

THE CONSTITUTION (AMENDMENT) BILL, 2003.

Arrangement of Clauses

Clauses

1. Short title
2. Commencement
3. Alteration of the Constitution
4. Section 3 amended
5. Section 66A amended
6. Section 66D amended
7. Section 121 amended
8. Sections 122 and 123 repealed and re-enacted
9. Section 123A inserted
10. Section 127 amended
11. Section 129 amended
12. Section 132 amended
13. Section 134 amended

THE CONSTITUTION (AMENDMENT) BILL, 2003

Explanatory Note

(These notes form no part of the Bill, but are intended only to indicate its general purport)

The main purpose of the Bill is to amend the Constitution to abolish the Police Service Commission and provide for the establishment, composition and powers of the Police Management Authority. This Bill also confers on the Commissioner of Police the control and management of the Police Service and other related powers. The Public Service Appeal Board shall continue to serve as the appellate body against a decision of the Authority and Commissioner in disciplinary proceedings. The Bill requires a special majority vote.

Clause 1 provides the short title of the Act, for which this is the Bill.

Clause 2 provides the commencement provision.

Clause 3 provides that this Bill would amend the Constitution.

Clause 4 seeks to amend section 3 of the Constitution by deleting the definition of “the Police Service Commission”.

Clause 5 seeks to amend section 66A by extending the ambit of subsection (1) to apply to the Police Management Authority and the Commissioner of Police.

Clause 6 seeks to effect a consequential amendment to section 66D.

Clause 7 seeks to amend section 121(7) by substituting the Police Management Authority for the Police Service Commission.

Clause 8 seeks to repeal sections 122 and 123 and to provide for the establishment, composition and powers of the Police Management Authority.

Clause 9 seeks to confer on the Commissioner of Police the control and management of the Police Service and other relevant powers.

Clause 10 seeks to effect a consequential amendment to section 127.

Clause 11 seeks to amend section 129 to allow the Police Management Authority or Commissioner of Police to remove an officer who is convicted of a criminal offence.

Clause 12 seeks to amend section 132 to extend the right of appeal to apply to a decision made by the Police Management Authority and the Commissioner of Police.

Clause 13 seeks to amend section 134 by inserting a subsection (3A) that will provide that the powers stated in subsection (1) shall not be exercised in relation to a police officer, who, at the time he left the Police Service, was subject to the jurisdiction of the Police Management Authority, without the approval of the Authority.

BILL

AN ACT to amend the Constitution by providing for the establishment of a Police Management Authority, and for other related matters

[, 2003]

Preamble

WHEREAS it is enacted by subsection (1) of section 54 of the Constitution that Parliament may alter any of the provisions thereof:

And whereas it is provided in subsection (2) of the said section 54 that insofar as it alters certain provisions of the Constitution a Bill for an Act of Parliament under the said section 54 shall not be passed by Parliament unless at the final vote thereon in each House it is supported by the votes of not less than two-thirds of all the members of each House:

And whereas it is intended by this Act to alter the Constitution.

Enactment

ENACTED by the Parliament of Trinidad and Tobago as follows:

Short title

1. This Act may be cited as the Constitution (Amendment) Act, 2003.

Commencement

2. This Act shall come into force on a date to be fixed by the President by Proclamation.

Alteration of the Constitution

3. The Act shall be construed as altering the Constitution.

Section 3 amended

4. Section 3 is amended by deleting the words “the Police Service Commission” appearing in the definition of “Service Commission”.

**Section 66A
amended**

5. Section 66A is amended by inserting in subsection (1)(a) after subparagraph (E) the following new subparagraphs:

- “(F) the Police Management Authority established under section 122; and
- (G) the Commissioner of Police;”.

**Section 66 D
amended**

6. Section 66D is amended by deleting the words “(A) to (D)” and substituting the words “(A), (B), (C), (D), (F) and (G)”.

**Section 121
amended**

7. Section 121(7) is amended by deleting the words “the Police Service Commission” and substituting the words “the Police Management Authority”.

**Sections 122
and 123
repealed and re-
enacted**

8. The Constitution is amended –

- (a) by deleting the heading “*Police Service Commission*” appearing before section 122, and substituting the heading “*Police Management Authority*”; and
- (b) by repealing sections 122 and 123 and substituting the following new sections:

“Police Management Authority 122.(1) There shall be a Police Management Authority which shall consist of a Chairman and five other members with experience in the disciplines of law, finance or management.

(2) At least one member of the Authority shall be proficient in management.

(3) The members of the Authority shall be appointed

by the President on the advice of the Prime Minister and the Leader of the Opposition, and in the event that such advice is not forthcoming within such time as the President may deem reasonable, the President shall exercise his own deliberate judgement and appoint the members of the Authority in conformity with subsection (1).

(4) The President shall in his own discretion appoint a Chairman of the Authority from among the members.

(5) Section 126 shall apply to a member of the Authority as it applies to a member of a Service Commission.

(6) In the performance of its powers the Authority shall act in accordance with the Police Service Act, 2003 and the regulations.

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2003

(7) The Authority shall be provided with a staff adequate for the efficient discharge of its functions and may from time to time engage such special services as it may deem necessary.

(8) The Authority shall determine its own procedures for the conduct of its meetings.

**Powers of
the Police
Management
Authority**

123.(1) The Police Management Authority shall have the power to-

- (a) appoint persons to hold or act in the office of Commissioner of Police, Deputy Commissioner, Assistant Commissioner and Senior Superintendent, including the power to make appointments on promotion and to confirm appointments; and
- (b) remove from office and exercise disciplinary control over persons holding or acting in the offices specified in paragraph (a) and

to monitor the efficiency and effectiveness of the discharge of their functions.

(2) The Authority shall not remove an officer mentioned in subsection (1)(a) on the grounds of any act done or omitted to be done by him in the exercise of a judicial function conferred upon him unless the Judicial and Legal Service Commission concurs therein.

(3) Before the Authority makes an appointment to the office of Commissioner or Deputy Commissioner of Police it shall consult the Prime Minister, and a person shall not be appointed to such an office if the Prime Minister signifies to the Authority his objection to the appointment of that person to such an office.

(4) The Authority may, subject to any condition or qualification as it may think fit, delegate any of the functions conferred on it by this section to any of its members.

(5) At any meeting of

the Authority four members shall constitute a quorum.

(6) Where there is a quorum, the Authority shall not be disqualified for the transaction of businesses by reason of any vacancy among its members, and any proceeding of the Authority shall be valid even though some person who was not entitled to do so took part therein.”.

**Sections 123A
inserted**

9. The Constitution is amended by inserting after section 123 the following new section -

**“ Powers of
Commissioner
of Police**

123A.(1) Subject to section 123, the Commissioner of Police shall have the power to manage the Police Service and is required to ensure that the human, financial and material resources available to the Service are used in an efficient and effective manner.

(2) The Commissioner of Police shall have the power to-

(a) appoint persons to hold or act in an office in the Police Service, other than an officer referred to in section 123(1)(a), including

the power to make appointments on promotion and to confirm appointments;

(b) transfer any police officer; and

(c) remove from office and exercise disciplinary control over police officers, other than an officer referred to in section 123(1)(a).

(3) The functions of the Commissioner of Police under this section may be exercised by him in person or, except the power of removal, through any police officer acting under and in accordance with his general or special instructions.

(4) In the performance of his functions under this section the Commissioner of Police shall act in accordance with the Police Service Act, 2003 and the regulations.

**Section 127
amended**

10. Section 127 is amended by deleting subsection (1)(c).

Section 129

11. Section 129 is amended by inserting after subsection (7) the following new subsection -

“(8) A reference in subsection (5) to a Service Commission also includes a reference to the Police Management Authority or the Commissioner of Police, as the case may be.”.

**Section 132
amended**

12. Section 132 is amended –

(a) in subsection (1) by deleting the words “of a Service Commission, or of any person to whom the powers of the Commission have been delegated as a result of disciplinary proceedings brought against a public officer” and substituting the following words:

“of –

- (a) a Service Commission, or of any person to whom the powers of the Commission have been delegated;
- (b) the Police Management Authority or any member to whom the powers of the Authority have been delegated; or
- (c) the Commissioner of Police or of any person to whom the powers of the Commissioner have been delegated,

as a result of disciplinary proceedings brought against a public officer.”;

(b) in subsection (3), in paragraph (b) by deleting the words “the relevant Service Commission” and substituting the words “the appropriate body from whose decision the appeal has been lodged”;

- (c) in subsection (3A), by deleting the words “a Service Commission” and substituting the words “the appropriate body”; and
- (d) in subsection (3B), by deleting from subparagraph (c) the words “the Service Commission” and substituting the words “the appropriate body”.

**Section
amended** **134**

13. Section 134 is amended by –

- (a) deleting from subsection (1) the words “or subsection (3)” and inserting the words “, (3) or (3A)”;
- (b) deleting the words “Where a person” in the first line in both subsections (2) and (3) and substituting the words “Subject to subsection (3A), where a person”;
- (c) deleting from subsections (2) and (3) the words “,the Police Service Commission”; and
- (d) inserting after subsection (3) the following new subsection:

“(3A) Where a person who has been granted benefits, or who is eligible for benefits in respect of public service, at the time he ceased to be a public officer, was subject to the jurisdiction of the Police Management Authority or the Commissioner of Police, the power referred to in subsection (1) with respect to those benefits shall not be exercised without the approval of the Authority or the Commissioner as the case may be.”.

Passed in the House of Representatives this day of 2003.

Clerk of the House.

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the House of Representatives and at the final vote thereon in the House has been supported by the votes of not less than two-thirds of all the members of the House, that is to say by the votes of members of the House.

Clerk of the House.

I confirm the above.

Speaker.

Passed in the Senate this day of 2003.

Clerk of the Senate.

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the Senate and at the final vote thereon in the Senate has been supported by the votes of not less than two-thirds of all the members of the Senate, that is to say by the votes of members of the Senate.

Clerk of the Senate.

I confirm the above.

President of the Senate.