

THE CONSTITUTION (AMENDMENT) BILL, 2006

Arrangement of Clauses

Clauses

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THE CONSTITUTION (AMENDMENT) BILL, 2006

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 transfer most of the powers of the Police Service Commission to the Commissioner of Police, except the power to appoint, discipline and remove the Commissioner and Deputy Commissioner of Police. 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 Commission 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 122 to provide the method of and criteria for the appointment of the members of the Police Service Commission.

Clause 5 seeks to insert a new section after section 122 to provide the method of and grounds for the removal of the members of the Police Service Commission.

Clause 6 seeks to repeal section 123 and insert a new section to provide for the powers of the Police Service Commission.

Clause 7 seeks to insert after section 123 a new section to provide for the powers of the Commissioner of Police.

Clause 8 seeks to effect a consequential amendment to section 127.

Clause 9 seeks to amend section 129 to allow the Commissioner of Police to remove an officer who is convicted of a criminal offence.

Clause 10 seeks to amend section 132 to extend the right of appeal to apply to a decision made by the Commissioner of Police.

Clause 11 seeks to amend section 134 by inserting a subsection (3A) to 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 Commissioner of Police, without the approval of the Commissioner.

Clause 12 seeks to provide a transitional provision in relation to the members of the existing Police Service Commission and a savings provision in relation to matters being dealt with by the Commission or a person or an authority to whom powers had been delegated to by the Police Service Commission.

BILL

AN ACT to amend the Constitution to reform the Police Service Commission, confer powers on the Commissioner of Police to control and manage the Police Service, and for other related matters

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, 2006.

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 122 amended 4. The Constitution is amended in section 122 -
(a) by repealing subsection (2) and substituting the following new subsections:
“(2) The members of the Police Service Commission shall be appointed by the President, in

accordance with this section.

(3) The President may, after consultation with the Prime Minister and Leader of the Opposition nominate persons, who are qualified and experienced in the disciplines of law, finance, sociology or management, to be appointed to the Police Service Commission.

(4) The President may issue a Notification containing the names of the persons nominated under subsection (3) which shall be subject to affirmative resolution of the House of Representatives.

(5) The President may make appointments under this section only after the House of Representatives has approved the Notification.

(6) The President may in his own discretion appoint a Chairman of the Police Service Commission from among its members.”;

- (b) by renumbering subsections (3) and (4) as subsections (7) and (8) respectively; and
- (c) by inserting in the renumbered subsection (8), after the words “with section 126” the words “except subsections (4) and (5) therein”.

**Section 122A
inserted**

5. The Constitution is amended by inserting after section 122 the following new section:

**“Removal of
members**

122A.(1) The President may, after consultation with the Prime Minister and the Leader of the Opposition, terminate the appointment of a member of the Police Service Commission, if the member-

- (a) fails to attend four consecutive meetings without reasonable cause;
- (b) is convicted of a criminal charge in any court;
- (c) becomes infirm in mind or body;
- (d) fails to perform his duties in a responsible or timely manner;
- (e) fails to absent himself from meetings of the Police Service Commission where there is as a conflict of interest;
- (f) demonstrates a lack of competence to perform his duties;
- (g) misbehaves in office.

(2) The President, in the exercise of his power under subsection (1)(d) to (g), may consider the report of a Joint Select Committee laid in Parliament in furtherance of sections 66A (1)(e) and 66B.

(3) A member of the Police Service Commission may not be removed from office except in accordance with this section.”.

**Sections 123
repealed and
substituted**

6. The Constitution is amended by repealing section 123 and substituting the following new section:

**“Powers of the
Police Service
Commission**

123.(1) The Police Service Commission shall have the power to-

- (a) appoint persons to hold or act in the office of Commissioner and Deputy

- Commissioner of Police;
- (b) make appointments on promotion and to confirm appointments; and
 - (c) remove from office and exercise disciplinary control over persons holding or acting in the offices specified in paragraph (a);
 - (d) monitor the efficiency and effectiveness of the discharge of their functions; and
 - (e) prepare an annual performance appraisal report in such form as may be prescribed by the Police Service Commission respecting and for the information of the Commissioner and Deputy Commissioner of Police.

Act No... of 2006 (2) Persons appointed under subsection (1)(a) or section 22(1) of the Police Service Act, 2006 shall be selected in accordance with such criteria as may be prescribed by Order of the President.

(3) The Police Service Commission shall submit to the President, a list of the names of the persons selected to be appointed for the approval of the House of Representatives.

(4) The President may issue a Notification containing the names of the persons selected to be appointed as the Commissioner or a Deputy Commissioner of Police and the Notification shall be subject to affirmative resolution of the House of Representatives.

(5) The Police Service Commission shall appoint the Commissioner or Deputy Commissioner of Police only after the House of Representatives approves the Notification.

(6) For the purpose of subsection (1)(d), the Commissioner shall, every six months, report to the Police Service Commission on the management of the Police Service.

(7) Notwithstanding subsection (6), the Police Service Commission may, on its own initiative, request a special report from the Commissioner at any time on any matter relating to the management of the Police Service, to which the Commissioner shall respond in a timely manner.

(8) The Police Service Commission may terminate the services of the Commissioner or a Deputy Commissioner of Police on any of the following grounds:

- (a) where the officer is absent from duty without leave for fourteen consecutive days, during which he has failed to notify the Police Service

Commission of the cause of his absence, whether he holds a permanent, temporary, or contractual appointment;

(b) breach of contract, where the officer is appointed on contract;

(c) reported inefficiency based on his performance appraisal reports,

after giving him an opportunity to be heard;

(d) where the officer holds a permanent appointment—

(i) on dismissal in consequence of disciplinary proceedings;

(ii) on being retired on medical grounds;

(iii) on being retired in the public interest;

(iv) on the abolition of office.

(9) The procedure for the termination of the services of the Commissioner or a Deputy Commissioner of Police shall be prescribed by the Police Service Commission in accordance with section 129.

Sections 123A
inserted

7. The Constitution is amended by inserting after section 123 the following new section:

**“ Powers of
Commissioner
of Police**

123A.(1) Subject to section 123(1), the Commissioner of Police shall have the complete 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 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, 2006 and the regulations made thereunder.”.

**Section 127
amended**

8. The Constitution is amended in section 127(1)-
- (a) in paragraph (b) (ii) by deleting the words “; and” and substituting a full stop; and
 - (b) by deleting paragraph (c).

**Section 129
amended**

9. The Constitution is amended in section 129 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 Commissioner of Police, as the case may be.”.

**Section 132
amended**

10. The Constitution is amended in section 132–
- (a) in subsection (1) by deleting the words “of a Service Commission, or of any person to whom the powers of the Police Service 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 Police Service Commission have been delegated;
- (b) 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 134
amended**

- 11. The Constitution is amended in section 134 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 of subsections (2) and (3) and substituting the words “Subject to subsection (3A), where a person”; and
 - (c) inserting after subsection (3) the following new subsection:

“(3A) Where a person 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 Commissioner of Police, the power referred to in subsection (1) with respect to

those benefits shall not be exercised without the approval of the Commissioner.”.

**Transitional
and savings**

12.(1) Notwithstanding section 126 of the Constitution, all the members of the Police Service Commission, appointed under section 122(1), shall vacate their offices within six months after this Act comes into force, and in any event, the offices of the Commissioners are deemed to be vacant from the day following the expiry of the said six months.

(2) Any matter which, immediately before the effective date specified in subsection (1), is pending before the Police Service Commission or before any person or authority to whom the power to deal with such matters has been delegated by the Police Service Commission, as the case may be, shall, from the effective date specified in subsection (1), be continued before the corresponding Police Service Commission appointed under section 122(1) after the commencement of this Act or the said person or authority, as the case may be.

Passed in the House of Representatives this day of 2006.

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 2006.

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.