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No. 6 of 2015

Fifth Session Tenth Parliament Republic of
Trinidad and Tobago

HOUSE OF REPRESENTATIVES

BILL

AN ACT to amend the Constitution of the Republic of
Trinidad and Tobago

THE CONSTITUTION (AMENDMENT) BILL, 2015

Explanatory Note

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

This Bill seeks to amend the Constitution to give the President of the Republic of Trinidad and Tobago the power to appoint persons to the Industrial Court on the advice of the Judicial and Legal Service Commission.

In addition, the Judicial and Legal Service Commission, before advising the President, shall co-opt from among practicing professionals in the field of industrial relations, labour, economics and others as regards advice in relation to those Justices of the Court who do not have the qualifications to be appointed as a Judge of the Supreme Court of Judicature.

Clause 1 of the Bill would provide for the title of the Bill.

Clause 2 of the Bill would allow for the Act to come into operation by Proclamation.

Clause 3 of the Bill would provide for the Act to be construed although it alters the Constitution.

Clause 4 of the Bill would provide for the amendment of section 54(2) of the Constitution.

Clause 5 of the Bill would provide for the amendment of section 106 of the Constitution.

Clause 6 of the Bill would insert a new section 107A of the Constitution to provide for the procedure to be applied for the appointment of Justices of the Industrial Court who shall be appointed by the President of the Republic of Trinidad and Tobago, on the advice of the Judicial and Legal Service Commission. Under the new section, Justices who do not have the qualifications to be appointed as Judges of the Supreme Court of Judicature will be appointed by the President on the advice of the Judicial and Legal Service Commission and on consultation with the persons set out in subsection (4) of the Bill. This clause will also provide for the revocation and other terms and conditions for the appointment of Justices, who will be able to continue as a Justice once they were a member of the Industrial Court before the passage of this Bill.

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Trinidad and Tobago

[, 2015]

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

And whereas it is provided in subsection (3) of the
said section 54 that insofar as it alters that section 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 the House of Representatives it is supported by the votes of not less than three-fourths of all the members of the House and in the Senate, by the votes of not less than two-thirds of all members of the Senate:

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, 2015.
Commencement	2. This Act comes into operation on such date as is fixed by the President by Proclamation.
Alteration of the Constitution	3. This Act shall be construed as altering the Constitution.
Section 54 amended	4. Section 54(2) of the Constitution is amended by inserting after the words "107," the words "107A,".
Section 106 amended	5. Section 106 of the Constitution is amended in subsection (1), by inserting after the words "104(3)" the word "107".
Section 107 amended	6. The Constitution is amended by inserting after section 107, the following section:
	<p><small>"Appointment of Justices of the Industrial Court</small> 107A. (1) Justices of the Industrial Court shall be appointed by the President of the Republic of Trinidad and Tobago acting in accordance with the advice of the Judicial and Legal Service Commission.</p> <p>(2) The Justices of the Industrial Court shall be selected from among—</p> <p>(a) Attorneys-at-law of not less than ten years' standing;</p> <p>(b) persons who possess professional qualifications in industrial relations, occupational health and</p>

safety or management, including human resource management, and have had specialist experience in any or all of those fields for a period of, or periods amounting in the aggregate to, not less than ten years;

- (c) persons who have been members of a trade union or who have been representatives of employers or other persons who have been practitioners of employment relations for a period of, or periods amounting in the aggregate to, not less than ten years;
- (d) persons who possess professional qualifications in economics or accountancy and have had specialist experience in any or both of those fields for a period of, or periods amounting in the aggregate to, not less than ten years; and
- (e) persons qualified in any other combination of the disciplines referred to in paragraphs (i) to (iv) but with specialist experience amounting in the aggregate to, not less than ten years.

(3) Before the Judicial and Legal Service Commission advises the President of the Republic of Trinidad and Tobago on appointments to the post of Justices of the Industrial Court of persons who do not have the qualifications to be appointed as a Judge of the Supreme Court of Judicature, it shall consult with the persons set out in subsection (5).

(4) The President, Vice-President and Chairman of the Essential Services Division

and Justices of the Court who have the qualifications to be appointed as Judges of the Supreme Court of Judicature may be appointed to the Industrial Court by the President of Trinidad and Tobago on the advice of the Judicial and Legal Service Commission without the need to seek the advice of the persons set out in subsection (5).

(5) The Judicial and Legal Service Commission shall, for the purposes of appointment to the offices under subsection (2) where necessary, co-opt from among the following persons to advise the Judicial and Legal Service Commission on the appointment to those offices:

- (a) an industrial relations professional;
- (b) a practicing labour economist;
- (c) a practicing accountant;
- (d) the organization most representative of employers;
or
- (e) the organization most representative of workers.

(6) The Judicial and Legal Service Commission shall, in relation to the Vice-President and Chairman of the Essential Services Division and persons under subsection (4), consult with the President of the Court.

(7) Notwithstanding that he has attained the age at which he is required by section 136 of the Act to vacate his office, a Justice of the Court referred to in that subsection, may, with the permission of the Judicial and Legal Service Commission, acting in accordance with the advice of the President of the Court, continue in office for such period

after attaining that age as may be necessary to enable him to deliver judgment or to do any other thing in relation to proceedings that were commenced before him before he attained that age.

(8) The appointment of any person under subsection (1) to act in the office of Justice of the Industrial Court shall continue to have effect until it is revoked by the President acting on the advice of the Judicial and Legal Service Commission.

(9) Where—

(a) the office of a Justice of the Court, other than the President or the Vice-President of the Court, is vacant;

(b) a Justice of the Court, other than the President or the Vice-President of the Court, is—

(i) for any reason unable to carry out his functions under this Act; or

(ii) acting as Vice-President of the Court; or

(c) the President of the Court advises the President of the Republic of Trinidad and Tobago that the state of business of the Court so requires,

the President of the Republic of Trinidad and Tobago, acting in accordance with the advice of the Judicial and Legal Service Commission may, notwithstanding section 136 of the Act, appoint a person who has held office as a Justice of the Court and who has attained the age of

sixty-five years to be temporarily a Justice of the Court for fixed periods of not more than two years.

(10) Nothing done by a Justice of the Industrial Court appointed other than under subsection (6), shall be invalid by reason only that he has attained the age at which he is required under section 136 of the Act to vacate his office.

(11) A Justice of the Industrial Court appointed other than under subsection (6), shall vacate his office if, with his consent, he is appointed a Senator or nominated for election to the House of Representatives.

(12) Section 136 of the Constitution is amended in subsection (13), by inserting after the word "Judge" the words "or Justices of the Industrial Court".

(13) The provisions of sections 105, 106 and 107 of the Constitution shall apply to Justices of the Industrial Court as they do Puisne Judges under those sections.

(14) A person who, immediately before the commencement of the Constitution (Amendment) Bill, 2015 was a member of the Industrial Court holding office for a period specified in his instrument of appointment shall, from the commencement of this section, be deemed to be a Justice of the Industrial Court until the expiration of that period and, upon the expiration of that period, he shall, on application to the Judicial and Legal Service Commission, be eligible for reappointment as a Justice of the Industrial Court."

Passed in the House of Representatives this day
of , 2015.

Clerk of the House

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed in the House of Representatives and at the final vote thereon in the House has been supported by the votes of not less than three-fourths 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 , 2015.

Clerk of the Senate

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed in 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 Senators.

Clerk of the Senate

I confirm the above.

President of the Senate

No. 6 of 2015

FIFTH SESSION
TENTH PARLIAMENT

REPUBLIC OF
TRINIDAD AND TOBAGO

BILL

AN ACT to amend the Constitution of
the Republic of Trinidad and
Tobago

Received and read the

First time

Second time

Third time
