the Parliament of Barbados in accordance with the provisions of section 49 of the *Constitution* as follows:

Short title

- 1.** This Act may be cited as the *Constitution (Amendment) (No.) Act, 2019*.

Amendment of section 31 of the Constitution

- 2.** *Section 31 of the Constitution is amended in subsection (4) by deleting the words “Public Service Commission” wherever they appear and substituting the words “Administrative, General and Professional Service Commission”.*

Amendment of section 84 of the Constitution

- 3.** *Section 84 of the Constitution is amended*
- (a) *by deleting subsection (3) and substituting the following:*
- “(3) A Judge may be removed from office only
- (a) for inability to discharge the functions of his office (whether arising from inability of body or mind or any other cause);
- (b) for misbehaviour; or
- (c) for delay of more than six months in delivering a judgment.
- (3A) A Judge shall not be removed from office except in accordance with the provisions of subsection (4).”;
- (b) *in subsection (4), by deleting the words “inability as aforesaid or for misbehaviour” and substituting the words “inability, misbehaviour or delay as aforesaid”; and*
- (c) *by deleting the first five lines of subsection (5) and substituting the following:*

“(5) If the Prime Minister (in the case of the Chief Justice) or if the Prime Minister after consultation with the Chief Justice or the Chief Justice after consultation with the Prime Minister (in the case of any other judge) advises the Governor-General that the question of removing a Judge from office for inability, misbehaviour or delay as aforesaid ought to be investigated, then”.

Amendment of section 89 of the Constitution

4. Section 89 of the Constitution is amended

- (a) *in subsection (1)(b), by deleting the words “Public Service Commission” wherever they appear and substituting the words “Administrative, General and Professional Service Commission”; and*
- (b) *in subsection (4)(b), by deleting the words “Public Service Commission” wherever they appear and substituting the words “Administrative, General and Professional Service Commission”.*

Amendment of section 90 of the Constitution

5. Section 90 of the Constitution is amended

- (a) *in subsection (1), by deleting the words “a Public Service Commission” and substituting the words “an Administrative, General and Professional Service Commission”; and*
- (b) *in subsections (2) to (7), by deleting the words “Public Service Commission” wherever they appear and substituting the words “Administrative, General and Professional Service Commission”.*

Amendment of section 91 of the Constitution

6. Section 91 of the Constitution is amended

- (a) *in subsection (1), by deleting the words “Police Service Commission” and substituting the words “Protective Services Commission”; and*

- (b) *in subsections (2) to (7), by deleting the words “Police Service Commission” wherever they appear and substituting the words “Protective Services Commission”.*

Amendment of section 93A of the Constitution

7. Section 93A of the Constitution is amended

- (a) *in subsection (2), by deleting the words “Civil Establishment Act, Cap. 21” and substituting the words “Public Service Act, Cap. 29”; and*
- (b) *in subsection (3)*
 - (i) *by deleting the words “Public Service Commission” wherever they appear and substituting the words “Administrative, General and Professional Service Commission”; and*
 - (ii) *by deleting the words “Police Service Commission” wherever they appear and substituting the words “Protective Services Commission”.*

Amendment of section 93B of the Constitution

8. Section 93B of the Constitution is amended

- (a) *in subsection (2) by deleting the words “Public Service Commission” wherever they appear and substituting the words “Administrative, General and Professional Service Commission”; and*
- (b) *by deleting the words “Police Service Commission” wherever they appear and substituting the words “Protective Services Commission”.*

Amendment of section 94 of the Constitution

9. Section 94 of the Constitution is amended

- (a) *in subsection (1), by deleting the words “Public Service Commission” wherever they appear and substituting the words “Administrative, General and Professional Service Commission”;*
- (b) *in subsection (2),*
 - (i) *by deleting the words “Public Service Commission” wherever they appear and substituting the words “Administrative, General and Professional Service Commission”; and*
 - (ii) *by deleting the words “Police Service Commission” wherever they appear and substituting the words “Protective Services Commission”; and*
- (c) *by deleting subsection (3) and substituting the following:*
 - “(3) The provisions of this section shall not apply in relation to—
 - (a) the office of any member of the Governor-General’s personal staff;
 - (b) any office to which section 93 applies;
 - (c) any office to which section 93A applies;
 - (d) any office to which section 96 applies;
 - (e) any office to which section 100 applies;
 - (f) so far as they relate to power to make appointments on transfer, any office to which section 100A applies;
 - (g) the office of Director of Public Prosecutions; and
 - (h) the office of the Auditor-General.”.

Amendment of section 95 of the *Constitution*

10. *Section 95 of the Constitution is amended*

- (a) *in subsection (1), by deleting the words “Public Service Commission” wherever they appear and substituting the words “Administrative, General and Professional Service Commission”;*
- (b) *in subsection (2), by deleting the words “Police Service Commission” wherever they appear and substituting the words “Protective Services Commission”; and*
- (c) *in subsection (3), by deleting the words “Public Service Commission” wherever they appear and substituting the words “Administrative, General and Professional Service Commission”.*

Repeal and replacement of section 96 of the *Constitution*

11. *Section 96 of the Constitution is repealed and the following substituted:*

“Appointment and discipline of members of the Protective Services

96.(1) Subject to the provisions of this Constitution, power to make appointments to offices in the Police Force, the Prison Service, the Fire Service, the Customs Service, the Immigration Service and the Security Guards Service and to remove and to exercise disciplinary control over persons holding or acting in such offices, is hereby vested in the Governor-General, acting in accordance with the advice of the Protective Services Commission.

(2) Before the Protective Services Commission advises the appointment to any office referred to in subsection (1) of any person

holding or acting in any office power to make appointments to which is vested by this Constitution in the Governor-General, acting in accordance with the advice of the Judicial and Legal Service Commission, the Teaching Service Commission or the Administrative, General and Professional Service Commission, it shall consult the Judicial and Legal Service Commission, the Teaching Service Commission or the Administrative, General and Professional Service Commission, as the case may be.

(3) Parliament may make provision with respect to offences in relation to discipline of members of the Protective Services and the punishment that may be imposed for any such offence, and any power to exercise disciplinary control (including any power to remove a person from office) over members of the Protective Services conferred by or under the provisions of this Chapter shall be exercised in accordance with any such provision.

(4) For the purposes of this section “Protective Services” means the Police Force, the Prison Service, the Fire Service, the Customs Service, the Immigration Service and the Security Guards Service.”.

Amendment of section 97 of the Constitution

12. Section 97 of the Constitution is amended

- (a) *in subsection (1), by deleting the words “Police Service Commission” wherever they appear and substituting the words “Protective Services Commission”;*
- (b) *in subsection (2), by deleting the words “Public Service Commission” wherever they appear and substituting the words “Administrative, General and Professional Service Commission”; and*
- (c) *in subsection (3), by deleting the words “Police Service Commission” wherever they appear and substituting the words “Protective Services Commission”.*

Amendment of section 99 of the *Constitution*

13. *Section 99 of the Constitution is amended*

- (a) *in subsection (2), by deleting the words “Chief Establishments Officer,”; and*
- (b) *in subsection (3)*
 - (i) *by deleting paragraph (a) and substituting the following:*

“(a) in relation to any office to which section 96 applies, the Protective Services Commission;”; and
 - (ii) *in paragraph (c), by deleting the words “Public Service Commission” and substituting the words “Administrative, General and Professional Service Commission”.*

Amendment of section 100 of the *Constitution*

14. *Section 100 of the Constitution is amended by deleting subsection (4) and substituting the following:*

- “(4) In this section, “appropriate Service Commission” means
- (a) in relation to a person who holds an office to which section 93 applies as respects power to remove and exercise disciplinary control over any person holding or acting in that office, the Judicial and Legal Service Commission;
 - (b) in relation to a person who holds an office to which section 93A applies as respects power to remove and exercise disciplinary control over any person holding or acting in that office, the Teaching Service Commission;
 - (c) in relation to a person who holds an office to which section 96 applies, the Protective Services Commission;

- (d) in relation to any other person, the Administrative, General and Professional Service Commission.”.

Amendment of section 102 of the Constitution

15. *Section 102 of the Constitution is amended by deleting the words “Public Service Commission” wherever they appear and substituting the words “Administrative, General and Professional Service Commission”.*

Amendment of section 104 of the Constitution

16. *Section 104 of the Constitution is amended by deleting subsection (4) and substituting the following:*

“(4) In this section, “the appropriate Service Commission” means

- (a) in the case of an award that may be granted or is payable to a person who, having been a public officer, was immediately before the date on which he ceased to hold public office serving
 - (i) as a Judge,
 - (ii) as the Director of Public Prosecutions,
 - (iii) in any office to which section 93 applies as respects power to remove and exercise disciplinary control over any person holding or acting in that office at the date of the exercise of the power vested as aforesaid,

the Judicial and Legal Service Commission;

- (b) in the case of an award that may be granted or is payable to a person who having been a public officer, was immediately before the date on which he ceased to hold public office serving in any office to which section 93A applies as respects power to remove and exercise disciplinary control over any

person holding or acting in that office at the date of the exercise of the power vested as aforesaid, the Teaching Service Commission;

- (c) in the case of an award that may be granted or is payable to a person who, having been a public officer, was immediately before the date on which he ceased to hold public office serving in any office to which section 96 applies, the Protective Services Commission;
- (d) in any other case, the Administrative, General and Professional Service Commission.”.

Amendment of section 112 of the *Constitution*

17. *Section 112 of the Constitution is amended in subsection (4) by deleting the words “Public Service Commission and the Police Service Commission” and substituting the words “Administrative, General and Professional Service Commission and the Protective Services Commission”.*

Amendment of section 112A of the *Constitution*

18. *Section 112A of the Constitution is amended by deleting the words “Civil Establishment Act” and substituting the words “Public Service Act, Cap. 29”.*

Amendment of section 113 of the *Constitution*

19. *Section 113 of the Constitution is amended in subsection (2) by deleting the words “Public Service Commission and the Police Service Commission” and substituting the words “Administrative, General and Professional Service Commission and the Protective Services Commission”.*

Amendment of section 117 of the *Constitution*

20. *Section 117 of the Constitution is amended*

(a) *in subsection (1), by inserting in alphabetical order the following definitions:*

“ “customs officer” means the Comptroller of Customs, Deputy Comptroller of Customs, Assistant Comptroller of Customs, and Customs Officer, and includes Customs Guards appointed under the *Public Service Act*, Cap. 29;

“Customs Service” means the body of customs officers appointed under the *Public Service Act*, Cap. 29;

“Fire Service” means the Barbados Fire Service established under the *Fire Service Act*, Cap. 163;

“immigration officer” means the Chief Immigration Officer, Deputy Chief Immigration Officer, Assistant Chief Immigration Officer and Immigration Officer appointed under section 25(1) of the *Immigration Act*, Cap. 190;

“Immigration Service” means the body of immigration officers appointed under section 25(1) of the *Immigration Act*, Cap. 190;

“Prison Service” means the Barbados Prison Service established under the *Prisons Act*, Cap. 168;

“security guard” means the Chief Security Officer, Senior Security Officer, Senior Security Guard and Security Guard appointed under the *Public Service Act*, Cap. 29;

“Security Guard Service” means the body of security guards appointed under the *Public Service Act*, Cap. 29;”;

(b) *in subsection (7)(b), by deleting the words “Public Service Commission or the Police Service Commission” and substituting the*

words “Administrative, General and Professional Service Commission or the Protective Services Commission”; and

- (c) in subsection (8)(b), by deleting the words “Public Service Commission” and substituting the words “Administrative, General and Professional Service Commission”.*

Termination of tenure

21. *For the avoidance of doubt it is hereby declared that*

- (a) the tenure of the Chairman and members of the Public Service Commission and the tenure of the Chairman and members of the Police Service Commission shall terminate on the day immediately preceding the day on which this Act comes into operation; and*
- (b) the unexpired portion of their tenure shall not be transferred to the Administrative, General and Professional Service Commission or the Protective Services Commission established by the Constitution.*

Commencement

22. *This Act shall come into operation on a date to be fixed by Proclamation.*

Read three times and passed the House of Assembly this
day of _____, 2019.

Speaker

Read three times and passed the Senate this _____ day of
, 2019.

President