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Act 2021-22: Constitution (Amendment) (No. 2) Act, 2021.

S.I. 2021 No. 67: Emergency Management (COVID-19) (Curfew)
(No. 19) Directive, 2021.

Law Revision Correction Notice

1. The Constitution (Amendment) (No. 2) Act, 2021-21 which was published in Part A of the Official Gazette on 7th October, 2021 was inadvertently published with the incorrect commencement date of 7th October, 2021.
2. However, section 3 of the Act provides that the Act is to come into operation by Proclamation.
3. The Act is reprinted in this publication to indicate that the commencement date is to be fixed by Proclamation.

Law Revision Commissioner



BARBADOS

CONSTITUTION (AMENDMENT) (NO. 2) ACT, 2021–22

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BARBADOS

I assent
S. MASON
Governor-General
7th October, 2021.

2021–22

An Act to alter the *Constitution* in order

- (a) to provide for Barbados to become a republic with a President who shall be Head of State of Barbados; and
- (b) to provide for related matters.

WHEREAS section 49 of the *Constitution* provides that Parliament may, by an Act of Parliament passed by both Houses, alter the *Constitution*:

AND WHEREAS that section further provides that a Bill for an Act of Parliament under that section that alters certain fundamental provisions of the

Constitution shall not be passed in either House unless at the final voting in the House the Bill is supported by the votes of not less than two-thirds of all the members of the House:

AND WHEREAS the Parliament of Barbados by this Act intends to alter the *Constitution*, including the fundamental provisions of the *Constitution*:

[Commencement: by Proclamation]

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

PART I

SAVINGS AND TRANSITIONAL PROVISIONS RELATING TO
BARBADOS BECOMING A REPUBLIC

Short title

1. This Act may be cited as the *Constitution (Amendment) (No. 2) Act, 2021*.

Interpretation

2. In this Act,

“appointed day” means the day fixed by Proclamation of the Governor-General for the coming into operation of this Act;

“existing law” means any law having effect as part of the law of Barbados immediately before the appointed day, including any law made before the appointed day and coming to operation on or after that day;

“Independence Order” means the *Barbados Independence Order, 1966* (L.N. 1966 No. 1455) (UK);

“State” means Barbados.

The appointed day

3. The Governor-General shall by proclamation published in the *Gazette* fix a day for the coming into operation of this Act.

Constitution of Barbados

4.(1) The Independence Order is revoked; but the revocation of that Order shall not affect the validity of the *Constitution* set out in the *Schedule* to that Order.

(2) The *Constitution* referred to in subsection (1) shall be altered in accordance with the provisions of section 49 thereof in the manner and to the extent set out in this Act; and on the appointed day the *Constitution* as so altered shall become the *Constitution* and supreme law of Barbados.

Existing law

5.(1) Subject to this section, the operation of the existing law on and after the appointed day shall not be affected by the revocation of the Independence Order but the existing law shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring existing law into conformity with the *Constitution*.

(2) The President may, by order made at any time within the period of 3 years next after the appointed day, make such modifications to any existing law as appears to him to be necessary or expedient for bringing that law into conformity with the *Constitution*.

(3) Subsection (2) does not affect any power conferred by any law upon any person or authority, other than the President, to modify any existing law.

(4) Where anything

(a) was done under an existing law before that law was modified by or under this section; and

- (b) would, but for this subsection, cease by virtue of that modification to have effect,

that thing shall continue to have effect after the modification as if it had been done under the existing law as so modified.

(5) In subsection (2), “modification” includes amendment, adaptation or other alteration authorised by subsection (1).

(6) Without prejudice to the generality of subsections (1) to (4) and subject to any order made under subsection (2), in any existing law which continues in force after the appointed day or in any public document, in relation to any time or any period commencing on or after the appointed day, unless the context otherwise requires

- (a) any reference to Her Majesty the Queen, whether or not that expression is used, or to the Crown or to the Sovereign shall be read and construed as if it were a reference to the State;
- (b) any reference to the Governor-General, shall be read and construed as if it were a reference to the President;
- (c) any reference to Crown lands shall be read and construed as a reference to State lands; and
- (d) any reference to Her Majesty’s dominions shall be read and construed as a reference to the Commonwealth.

Prerogative and privilege

6.(1) Where under any existing law any prerogative or privilege is vested in Her Majesty or the Crown or the Sovereign that prerogative or privilege shall, on the appointed day, vest in the State and, subject to the *Constitution* and any other law, the President shall have power to do all things necessary for the exercise thereof on or after that day.

(2) Where under any existing law any rights, powers, privileges, duties or functions are conferred or imposed on the Governor-General, those rights,

powers, privileges, duties and functions shall, on the appointed day, vest in and be exercisable by the President.

Legal proceedings and other matters

7.(1) Subject to subsection (2), all actions, suits and other legal proceedings pending before any court on the appointed day shall continue before that court, including the Supreme Court established by the *Constitution*, and the Caribbean Court of Justice as if they had been commenced in that court under the *Constitution*.

(2) Any criminal proceedings pending in any court immediately before the appointed day in which Her Majesty the Queen is a party may be continued after the appointed day with the substitution of the State as a party.

(3) Where any matter or thing has been commenced before the appointed day by the Governor-General in exercise of any power in that behalf under any existing law, such matter or thing may be continued and completed by the President on or after the appointed day.

Succession to property

8.(1) All property which immediately before the appointed day is vested in the Crown, shall, on the appointed day, vest in the State.

(2) All property which immediately before the appointed day is liable to be forfeited to the Crown shall, from the appointed day, be liable to be forfeited to the State.

(3) Where, immediately before the appointed day, any person holds any property in trust for the Crown or for the purposes of Barbados or for the Governor-General for the purposes of the Government, that person shall from the appointed day, hold such property on the like trusts for the State with effect from that day.

Rights, liabilities and obligations

9.(1) All rights, liabilities and obligations of Her Majesty shall, on and after the appointed day, be rights, liabilities and obligations of the State.

(2) All rights, liabilities and obligations of the Governor-General or the holder of any other office under the Crown in right of the Government of Barbados, shall, on and after the appointed day, be rights, liabilities and obligations of the President or of the holder of that other office, as the case may be, on behalf of the State.

(3) In this section, rights, liabilities and obligations include rights, liabilities and obligations arising from contract or otherwise, other than rights mentioned in sections 6 or 8.

Existing officers

10.(1) Subject to the provisions of this Act and of the *Constitution*, every person who immediately before the appointed day holds or is acting in a public office shall, as from that day, continue to hold or act in the like office as if he had been appointed to that office in accordance with the provisions of the *Constitution*.

(2) A person who under any existing law would have been required to vacate his office at the expiration of any period shall vacate his office at the expiration of that period.

Judges of the Supreme Court

11. The Judges of the Supreme Court, holding office immediately before the appointed day shall, as from that day, continue to hold office as if they had been appointed thereto under the provisions of the *Constitution*.

Oaths

12.(1) A person who, on the appointed day holds an office to which this section applies, by virtue of having been the holder of the like office before that

day, shall be deemed to have complied with the requirements of the *Constitution* or any other law relating to the taking of oaths with respect to that office.

- (2) This section applies to the following offices:
- (a) Prime Minister,
 - (b) Minister,
 - (c) Parliamentary Secretary,
 - (d) President of the Senate,
 - (e) Speaker of the House of Assembly,
 - (f) Leader of the Opposition,
 - (g) Director of Public Prosecutions,
 - (h) Auditor-General,
 - (i) Chairman or member of a Service Commission,
 - (j) Chairman or a member of the Electoral and Boundaries Commission;
and
 - (k) an office to which section 10 or 11 applies.

Provisions relating to existing Commissions

13.(1) Any power of a Commission established by the *Constitution* before the appointed day, which immediately before that day, was validly delegated to any person or authority shall, to the extent that that power could be delegated under the *Constitution* to such person or authority, be deemed as from the appointed day, to have been delegated to that person or authority in accordance with the provisions of the *Constitution*.

(2) Any matter which immediately before the appointed day is pending before an existing Commission or, as the case may be, before a person or authority to whom the power to deal with such matters has been delegated under the

Constitution shall, as from the appointed day continue before the Commission or, as the case may be, before the said person or authority where such delegation has been continued under subsection (1).

(3) Where an existing Commission or, as the case may be, a person or authority referred to in subsection (1) has, immediately before the appointed day, partly completed the hearing of disciplinary proceedings, in this subsection referred to as “the original hearing” no person shall take part in the continued hearing unless he has also taken part in the original hearing; and where by virtue of this subsection and subsection (2) the original hearing cannot be continued the hearing of the disciplinary proceedings shall be commenced *de novo*.

(4) Except in the case of the Judicial and Legal Service Commission, a person who immediately before the appointed day holds the office of Chairman or other member of an existing Service Commission, shall, as from the appointed day continue to hold the like office as if he had been appointed in accordance with the provisions of the *Constitution*.

(5) The persons holding the office of Chairman and members of the Electoral and Boundaries Commission on the day immediately before the appointed day shall, as from the appointed day, continue to hold the like office in the Electoral and Boundaries Commission under the *Constitution* as if they had been appointed to such offices in accordance with the *Constitution*.

Election of first President

14.(1) In accordance with the provisions of this section,

- (a) the Prime Minister shall; and
- (b) the Leader of the Opposition may,

no later than 15th October, 2021, nominate a person to be elected as the President of Barbados.

(2) If the Prime Minister and the Leader of the Opposition make in writing to the Speaker a joint nomination of a qualified candidate for election as President, being a nomination to which that candidate has consented, the Speaker shall

notify both Houses of the joint nomination and, at a joint meeting of both Houses, the Speaker shall ask the members whether any member has an objection to the candidate being declared duly elected and if no member objects thereto, the Speaker shall declare the candidate duly elected.

(3) If there is an objection under subsection (2) the Speaker shall not declare the candidate duly elected but shall suspend the joint meeting.

(4) The members of each House shall immediately following the suspension, resume in their respective House and the presiding officer of each House shall put the question referred to in subsection (2) to a vote.

(5) Immediately upon announcing the result of the vote in each House, the joint sitting shall resume and the President of the Senate and the Speaker of the House of Assembly shall each announce the result of the vote.

(6) If the candidate receives not less than two-thirds of the votes cast in each House, the Speaker shall then declare the candidate duly elected.

(7) If the Prime Minister and the Leader of the Opposition before the 15th October, 2021 nominate separate persons for election to the office of President, the Speaker shall notify both Houses of Parliament with a view to the holding of an election for an appointment to the office of President.

(8) The Speaker shall cause adequate notice of the election of a President to be published in the *Gazette* but the period of such notice shall be not less than,

(a) if there is only one nominee, seven days; and

(b) if there is more than one nominee, fourteen days.

(9) Subsections (12), (14) and (16) of section 32 of the *Constitution* apply, *mutatis mutandis*, to this section.

(10) The person elected under the provisions of this section shall assume the office of President on 30th November, 2021.

(11) Chapter IV, except sections 32 and 33, of the *Constitution* shall apply to the person elected to the office of President under this section as if that person had been elected to that office under the provisions of that Chapter.

(12) For the purposes of this section, if the Prime Minister and the Leader of the Opposition each nominate the same person, the nominations shall be deemed to be a joint nomination.

Saving for offices of Prime Minister and Ministers

15.(1) The person who immediately before the appointed day holds the office of Prime Minister shall as from that day continue to hold office as Prime Minister as if he had been appointed to that office under the provisions of section 65(1) of the *Constitution*.

(2) Where the person who is Prime Minister under subsection (1) is for any reason unable to act or where the office of Prime Minister is vacant, the President, acting on the advice of the Prime Minister, if the Prime Minister is able so to do, shall appoint a person who is a Minister under subsection (3) to perform the functions of Prime Minister until such time as that person is again able to perform his functions as Prime Minister or until the next general election after the appointed day is held, whichever first occurs.

(3) Any person, other than the Prime Minister, who immediately before the appointed day holds office as a Minister shall as from that day hold the like office as if that person had been appointed in accordance with the provisions of section 65(2) of the *Constitution*.

(4) Any person holding the office of Prime Minister or other Minister by virtue of the provisions of subsections (1) to (3) who, immediately before the appointed day, was assigned responsibility for any matter or department of Government shall, as from that day be deemed to have been assigned responsibility for such matter or department under the *Constitution*.

(5) A person who, immediately before the appointed day holds the office of Parliamentary Secretary under the *Constitution*, shall, as from that day, hold the

like office as if that person had been appointed in accordance with the provisions of the *Constitution*.

(6) The person who, immediately before the appointed day, holds the office of President of the Senate, shall, as from that day, hold the like office as if he had been appointed in accordance with the provisions of the *Constitution*.

(7) The person who, immediately before the appointed day, holds the office of Speaker, shall, as from that day, continue to hold the like office as if he had been appointed in accordance with the provisions of the *Constitution*.

(8) The person who, immediately before the appointed day, holds the office of Leader of the Opposition, shall as from that day, continue to hold the like office as if he had been appointed in accordance with the provisions of the *Constitution*.

Validation of certain enactments

16.(1) An enactment to which this section applies is to be taken to have been validly passed or made and to have had full force and effect as part of the law of Barbados immediately before the appointed day even if it was inconsistent with any provision of the *Constitution* in force before the appointed day.

- (2) An enactment is an enactment to which this section applies if
- (a) it was passed or made by Parliament or another person or authority under or by virtue of the *Constitution* in force before the appointed day; and
 - (b) before the appointed day it had not
 - (i) lapsed or been repealed or become spent or otherwise had its effect; or
 - (ii) been declared by a competent court to be void by reason of inconsistency with a provision of the *Constitution*.

Saving for prescribed matters

17.(1) An enactment to which this section applies continues in full force and effect on and after the appointed day for all purposes of the *Constitution* until some other matter or thing is prescribed under the *Constitution* for the purposes of the *Constitution*.

(2) This section applies to any enactment duly passed or made by Parliament or another person or authority under or by virtue of the *Constitution* before the appointed day and in force immediately before the appointed day

- (a) prescribing any matter or thing required or authorised by the *Constitution* in force before the appointed day to be prescribed for the purposes of that *Constitution*; and
- (b) that is correspondingly required or authorised by the *Constitution* to be prescribed for the purposes of the *Constitution*.

Parliament

18. Notwithstanding anything contained in section 61(3) of the *Constitution* (but subject to the provisions of subsections (4) and (5) of that section) Parliament shall, unless sooner dissolved, stand dissolved on the expiration of five years from the first sitting of the existing House of Assembly after the general election of members of the House of Assembly last preceding the appointed day.

Saving for Standing Orders

19. The Standing Orders of the Senate and the House of Assembly as in force immediately before the appointed day

- (a) continue in force on and after that day as the Standing Orders of the Senate and the House of Assembly, respectively under the *Constitution*; and

- (b) are to be read and construed with such modifications as may be necessary to bring them into conformity with the *Constitution*.

PART II

ALTERATION OF THE CONSTITUTION

Amendment of section 4 of the Constitution

20. *Section 4(a) of the Constitution is deleted and the following is substituted:*

“(a) his father possesses such immunity from suit and legal process as is accorded to an envoy of a foreign sovereign State accredited to Barbados and neither of his parents is a citizen of Barbados; or”

Repeal and replacement of Chapter IV of the Constitution

21. *Chapter IV of the Constitution is deleted and the following is substituted:*

“CHAPTER IV

THE PRESIDENT

Office of President and Head of State

- 28.(1) There shall be a President who shall be the Head of State.
- (2) The President shall be Head of the armed forces.
- (3) The President shall have such functions as are assigned to him by this *Constitution* or any other law.

Qualification

29. A person is qualified to be nominated for election as President if he is a citizen of Barbados by birth or descent.

Disqualifications

30. A person is not qualified to be elected to the office of President if he

- (a) is a member of the House of Assembly or Senate;
- (b) was a member of the House of Assembly or Senate within the period of twelve months immediately preceding the date of his nomination; or
- (c) is disqualified to be elected as a member of the House of Assembly by virtue of section 44 or any law made under subsection (2) of that section.

Determination of certain questions

31.(1) The Court of Appeal has exclusive jurisdiction to hear and determine any question whether a person is qualified to be nominated for election, or to be elected, as President.

(2) An application to the Court of Appeal for the determination of such a question may be made by the Attorney-General or by any member of the House of Assembly and, if the application is not made by the Attorney-General, the Attorney-General may intervene and may then appear or be represented in the proceedings.

(3) Parliament shall regulate the powers, practice and procedure of the Court of Appeal in relation to applications under subsection (2).

(4) Without prejudice to the generality of subsection (3), Parliament may make provision regulating the time within which and the conditions upon which applications under subsection (2) may be made,

but, until such provision has been made, the procedure for moving the Court of Appeal shall be regulated by rules of court.

(5) A certificate by the Speaker stating that a person has been declared duly elected under section 32 is conclusive evidence of the facts stated in the certificate and shall not be questioned in any court.

Election of President

32.(1) Whenever the office of President is vacant, or if the term of office of the President is due to expire within not more than ninety days, the Prime Minister shall consult with the Leader of the Opposition with a view to their joint nomination of a candidate for election as President.

(2) If the Prime Minister and the Leader of the Opposition make in writing to the Speaker a joint nomination of a qualified candidate for election as President, being a nomination to which that candidate has consented, the Speaker shall notify both Houses of the joint nomination and, at a joint meeting of both Houses, shall ask the members whether any member has an objection to the candidate being declared duly elected, if no member objects thereto, the Speaker shall declare the candidate duly elected.

(3) If there is an objection under subsection (2) the Speaker shall not declare the candidate duly elected but shall suspend the joint meeting.

(4) The members of each House shall, immediately following the suspension, resume in their respective House and the presiding officer of each House shall put the question referred to in subsection (2) to a vote.

(5) Immediately upon announcing the result of the vote in each House, the joint sitting shall resume and the President of the Senate and the Speaker shall each announce the result of the vote.

(6) If the candidate receives not less than two-thirds of the votes cast in each House, the Speaker shall then declare the candidate duly elected.

(7) If the Prime Minister and the Leader of the Opposition do not within sixty days of a vacancy occurring in the office of President make to the Speaker a joint nomination in accordance with subsection (2), the Speaker shall notify both Houses accordingly, with a view to the holding of an election under this section to fill the vacancy.

(8) If the Prime Minister and the Leader of the Opposition do not act in accordance with subsection (7) and the Speaker notifies both Houses in accordance with that subsection then,

(a) the Prime Minister,

(b) the Leader of the Opposition, and

(c) any ten members of the House of Assembly, jointly,

may each, within the period of fourteen days after receipt by both Houses of a notification under that subsection, nominate one qualified candidate, being a person who has consented to be nominated.

(9) The Speaker shall, after the expiration of the period mentioned in subsection (8) and before the House proceeds to any other business, inform the House of the nominations referred to in that subsection and announce a date for the holding of an election under this section.

(10) The members of each House shall convene in their respective House for the purpose of an election occasioned by subsection (8) and the members of each House shall immediately upon the announcement of the result of the vote resume the joint meeting of the two Houses and the President of the Senate and the Speaker shall each announce the result of the vote.

(11) The Speaker shall cause adequate notice of such an election to be published in the *Gazette*, but the period of such notice shall not be more than twenty-one days following the date of such publication.

(12) If on the date duly fixed for an election under this section there is only one candidate, the Speaker shall, at a joint meeting of both

Houses, if there is no objection from any of the members, declare that candidate duly elected without putting the question to a vote; but if there is an objection subsections (2), (3), (4), (5) and (6) shall apply.

(13) The method of voting in an election under this section is by secret ballot.

(14) Where there is a ballot under this section, the Speaker shall declare that candidate duly elected who receives the vote of not less than two-thirds of the votes cast in each House.

(15) Subject to this section and to section 31, the Speaker may regulate the procedure of the joint meeting of both Houses and, in particular, may postpone or adjourn the joint meeting of both Houses and take such other measures as he may deem necessary or expedient for

- (a) the conduct of an election under this section; or
- (b) dealing with any difficulties that may arise in connection with the conduct of such an election.

(16) For the purposes of this section, if the Prime Minister and the Leader of the Opposition each nominate the same person, the nominations shall be deemed to be a joint nomination.

(17) In this section, the expression "qualified", in relation to a candidate for election as President, means one in respect of whom the provisions of sections 29 and 30 are, or will be, satisfied in relation to the election.

Acting President

33. Where the office of President is vacant or the President is incapable of performing the functions of President by reason of illness or absence from Barbados or is on vacation leave or for any other reason unable to perform the functions of the office, the Prime Minister shall, after consultation with the Leader of the Opposition, appoint a person

who is qualified to be elected to the office of President to act during the vacancy or as the case may be, during the absence of the President.

Term of office

34.(1) A person who has been declared duly elected President under section 32 shall assume office

- (a) if the office is vacant at the time, on the day next after the declaration; or
- (b) if there is an incumbent in office, on the day next after the incumbent vacates office.

(2) Subject to this section and to section 34B, the President shall hold office for a term of four years beginning on the date of the President's assumption of office and is eligible for re-election.

(3) The Prime Minister shall, at least six months before the expiry of the term referred to in subsection (1) after consultation with the Leader of the Opposition, grant the incumbent President a further term not exceeding four years as may be agreed between the President and the Prime Minister.

(4) If the Prime Minister and the Leader of the Opposition fail to agree on the grant of a further term to the incumbent President then, the provisions of section 32 shall take effect.

(5) Parliament may by resolution passed by both Houses, extend the term of office of the President as prescribed by subsection (2) for a period not exceeding six months in order to avoid the holding of an election to the office of President

- (a) during a period when Parliament is dissolved; or
- (b) at a time considered by Parliament to be too close to the beginning or the end of a period when Parliament is dissolved.

Conditions of office

34A.(1) Except in the case of a person performing the functions of President under section 33, the President shall not hold any other office of emolument or profit, whether in the public service or otherwise.

(2) The salary and other allowances paid to the President are not subject to taxation.

Vacation of office

34B. The office of President becomes vacant before the expiration of the term of his office as fixed by section 34 if the person holding that office

- (a) dies;
- (b) resigns the office by instrument in writing addressed to the House of Assembly and delivered to the Speaker; or
- (c) is removed from office under sections 34C and 34D.

Removal from office

34C. The President may be removed from office

- (a) if he wilfully violates any provision of the *Constitution*;
- (b) if he behaves in a way that endangers the security of the State;
- (c) for inability to discharge the functions of his office (whether arising from inability of body or mind or any other cause); or
- (d) for misbehaviour.

Procedure for removal from office

- 34D.**(1) The President shall be removed from office where
- (a) a motion that his removal from office should be investigated by a tribunal is proposed in the House of Assembly;
 - (b) the motion states full particulars of the grounds on which his removal from office is proposed, and is signed by not less than one-third of the total membership of the House of Assembly;
 - (c) the motion is adopted by the votes of not less than two-thirds of the membership of each house;
 - (d) a tribunal consisting of the Chief Justice and three other Judges who have held high judicial office in a court of unlimited jurisdiction in a Commonwealth country, other than Barbados, investigate the complaint and report on the facts to the House of Assembly; and
 - (e) the Senate and the House of Assembly sitting in their respective House on the summons of the President of the Senate and the Speaker consider the report and by resolution supported by the votes of not less than two-thirds of the membership of each House, the Senate and the House of Assembly in joint session declare that he shall be removed from office.
- (2) Where a motion is adopted as is provided for in subsection (1)(a), (b), and (c) the President shall cease to perform his functions as President and the President of the Senate shall act temporarily as President.
- (3) The tribunal may regulate its own procedure.

(4) Upon the adoption of the resolution in accordance with subsection (1)(c) the office of President becomes vacant with immediate effect.

Oath

34E.(1) A President shall before entering upon the duties of his office take and subscribe the oath of office set out in the *First Schedule*, such oath being administered by the Chief Justice or such other Judge as may be designated by the Chief Justice.

(2) Subsection (1) shall apply to any person required under this *Constitution* to perform the functions of the office of President as it applies to a person elected as President.

Personal staff of President

34F.(1) Parliament may prescribe the offices

- (a) that are to constitute the personal staff of the President;
- (b) salaries and allowances that are to be paid to the members of the staff; and
- (c) other sums that are to be paid in respect of the expenditure attaching to the office of President.

(2) Any salaries or other sums prescribed under subsection (1) are hereby charged on and shall be paid out of the Consolidated Fund.

(3) Subject to subsections (4), (5) and (6) power to make appointments to the offices prescribed under subsection (1) shall be for such time as the President in his discretion determines.

(4) The President, acting in his discretion, may appoint to any of the offices prescribed under subsection (1) such public officers as he may select from a list submitted by the Administrative, General and Professional Service Commission.

- (5) An officer referred to in subsection (4)
- (a) shall not, during his service on the personal staff of the President, perform the functions of a public office; and
 - (b) may at any time be appointed by the President, if the Administrative, General and Professional Service Commission so recommends, to assume or resume the functions of a public office and he shall thereupon vacate his office on the personal staff of the President, but the President may, in his discretion, decline to release the officer for that appointment.
- (6) All offices prescribed under subsection (1) as offices that are to constitute the personal staff of the President shall, for the purposes of Chapter VIII, be deemed to be public offices.

Exercise of President's functions

34G.(1) The President shall act in accordance with the advice of the Cabinet or a Minister acting under the general authority of the Cabinet in the exercise of his functions other than

- (a) any function which is expressed, in whatever terms, to be exercisable by him on or in accordance with the recommendations or advice of, or with the concurrence of, or after consultation with, any person or authority other than the Cabinet; and
 - (b) any function which is expressed in whatever terms, to be exercisable by him in his discretion.
- (2) Subsection (1) does not apply to the functions conferred upon the President by the following provisions of this *Constitution*, that is to say
- (a) section 61(2) (which requires the President to dissolve Parliament in certain circumstances);

-
- (b) section 66(2) (which requires the President to revoke the appointment of the Prime Minister in certain circumstances); and
 - (c) section 84(4) which requires the President to remove a Judge from office in certain circumstances.
 - (3) Where the President is directed to exercise any function on the recommendation of any person or authority, he shall exercise that function in accordance with such recommendation.
 - (4) Before the President acts pursuant to subsection (3)
 - (a) he may, in his discretion, once refer that recommendation back for reconsideration by the person or authority concerned; and
 - (b) if that person or authority, having reconsidered the original recommendation under paragraph (a), substitutes a different recommendation, the provisions of this section and subsection (3) shall apply to the different recommendation as they apply to the original recommendation.
 - (5) Where the President is directed to exercise any function after consultation with any person or authority he shall not be obliged to exercise that function in accordance with the advice of that person or authority.
 - (6) Where the President is directed to exercise any function in accordance with the recommendation or advice of, or with the concurrence of, or after consultation with, any person or authority, the question whether he has so exercised that function shall not be enquired into in any court.

(7) Where the President is directed to exercise any function on the recommendations of the Prime Minister after consultation with the Leader of the Opposition, the following steps shall be taken

- (a) the Prime Minister shall first consult the Leader of the Opposition and thereafter tender his recommendation to the President;
- (b) the President shall then inform the Leader of the Opposition of that recommendation and if the Leader of the Opposition concurs therein the President shall act in accordance with the recommendation;
- (c) if the Leader of the Opposition does not concur in the recommendation the President shall so inform the Prime Minister and refer the recommendation back to the Prime Minister;
- (d) the Prime Minister shall then advise the President and the President shall act in accordance with that advice.

(8) Any reference in this *Constitution* to the functions of the President shall be construed as a reference to his powers and duties in the exercise of the executive authority of Barbados and to any other powers and duties conferred or imposed on him as President by or under this *Constitution* or any other law.

Immunities of President

34H.(1) Subject to section 34D, the President shall not be answerable to any court for the performance of the functions of his office or for any act done by him in the performance of those functions.

- (2) While a person holds office or is acting as President,
- (a) criminal proceedings shall not be instituted or continued against him in respect of anything done or omitted to be done by him, whether in his official or his private capacity; and

(b) civil proceedings in which relief is claimed against him in respect of anything done or omitted to be done by him in his private capacity shall not be instituted or continued against him.

(3) Where provision is made by law limiting the time within which proceedings of any description may be brought against a person, the period during which that person held office or acted as President shall not be taken into account in calculating the time limited by that law within which any such proceedings may be brought against him.”.

Repeal and replacement of section 35 of the Constitution

22. *Section 35 of the Constitution is deleted and the following is substituted:*

“Establishment of Parliament

35. There shall be a Parliament of Barbados which shall consist of the President, a Senate and a House of Assembly.”.

Amendment of section 41 of the Constitution

23. *Section 41(1) of the Constitution is deleted and the following is substituted:*

“(1) The House of Assembly shall consist of thirty members or such greater number of members as Parliament may prescribe.”.

Amendment of section 44 of the Constitution

24. *Section 44(1)(i) of the Constitution is amended by deleting the words “1957, in force in Barbados immediately before 30th November 1966” and substituting the words “Cap. 12”.*

Amendment of section 49 of the Constitution

25. *Section 49(2)(d) is amended by deleting the words “32” and substituting the words “34G”.*

Amendment of section 58 of the Constitution

26. *Section 58 of the Constitution is amended by deleting subsection (1) and substituting the following:*

“(1) A Bill shall not become law until the President has assented thereto and has signed it in token of such assent.”.

Repeal and replacement of section 63 of the Constitution

27. *Section 63 of the Constitution is deleted and the following is substituted:*

“Executive authority of Barbados

63.(1) The executive authority of Barbados is vested in the President.

(2) Subject to the provisions of this *Constitution*, the executive authority of Barbados may be exercised by the President either directly or through officers subordinate to him.

(3) Nothing in this section shall prevent Parliament from conferring functions on persons or authorities other than the President.”.

Amendment of section 78 of the Constitution

28. *Section 78 of the Constitution is amended by deleting the opening words and substituting the following:*

“The President may”.

Amendment of section 117 of the Constitution

29. *Section 117 of the Constitution is amended*

(a) *in subsection (1),*

(i) *by deleting the definition of “Police Force” and substituting the following:*

““Police Service” means the Barbados Police Service established under the *Police Act*, Cap. 167;”; and

(ii) *by deleting the definition of “the public service” and substituting the following:*

““the public service” means subject to the provisions of subsection (7), the service of the State in a civil capacity;”;

(b) *by deleting paragraphs (a) and (b) of subsection (7) and substituting the following:*

“(a) the office of President, Prime Minister, or other Minister, Parliamentary Secretary, Leader of the Opposition, President of the Senate, Deputy President of the Senate, or other member of the Senate, Speaker, Deputy Speaker, or other member of the House of Assembly or member of the Privy Council;

(b) the office of a member of the Judicial and Legal Service Commission, the Administrative General and Professional Service Commission, the Teaching Service Commission or the Protective Services Commission;” and

(c) **by deleting subsection (11) and substituting the following:**

“(11) *The Interpretation Act*, Cap. 1 shall apply, with the necessary adaptations, for the purpose of interpreting this *Constitution* and otherwise in relation thereto as it applies for the purpose of interpreting, and in relation to an Act of Parliament passed after the commencement of the aforesaid Act.”.

Amendment of the Constitution

30. *The Constitution is amended by deleting*

- (a) *the word “Crown” wherever it appears and substituting the word “State”;*
- (b) *the word “Governor-General” wherever it appears and substituting the word “President”;*
- (c) *the words “Her Majesty” wherever they appear and substituting the words “the State”;*
- (d) *the words “Police Force” wherever they appear and substituting the words “Police Service”; and*
- (e) *the First, Second and Third Schedules and substituting the First, Second and Third Schedules set out in the First, Second and Third Schedules to this Act.*

FIRST SCHEDULE

(Section 30(e))

"FIRST SCHEDULE

(Sections 34E, 69, 79(7), 83 and 117(1))

OATHS

Oaths of Allegiance

I, _____, do swear (solemnly affirm) that I will be faithful and bear true allegiance to Barbados, according to law. (So help me God. (to be omitted in affirmation))

Oath for the due execution of the Office of President

I, _____, do swear (solemnly affirm) that I will well and truly serve Barbados in the office of President. (So help me God. (to be omitted in affirmation))

*Oath for the due execution of the office of Prime Minister
or other Minister or Parliamentary Secretary*

I, _____, do swear (solemnly affirm) that I will be faithful and loyal to Barbados and I will uphold the Constitution and the law.

And I further swear (solemnly affirm) that I will conscientiously, impartially and to the best of my ability discharge my duties as Prime Minister/Minister/Parliamentary Secretary. (So help me God. (to be omitted in affirmation))

Judicial Oath

I, _____, do swear (solemnly affirm) that I will well and truly serve Barbados in the office of Chief Justice/Justice of Appeal/Judge of the High Court and I will do right to all manner of people after the laws and usages of Barbados without fear or favour, affection or ill will. (So help me God. (to be omitted in affirmation))

First Schedule - (Concl'd)

Oath for the due execution of the Office of Director of Public Prosecutions

I, _____, do swear (solemnly affirm) that I will well and truly serve Barbados in the office of Director of Public Prosecutions. (So help me God. (to be omitted in affirmation))

Judicial Oath for Judges of the Caribbean Court of Justice

I, _____, do swear (solemnly affirm) that I will faithfully exercise the office of the President/Judge of the Caribbean Court of Justice without fear or favour, affection or ill will and in accordance with the Code of Judicial Conduct. (So help me God. (to be omitted in affirmation))."

SECOND SCHEDULE*(Section 30(e))***“SECOND SCHEDULE***(Sections 84(6) and 105(5))****PROVISIONS RELATING TO CERTAIN TRIBUNALS***

- 1.** If a member of the tribunal dies or resigns or becomes unable to continue to act as a member, another person qualified to be appointed as a member of the tribunal may be appointed in his place.
- 2.** The President may appoint a secretary to the tribunal to record the proceedings of the tribunal, and generally to perform such duties connected with the enquiry as the tribunal may direct.
- 3.** If the members of the tribunal are equally divided on any question that arises during the proceeding of the tribunal, the chairman of the tribunal has and shall exercise a casting vote.
- 4.** The tribunal may regulate its own procedure and may make rules for that purpose.
- 5.** No member of the tribunal is liable to any action or suit for anything done by that member as a member of the tribunal.
- 6.** The tribunal has the powers of the Supreme Court to summon witnesses, to call for the production of documents and to examine persons appearing before it on oath. All summonses for the attendance of witnesses or the production of documents shall be signed by one of the members of the tribunal, and oaths may be administered by one of the members or by the secretary to the tribunal.

7.(1) Every person served with a summons to attend and give evidence or to produce documents at any sitting of the tribunal is bound to obey the summons as fully in all respects as witnesses are bound to obey subpoenas issued from the Supreme Court, and is entitled to the like expenses (if those expenses are allowed by the tribunal) as if that person had been summoned at the instance of the State to attend the Supreme Court on a criminal trial; but the tribunal may disallow the whole or any part of such expenses in any case if it thinks fit. The procedure for the payment of such a witness is the same as nearly as may be as it is for the payment of witnesses in the Supreme Court.

(2) The following are liable to a penalty not exceeding five hundred dollars recoverable summarily before a magistrate:

- (a) every person who, having been so summoned, without sufficient cause refuses or omits to attend at the time and place mentioned in the summons;
- (b) every person who, having been so summoned, without sufficient cause refuses or omits to answer, or to answer fully and satisfactorily to the best of his knowledge and belief, all questions put to him by or with the concurrence of the tribunal;
- (c) every person who, having been so summoned, without sufficient cause refuses or omits to produce any documents in his possession or under his control and mentioned in the summons;
- (d) every person who at any sitting of the tribunal wilfully insults any member, or the secretary, of the tribunal, or wilfully interrupts the tribunal's proceedings; and
- (e) every person who, having been summoned to attend the tribunal, attends but leaves the enquiry without the tribunal's permission.

(3) A person giving evidence before the tribunal shall not be compellable to criminate himself; and every such person, in respect of any evidence that he gives before the tribunal, shall be entitled to all the privileges to which a witness giving evidence before the Supreme Court is entitled in respect of evidence given by such a witness before that Court.

8. The person to whom the enquiry relates shall be entitled to be represented at the enquiry by a person entitled to practise in Barbados as an attorney-at-law; and any other person concerned in the enquiry may, by leave of the tribunal, also be so represented.

9. The President may direct the Commissioner of Police to detail constables to attend upon the tribunal to preserve order during the proceedings of the tribunal, and to serve summonses on witnesses, and to perform such ministerial duties as the tribunal may direct.

10.(1) The President may direct

- (a) what remuneration, if any, shall be paid to the members of the tribunal and to the secretary and to any other persons employed in connection with the proceedings of the tribunal; and
- (b) payment of any other expenses attendant upon the carrying out of the enquiry or upon any proceedings for any penalty under this *Schedule*.

(2) Any sums directed to be paid under subparagraph (1) are hereby charged on the Consolidated Fund.

11. No proceeding shall be commenced for any penalty under this *Schedule* except by the direction of the Director of Public Prosecutions or of the tribunal, which may direct its secretary, or such

other person as it may think fit, to commence and prosecute any such proceeding.”.

THIRD SCHEDULE*(Section 30(e))***“THIRD SCHEDULE***(Section 41D(1))**Constituency Boundaries*

1. The number of persons entitled to vote in any one constituency shall, so far as practicable, be equal to the number so entitled in any other constituency.
2. The number of persons entitled to vote in any one constituency shall, so far as practicable, be not more than 110 per cent, nor less than 90 per cent, of the total number of persons entitled to vote in Barbados, divided by the total number of the constituencies.
3. Natural boundaries such as highways and rivers shall be used as far as possible.”.

