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OBJECTS AND REASONS

This Bill would repeal the former Constitution of Barbados and would provide for a new Constitution *in lieu* thereof.

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SCHEDULE

Constitution of Barbados

FIRST SCHEDULE

Oath for the due execution of the Office of President

SECOND SCHEDULE

Oath of Allegiance

THIRD SCHEDULE

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

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Judicial Oath

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Provisions relating to certain tribunals

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BARBADOS

A Bill entitled

An Act to repeal the former Constitution of Barbados and to enact a new Constitution *in lieu* thereof.

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

AND WHEREAS the said section 49 further provides that a Bill for an Act of Parliament under that section that alters certain provisions of the former

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 intends to alter the former Constitution:

NOW, THEREFORE, BE IT 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 of Barbados Act, 2024*.

Interpretation

2. In this Act

“alter” in relation to the former *Constitution*, has the same meaning as in section 49(4)(b)(i), of the former *Constitution*;

“appointed day” means the day fixed under section 4 by Proclamation of the President for the coming into operation of the Constitution;

“Constitution” means the Constitution set out in the *Schedule*;

“existing law” means a law that has effect as part of the law of Barbados immediately before the appointed day;

“former Constitution” means the *Constitution* that was in operation immediately before this Constitution;

“law” has the same meaning as in section 191(1) of the Constitution;

“public office” has the same meaning as in section 191(1) of the Constitution;

Purpose

3. The purpose of this Act is to alter the former Constitution.

Appointed day

4. The President shall, by Proclamation, fix a day for the coming into operation of the Constitution.

Commencement and repeal

5. On the appointed day the Constitution shall come into operation and the former *Constitution* shall be repealed.

Existing law

6. Subject to this section, the operation of the existing law on and after the appointed day shall not be affected by the repeal of the former *Constitution* but the existing laws shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with the Constitution.

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) Where any matter or thing has been commenced before the appointed day by the President 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.

Existing officers

8.(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 the

person had been appointed to that office in accordance with the provisions of the Constitution.

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

Judges of the Supreme Court

9. 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 Chapter VIII of the Constitution.

Oaths

10.(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) Auditor General;
 - (h) Chairman or member of a Service Commission;
 - (i) Chairman or a member of the Electoral and Boundaries Commission;
- and

- (j) an office to which section 8 or 9 applies.

Transitional provisions relating to existing Commissions

11.(1) Any power of a Commission established by the former Constitution in this section referred to as “an existing Commission”, which immediately before the appointed 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 former Constitution shall, as from the appointed day continue before the corresponding Commission provided for in the Constitution 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 a 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 Chairperson or other member of an existing Service Commission, shall, as from the appointed day continue to hold the like office as if the person had been appointed in accordance with the provisions of the Constitution.

(5) Section 139(5)(a) of the Constitution shall have effect in relation to a person referred to in subsection (4) as if the date of the person’s appointment

under the former *Constitution* were the date of appointment under the Constitution.

(6) The persons holding the office of Chairperson and members of the Electoral and Boundaries Commission under the former *Constitution* 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.

(7) Subsection (5) shall have effect only during the period of twelve months next after the appointed day.

Saving for offices of Prime Minister and Ministers

12.(1) The person who immediately before the appointed day holds the office of Prime Minister under the former Constitution shall as from that day hold office as Prime Minister under the Constitution as if the person had been appointed to that office under the provisions of section 82(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) The persons, other than the Prime Minister, who immediately before the appointed day hold office as Ministers under the former *Constitution* shall as from that day hold the like office as if they had been appointed thereto under section 82(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 under the former *Constitution* shall, as from that day be deemed to have been

assigned responsibility for such matter or department under section 89(1) of the Constitution.

(5) The persons who, immediately before the appointed day hold offices of Parliamentary Secretaries under the former *Constitution*, shall, as from that day, hold the like office as if they had been appointed under section 90(1) of the Constitution.

(6) The person who, immediately before the appointed day, holds the office of President of the Senate under the former *Constitution*, shall, as from that day, hold the like office as if he had been elected under section 57(1) of the Constitution.

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

(8) The person who, immediately before the appointed day, holds office of Leader of the Opposition under the former *Constitution*, shall as from that day, hold the like office as if he had been appointed thereto under section 92(1) of the Constitution.

Transitional: dissolution of last Parliament

13.(1) Where it is necessary under section 76(7) of the Constitution for the two Houses to be summoned before the general election next ensuing after the appointed day, the two Houses of the last Parliament under the former Constitution shall be deemed to be the two Houses of the preceding Parliament under the Constitution for all the purposes of that subsection and those Houses may proceed to deal with any business before them, notwithstanding any difference in the composition of the Senate under the former *Constitution* and under this Constitution.

(2) Where, in the opinion of the Prime Minister it is necessary or expedient, in order to make amendments to the Constitution between the appointed day and the general election next ensuing after that day, to recall the two Houses of Parliament, the President, acting in accordance with the advice of the Prime

Minister, may recall the two Houses of the last Parliament under the former *Constitution* for the purpose, and the provisions of subsection (1) shall apply accordingly.

(3) A reference in the Constitution to a dissolution of Parliament shall be deemed to include a reference to the dissolution of the last Parliament under the former Constitution.

Validation of certain enactments

14.(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 former *Constitution*.

(2) An enactment is an enactment to which this section applies if it

- (a) was passed or made by Parliament or another person or authority under or by virtue of the former *Constitution*; and
- (b) before the appointed day 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 former *Constitution*.

Saving for prescribed matters under former Constitution

15.(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 former *Constitution* and in force immediately before the appointed day

- (a) prescribing any matter or thing required or authorized by the former *Constitution* to be prescribed for the purposes of the former *Constitution*; and
- (b) that is correspondingly required or authorized by the Constitution to be prescribed for the purposes of the Constitution.

Saving for Standing Orders

16. 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, except as may be otherwise provided by virtue of section 66(1) of the Constitution 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.

Transitional: constituency boundaries and list of electors

17.(1) Notwithstanding section 41D of the former *Constitution*, the Electoral and Boundaries Commission shall prepare a fresh report of the boundaries of the constituencies in accordance with that section and any other law relating to the registration of voters.

(2) The last report of the Electoral and Boundaries Commission under section 41D of the former *Constitution* shall

- (a) be submitted by the Commission to the Prime Minister and the Speaker for presentation to the House of Assembly of the last Parliament under the former *Constitution* as soon as possible after the passing of this Act; and

(b) be deemed to be the first report of the Electoral and Boundaries Commission under section 162(2)(a) of the Constitution and any other law for all the purposes of the Constitution.

(3) The list of electors prepared by the Electoral and Boundaries Commission pursuant to any law relating to the registration of voters used for the purpose of the preparation of the report of the Commission on the boundaries of the constituencies under section 41D of the former *Constitution* shall be deemed to be the list of electors prepared by the Electoral and Boundaries Commission under the *Representation of the People Act*, Cap. 12 for all the purposes of the Constitution.

Certification of this Act

18.(1) The Clerk of Parliament shall certify for the purposes of section 49(1) of the former *Constitution* whether this Act is one the Bill for which has been passed by the Senate and the House of Assembly, respectively, and at the final voting thereon in each House was supported by the votes of not less than two-thirds of the members of each House.

(2) The certificate of the Clerk of Parliament under subsection (1) duly signed and authenticated by the Clerk is conclusive evidence as to the facts stated in the certificate.

THE CONSTITUTION OF BARBADOS

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FIRST SCHEDULE

Oath for the due execution of the Office of President

SECOND SCHEDULE

Oath of Allegiance

THIRD SCHEDULE

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

FOURTH SCHEDULE

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

FIFTH SCHEDULE

Judicial Oath for Judges of the Caribbean Court of Justice

SIXTH SCHEDULE

Judicial Oath

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Provisions relating to Certain Tribunals

EIGHTH SCHEDULE

Constituency Boundaries

SCHEDULE*(Section 2)***THE CONSTITUTION OF BARBADOS****WE, THE SOVEREIGN PEOPLE OF BARBADOS**

AFFIRM that the Nation of Barbados is founded upon principles that acknowledge the supremacy of God who created, guides, sustains and protects, the dignity and worth of the Human Person, the fundamental rights and freedoms of the Individual and the central role of the Family in a free society;

SALUTE the Founders of the Independent state of Barbados for the patriotic spirit, wisdom and foresight which shaped the national ethos founded on the auspices of social democracy with the inbuilt principle that every generation is indebted to those generations which preceded it and is morally obligated to the one that follows;

ACKNOWLEDGE the establishment of a Barbados Parliament in 1639 and the Charter of Barbados 1652;

RECOGNIZE that a Parliament has met without interruption since 1639 and after attaining Independence in 1966 has been guided by the Constitution which has effected civic and political progress through its application and evolution;

CELEBRATE the seminal moment of our national journey with the move to a Republic when the Parliament of this island settled a new Charter of Barbados and chose a Barbadian as Head of State in 2021;

HONOUR the memory and contribution of the indigenous inhabitants of this island, then known as Ichirouganaim;

RECALL the different journeys and diverse motives of our ancestors, some arriving to this land in search of new frontiers and exploits, most by compulsion, the vast majority of whom were uprooted from Africa;

ACCLAIM the National Heroes of Barbados as foremost among the many who have struggled through the centuries against oppression, racism and slavery for the achievement of social justice, human dignity and National Independence;

RESOLVE that the social and economic life of the Nation shall be so ordered as to promote the general welfare by an equitable distribution of the Nation's resources, by humane and just conditions under which all persons labour and by a proper regard for ability, integrity and merit;

ASSERT our unyielding devotion to the preservation of our democracy, characterised by the pursuit of justice, freedom and equality, respect for the rule of law, the maintenance of our long-established parliamentary government and the ability of every person to participate in all institutions of national life, to the full extent of their capacity;

ENDEAVOURING to facilitate the pursuit of happiness through participation in the preservation, conservation, enhancement and regeneration of a healthy and balanced environment;

DECLARE that our own Barbadian Nationhood is nourished by our roots in the wider spiritual and cultural reality of the Caribbean People and endeavour to forge closer ties with our Caribbean sisters and brothers;

PLEDGE to cooperate with the global community in the quest for international peace and security guided by the maxim that we will be friends of all and satellites of none;

PROCLAIM the following provisions as the Constitution of Barbados:

CHAPTER I

THE STATE

The State of Barbados

- 1.(1) Barbados is a sovereign, democratic State.
- (2) The State of Barbados shall comprise all the areas that were comprised therein immediately before the commencement of this Constitution together with such other areas as Parliament may declare to form part thereof.

CHAPTER II

THE CONSTITUTION

Constitution is supreme law

- 2.(1) This Constitution is the supreme law of Barbados.

(2) Subject to the provisions of this Constitution, if any other law is inconsistent with this Constitution, this Constitution shall prevail and the other law shall, to the extent of the inconsistency, be void.

CHAPTER III

CITIZENSHIP

Continuation of citizenship

3. Every person who was a citizen of Barbados on the day immediately preceding the commencement of this Constitution continues to be a citizen on and after the commencement of this Constitution.

Citizenship of Barbados

4. A person may become a citizen by

- (a) birth;
- (b) descent; or
- (c) registration.

Citizenship by birth

5.(1) Subject to subsection (2), a person born in Barbados, on or after the commencement of this Constitution becomes a citizen of Barbados by birth.

(2) A person does not become a citizen of Barbados by virtue of this section if at the time of birth

- (a) either parent possesses such immunity from suit and legal process as is accorded to an envoy of a foreign sovereign State accredited to Barbados and neither parent is a citizen of Barbados; or
- (b) either parent is an enemy alien and the birth occurs in a place then under occupation by the enemy.

Barbadian diplomats, etc.

6. A person born outside Barbados after the commencement of this Constitution shall be deemed to be a citizen of Barbados by birth if at that date either parent is, or would, but for the parent's death, have become a citizen of Barbados and who at the date of birth is in the service of Barbados in a diplomatic or consular capacity.

Citizenship by descent

7. A person born outside Barbados on or after the commencement of this Constitution becomes a citizen by descent at the date of birth if at that date at least one parent or a grand parent is a citizen of Barbados, otherwise than by virtue of this section.

Citizenship by registration

8.(1) The following persons are entitled upon application to be registered as citizens:

(a) a person

(i) who was born outside Barbados and was ordinarily resident in Barbados on 30th November 1966 and continued to be so resident on the day immediately preceding the commencement of this Constitution; and

(ii) at the time of whose birth neither parent nor grandparent had diplomatic status in Barbados or was a refugee in Barbados; or

(b) a person who has been ordinarily resident in Barbados throughout such period as may be prescribed, immediately preceding the commencement of this Constitution.

(2) The entitlement conferred on a person by subsection (1)(a) or (b) to be registered as a citizen on application expires if the application is not made before the expiry of such period as may be prescribed.

(3) The following persons are also entitled upon application to be registered as citizens:

- (a) a person who has been ordinarily resident in Barbados for such period as may be prescribed; and
- (b) a person who has been married to a citizen for such period as may be prescribed.

(4) An entitlement to be registered as a citizen under this section is subject to such exceptions or qualifications as may be prescribed in the interests of national security or public policy.

(5) Before a certificate or other official mark of citizenship may be issued to a person pursuant to provision made under this section or section 12(a), the person must have taken the oath of allegiance before an officer of the Immigration Service in that officer's capacity as a Justice of the Peace.

Adopted persons

9. Where under any enactment in force in Barbados relating to the adoption of a minor, an adoption order is made in respect of a minor who is not a citizen of Barbados, then if the adopter or in the case of a joint adoption, either adopter is a citizen of Barbados, the minor shall become a citizen of Barbados by registration as from the date of the order.

Renunciation of citizenship

10.(1) Subject to this section, a citizen who is 18 years of age or over and

- (a) is also a citizen or national of another country; or
- (b) intends to become a citizen or national of another country,

may renounce citizenship by a declaration made and registered in such manner as may be prescribed.

(2) Where a person in respect of whom a declaration under subsection (1) is registered is not a citizen or a national of another country at the date of registration

of the declaration of renunciation and does not become such a citizen or national within 6 months beginning on that date, that person remains, and is to be taken to have remained, a citizen notwithstanding the making and registration of the declaration.

(3) The right of a person to renounce citizenship of Barbados during any period when Barbados is engaged in any war shall be subject to such exceptions or qualifications as may be prescribed in the interest of national security or public policy.

Multiple citizenships

11. A citizen of Barbados may become a citizen or national of one or more other countries.

Grant and deprivation of citizenship

12. Parliament may make provision

- (a) for granting of citizenship of Barbados to persons who do not become citizens of Barbados by virtue of the provisions of this Chapter; and
- (b) for depriving of citizenship of Barbados any person who is a citizen of Barbados otherwise than by birth or descent.

Interpretation

13.(1) In this Chapter “prescribed” means prescribed by or under any Act of Parliament.

(2) For the purpose of this Chapter, a person born aboard a registered ship or aircraft, or aboard an unregistered ship or aircraft of the government of any country, shall be deemed to have been born in the place in which the ship or aircraft was registered or, as the case may be, in that country.

- (3) Any reference in this Chapter to the national status of a parent of a person at the time of that person's birth, shall,
- (a) in relation to a person born after the death of the parent, be construed as a reference to the national status of the parent at the time of the parent's death; and
 - (b) where that death occurred before the commencement of this Constitution and the birth occurred after such commencement, the national status that the parent would have had if the parent had died on the date of such commencement shall be deemed to be the parent's national status at the time of the parent's death.

CHAPTER IV

PROTECTION OF FUNDAMENTAL RIGHTS AND FREEDOMS OF THE INDIVIDUAL

Part 1

The Declaration of Fundamental Rights and Freedoms of the Individual

Application of this Chapter

- 14.(1)** This Chapter applies to all law and binds the legislature, executive and judiciary and all organs of state.
- (2) All persons are under a responsibility to respect and uphold the rights of others recognized in this Chapter.
- (3) The provisions of this Chapter shall have effect for the purpose of affording protection to the rights and freedoms of persons as set out in those provisions, to the extent that those rights and freedoms do not prejudice the rights and freedoms of others.
- (4) A provision of this Chapter binds natural or juristic persons if, and to the extent that, it is applicable, taking account of the nature of the right and the nature of any duty imposed by the right.

Fundamental rights and freedoms of the individual

15.(1) It is hereby recognized and declared that every person in Barbados is entitled to the following fundamental rights and freedoms, which affirm the highest moral value of human dignity and the equality of persons before the law and are essential to a peaceful and democratic society, namely:

- (a) the right to life, liberty and the security of the person, and the right not to be deprived thereof other than by due process of law;
- (b) the right to protection from slavery and forced labour;
- (c) the right to protection from inhuman or degrading punishment;
- (d) the right to privacy, which shall include
 - (i) the right to protection against the search of any person or the person's property, or the entry by others on the person's premises, and
 - (ii) the right to respect for and protection of the person's private and family life;
- (e) the right to protection from deprivation of property;
- (f) the right to protection of the law;
- (g) the right to equality before the law;
- (h) the right to protection against discrimination;
- (i) the right to freedom of conscience, which shall include
 - (i) the freedom of thought;
 - (ii) the freedom of religion or belief and the freedom to change religion or belief; and
 - (iii) the freedom, whether alone or in community with others, and both in public and in private, to manifest and propagate religion or belief in worship, teaching, practice and observance;

- (j) the right to freedom of expression, which shall include
 - (i) the freedom to hold opinions and to receive and communicate ideas and information without interference; and
 - (ii) the freedom from interference with a person's correspondence or other means of communication;
 - (k) the right to freedom of peaceful assembly and association, that is to say, the right to assemble freely and associate with other persons and in particular, the right to form and belong to political parties, trade unions, cooperative societies and other associations for the protection of the interests of the individual;
 - (l) the right to freedom of movement;
 - (m) the right to work;
 - (n) the right to access information;
 - (o) the right to fair administrative action; and
 - (p) the right to vote and to stand for election.
- (2) It is also hereby recognized and declared that the rights and freedoms listed in subsection (1)
- (a) are held equally by everyone without regard to class, colour, creed, culture, ethnic or racial origin, race, conscience or belief, political opinion, age, disability, gender, sex, sexual orientation, marital status or pregnancy; and;
 - (b) are subject to limitations that are reasonably justifiable in a free and democratic society, being limitations designed to ensure that the exercise and enjoyment of those rights do not prejudice the equal rights and freedoms of others, the public interest, the welfare, safety and security of Barbados and the well-being of the community.

Protection of right to life

16.(1) Every person has the right to life and no person shall be deprived of life intentionally.

(2) A person shall not be regarded as having been deprived of life intentionally if that person is executed pursuant to the sentence of a court in respect of a criminal offence under the law of Barbados of which that person has been convicted.

(3) A person shall not be regarded as having been deprived of life in contravention of this section if that person dies as the result of the use, to such extent and in such circumstances as are permitted by law, of such force as is reasonably justifiable

- (a) for the defence of any person from violence or for defence of property;
- (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
- (c) for the purpose of suppressing a riot, insurrection or mutiny; or
- (d) in order to lawfully prevent the commission by that person of a criminal offence,

or if that person dies as the result of a lawful act of war.

(4) This section has effect for the purpose of affording protection to the right to life set out in section 15(1)(a).

Protection of right to personal liberty

17.(1) Every person has the right to personal liberty and no person shall be deprived of personal liberty.

(2) A person shall not be regarded as having been deprived of liberty if that deprivation is authorized by law in any of the following cases, that is to say,

- (a) in consequence of that person's unfitness to plead to a criminal charge;

- (b) in execution of the sentence or order of a court in respect of a criminal offence of which that person has been convicted;
- (c) in execution of an order of the High Court or the Court of Appeal or such other court as may be prescribed by Parliament punishing that person for contempt of any such court or of another court or tribunal;
- (d) in execution of the order of a court made to secure the fulfilment of any obligation imposed on that person by law;
- (e) for the purpose of bringing that person before a court in execution of the order of a court;
- (f) upon reasonable suspicion of having committed, or being about to commit, a criminal offence under the law of Barbados;
- (g) in the case of a person who has not attained the age of 18 years, under the order of a court or with the consent of the parent or guardian, for the purpose of that person's education or welfare;
- (h) for the purpose of preventing the spread of an infectious or contagious disease;
- (i) in the case of a person who is, or is reasonably suspected to be, of unsound mind, addicted to drugs or alcohol, or a vagrant, for the purpose of the person's care or treatment or the protection of the community;
- (j) for the purpose of preventing unlawful entry into Barbados, or for the purpose of effecting that person's expulsion, extradition or other lawful removal from Barbados or for the purpose of restricting that person while being conveyed through Barbados in the course of extradition or removal as a convicted prisoner from one country to another; or
- (k) to such extent as may be
 - (i) necessary in the execution of a lawful order requiring that person to remain within a specified area within Barbados or prohibiting that person from being within such an area;

- (ii) reasonably justifiable for the taking of proceedings against that person with a view to the making of any such order or relating to such an order after it has been made; and
- (iii) reasonably justifiable for restraining that person during any visit that that person is permitted to make to any part of Barbados in which, in consequence of any such order, that person's presence would otherwise be unlawful.

(3) A person who is arrested or detained

- (a) shall be informed as soon as reasonably practicable, in a language that the person understands, of the reasons for the arrest or detention;
- (b) shall be permitted, at that person's own expense, to retain and instruct without delay an attorney-at-law of the person's own choice, and to hold private communication with that attorney-at-law; and
- (c) shall, in the case of a person who has not attained the age of 18 years be afforded a reasonable opportunity for communication with the person's parent or guardian.

(4) Any person who is arrested or detained

- (a) for the purpose of bringing that person before a court in execution of the order of a court; or
- (b) upon reasonable suspicion of having committed or being about to commit a criminal offence,

and is not released, shall be brought before a court as soon as is reasonably practicable.

(5) Where a person is arrested or detained upon reasonable suspicion of having committed or being about to commit a criminal offence is not tried within a reasonable time, then, without prejudice to any further proceedings which may be brought against that person, the person shall be released either unconditionally or upon reasonable conditions, including in particular such conditions as are

reasonably necessary to ensure that the person appears at a later date for trial or for proceedings preliminary to trial.

(6) A person who is unlawfully arrested or detained by any other person shall be entitled to compensation from that other person for the unlawful arrest or detention.

(7) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of the foregoing provisions of this section to the extent that the law in question authorizes the taking during a period of public emergency of measures that are reasonably justifiable for the purpose of dealing with the situation that exists during that period of public emergency.

(8) Where a person is detained by virtue of such a law as is referred to in subsection (7), the following provisions shall apply:

- (a) that person shall, as soon as reasonably practicable and in any case not more than 5 days after the commencement of detention, be furnished with a statement in writing, in a language that the person understands, of the grounds upon which that person is detained;
- (b) not more than 14 days after the commencement of that person's detention, a notification shall be published in the *Official Gazette* stating that that person has been detained and giving particulars of the provision of law under which the detention is authorized;
- (c) that person may from time to time request that the case be reviewed under paragraph (d) but, where a request is made, no subsequent request shall be made before the expiration of 3 months from the making of the previous request;
- (d) where a request is made under paragraph (c), the case shall, within one month of the making of the request, be reviewed by an independent and impartial tribunal established by law and presided over by a person appointed by the Chief Justice from among persons entitled to practise in Barbados as attorneys-at-law; and

- (e) that person shall be afforded reasonable facilities to consult and instruct, at the person's own expense, an attorney-at-law of the person's own choice, and the person and any such attorney-at-law shall be permitted to make written or oral representations or both to the tribunal appointed for the review of the case.
- (9) On a review by a tribunal in pursuance of subsection (8) of the case of a detained person, the tribunal may make recommendations concerning the necessity or expediency of continuing the detention to the authority by whom it was ordered, but, unless it is otherwise provided by law, that authority shall not be obliged to act in accordance with any such recommendations.
- (10) When a person is detained by virtue of such a law as is referred to in subsection (7), the Prime Minister or a Minister authorized by the Prime Minister shall, not more than 30 days after the commencement of the detention and thereafter not more than 30 days after the making of the previous report, make a report to each House stating the number of persons detained and the number of cases in which the authority that ordered the detention has not acted in accordance with the recommendations of a tribunal appointed in pursuance of subsection (8).
- (11) In calculating any period of 30 days for the purposes of subsection (10) no account shall be taken of any period during which Parliament stands prorogued or dissolved.
- (12) This section has effect for the purpose of affording protection of the right to liberty set out in section 15(1)(a).

Protection from deprivation of property

18.(1) No property of any description shall be compulsorily taken possession of, and no interest in or right over property of any description shall be compulsorily acquired, except by or under the authority of a written law, and where provision applying to that acquisition or taking of possession is made by a written law

- (a) prescribing the principles on which and the manner in which compensation therefor is to be determined and given; and

- (b) giving to any person claiming such compensation a right of access, either directly or by way of appeal, for the determination of that person's interest in or right over the property and the amount of compensation, to the High Court.
- (2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section
 - (a) to the extent that the law in question makes provision for the taking of possession or acquisition of any property
 - (i) in satisfaction of any tax, duty, rate, cess or other impost;
 - (ii) by way of penalty for breach of the law or forfeiture in consequence of a breach of the law;
 - (iii) as an incident of a lease, tenancy, mortgage, charge, bill of sale, pledge, contract, grant, permission or licence;
 - (iv) in the execution of judgments or orders of a court in proceedings for the determination of civil rights or obligations;
 - (v) in circumstances where it is reasonably necessary so to do because the property is in a dangerous state or injurious to the health of human beings, animals or plants;
 - (vi) in consequence of any law with respect to the limitation of actions; or
 - (vii) for so long only as may be necessary for the purposes of any examination, investigation, trial or inquiry or, in the case of land, for the purposes of the carrying out thereon of work of soil conservation or the conservation of other natural resources or work relating to agricultural development or improvement; or
 - (b) to the extent that the law in question makes provision for the taking of possession or acquisition of
 - (i) enemy property;

- (ii) property of a deceased person, a person of unsound mind or a person who has not attained the age of 18 years, for the purpose of its administration for the benefit of the persons entitled to the beneficial interest therein;
- (iii) property of a person adjudged insolvent or a body corporate in liquidation, for the purpose of its administration for the benefit of the creditors of the insolvent person or body corporate and, subject thereto, for the benefit of other persons entitled to the beneficial interest in the property; or
- (iv) property subject to a trust, for the purpose of vesting the property in persons appointed as trustees under the instrument creating the trust or by a court or, by order of a court, for the purpose of giving effect to the trust.

(3) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision for the orderly marketing or production or growth or extraction of any agricultural product or mineral or any article or thing prepared for market or manufactured therefor or for the reasonable restriction of the use of any property in the interest of safeguarding the interests of others or the protection of tenants, licensees or others having rights in or over such property.

(4) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision for the compulsory taking possession in the public interest of any property, or the compulsory acquisition in the public interest of any interest in or right over property, where that property, interest or right is held by a body corporate established directly by law for public purposes in which no monies have been invested other than monies provided by Parliament.

(5) This section has effect for the purpose of affording protection from deprivation of property set out in section 15(1)(e).

Provision to secure protection of law

19.(1) Every person who is charged with a criminal offence shall, unless the charge is withdrawn, be afforded a fair hearing within a reasonable time by an independent and impartial court established by law.

(2) Every person who is charged with a criminal offence

- (a)* shall be presumed to be innocent until that person is proved or has pleaded guilty;
- (b)* shall be informed as soon as reasonably practicable, in a language that the person understands and in detail, of the nature of the offence charged;
- (c)* shall be given adequate time and facilities for the preparation of the defence;
- (d)* shall be permitted to be defended before the court in person or by an attorney-at-law chosen by the person;
- (e)* shall be afforded facilities to examine in person or by an attorney-at-law the witnesses called by the prosecution before the court and to obtain the attendance and carry out the examination of witnesses to testify before the court on the same conditions as those applying to witnesses called by the prosecution; and
- (f)* shall be permitted to have without payment the assistance of an interpreter if that person cannot understand the language used at the trial of the charge.

(3) Except with a person's consent, a trial shall not take place in that person's absence unless the person's conduct is such as to render the proceedings in the person's presence impracticable and the court has ordered the trial to proceed in the person's absence.

(4) When a person is tried for any criminal offence, the accused person or a person authorized by the accused person shall, if that person so requires and

subject to payment of such reasonable fee as may be prescribed by law, be given within a reasonable time after judgment, a copy, for the use of the accused person of any record of the proceedings made by or on behalf of the court.

(5) No person shall be held to be guilty of a criminal offence on account of any act or omission that did not, at the time it took place, constitute such an offence.

(6) No penalty shall be imposed for any criminal offence that is more severe in degree or nature than the most severe penalty that might have been imposed for that offence at the time when it was committed.

(7) A person who has been tried by a competent court for a criminal offence and either convicted or acquitted shall not be tried again for that offence or for any other criminal offence of which that person could have been convicted at the trial for that offence, save upon the order of a superior court in the course of appeal proceedings relating to the conviction or acquittal.

(8) No person shall be tried for a criminal offence if it is shown that the person has been granted a pardon for that offence.

(9) A person who is tried for a criminal offence shall not be compelled to give evidence at the trial.

(10) A court or other tribunal prescribed by law for the determination of the existence or extent of any civil right or obligation shall be established by law and shall be independent and impartial; and where proceedings for such a determination are instituted by any person before such court or tribunal, the case shall be given a fair hearing within a reasonable time.

(11) All proceedings of every court and proceedings for the determination of the existence or extent of any civil right or obligation before any other tribunal, including the announcement of the decision of the court or other tribunal, shall be held in public, unless the parties thereto agree otherwise.

(12) Nothing in subsection (11) shall prevent the court or other tribunal from excluding from the proceedings persons other than the parties thereto and their attorney-at-law to such extent as the court or other tribunal

- (a) may by law be empowered so to do and may consider necessary or expedient in circumstances where publicity would prejudice the interests of justice or in interlocutory proceedings or in the interests of decency, public morality, the welfare of persons under the age of 18 years or the protection of the private lives of persons concerned in the proceedings; or
- (b) may by law be empowered or required so to do in the interests of defence, public safety or public order.

(13) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of

- (a) subsection (2)(a) to the extent that the law in question imposes upon any person charged with a criminal offence the burden of proving particular facts;
- (b) subsection (2)(e) to the extent that the law in question imposes conditions that must be satisfied if witnesses called to testify on behalf of an accused person are to be paid their expenses out of public funds; or
- (c) subsection (7) to the extent that the law in question authorizes a court to try a member of a disciplined force for a criminal offence notwithstanding any trial and conviction or acquittal of that member under the disciplinary law of that force, so, however, that any court so trying such a member and convicting that member shall, in sentencing that member to any punishment, take into account any punishment awarded to that member under that disciplinary law.

(14) Nothing contained in subsection (2)(d) shall be construed as entitling a person to legal representation at public expense.

(15) This section has effect for the purpose of affording protection of the right to protection of law set out in section 15(1)(f).

Protection of right to freedom of movement

20.(1) Every person has the right to move freely throughout Barbados, the right to reside in any part of Barbados, the right to enter Barbados, the right to leave Barbados and immunity from expulsion from Barbados.

(2) Any restriction on a person's freedom of movement that is involved in lawful detention shall not be held to be inconsistent with or in contravention of this section.

(3) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision

- (a) for the imposition of restrictions on the movement or residence within Barbados of any person or on any person's right to leave Barbados that are reasonably required in the interests of defence, public safety or public order;
- (b) for the imposition of restrictions on the movement or residence within Barbados or on the right to leave Barbados of persons generally or any class of persons that are reasonably required in the interests of defence, public safety, public order, public morality or public health;
- (c) for the imposition of restrictions on the movement or residence within Barbados of any person who is not a citizen thereof or the exclusion or expulsion from Barbados of any such person;
- (d) for the imposition of restrictions on the acquisition or use of land or other property in Barbados;
- (e) for the imposition of restrictions, by order of a court, on the movement or residence within Barbados of any person or on any person's right to leave Barbados either in consequence of the person having been found guilty of a criminal offence under the law of Barbados or for the

purpose of ensuring that the person appears before a court at a later date for trial for such a criminal offence or for proceedings preliminary to trial or for proceedings relating to that person's extradition or lawful removal from Barbados;

- (f) for the imposition of restrictions upon the movement or residence within Barbados or on the right to leave Barbados of public officers or members of a disciplined force;
 - (g) for the removal of persons from Barbados
 - (i) to be tried or punished in some other country for a criminal offence under the law of that country;
 - (ii) to undergo imprisonment in some other country in execution of the sentence of a court in respect of a criminal offence under the law of Barbados of which that person has been convicted;
 - (iii) to be detained in an institution in some other country for the purpose of giving effect to the order of a court made in pursuance of a law of Barbados relating to the treatment of offenders under a specified age; or
 - (iv) to be detained for care or treatment in a hospital or other institution in pursuance of a law of Barbados relating to persons suffering from defect or disease of the mind; or
 - (h) for the imposition of restrictions on the right of any person to leave Barbados that are reasonably required in order to secure the fulfilment of any obligations imposed on that person by law.
- (4) Where a person's freedom of movement is restricted by virtue of such a provision as is referred to in subsection (3)(a), the following provisions shall apply:
- (a) that person shall, as soon as reasonably practicable and in any case not more than 5 days after the commencement of the restriction, be furnished with a statement in writing, in a language that that person

understands, of the grounds upon which the restriction has been imposed;

- (b) not more than 14 days after the commencement of the restriction, a notification shall be published in the *Official Gazette* stating that that person's freedom of movement has been restricted and giving particulars of the provision of law under which the restriction is authorized;
 - (c) that person may from time to time request that the case be reviewed under paragraph (d) but, where that person has made such a request, no subsequent request shall be made before the expiration of 3 months from the making of the previous request;
 - (d) where a request is made under paragraph (c), the case shall, within one month of the making of the request, be reviewed by an independent and impartial tribunal established by law and presided over by a person appointed by the Chief Justice from among persons entitled to practise in Barbados as attorneys-at-law; and
 - (e) that person shall be afforded reasonable facilities to consult and instruct, at that person's own expense, an attorney-at-law of that person's own choice and that person and any such attorney-at-law shall be permitted to make written or oral representations or both to the tribunal appointed for the review of the case.
- (5) On any review by a tribunal in pursuance of subsection (4) of the case of any person whose freedom of movement has been restricted, the tribunal may make recommendations concerning the necessity or expediency of continuing that restriction to the authority by whom it was ordered, but, unless it is otherwise provided by law, that authority shall not be obliged to act in accordance with any such recommendations.
- (6) This section has effect for the purpose of affording protection of the right to freedom of movement set out in section 15(1)(l).

Protection from discrimination

- 21.(1)** Subject to the provisions of this section,
- (a)* every person
 - (i)* is equal before the law;
 - (ii)* has the right to equal protection and equal benefits of the law; and
 - (iii)* is entitled to the enjoyment of all rights and fundamental freedoms;
 - (b)* no law shall make any provision that is discriminatory either of itself or in its effect; and
 - (c)* no person shall be treated in a discriminatory manner by any person acting by virtue of any written law or in the performance of the functions of any public office or any public authority.
- (2)** In this section the expression “discriminatory” means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, ethnic or social origin, political opinions, colour, creed, age, sex, gender, class, culture, marital status, sexual orientation, pregnancy, disability or health whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages which are not afforded to persons of another such description.
- (3)** Subsection (1)*(b)* shall not apply to any law so far as that law makes provision
- (a)* with respect to persons who are not citizens of Barbados;
 - (b)* with respect to adoption, marriage, divorce, burial, devolution of property on death or other matters of personal law;

- (c) whereby persons of any such description as is mentioned in subsection (2) may be subjected to any disability or restriction or may be accorded any privilege or advantage which, having regard to its nature and to special circumstances pertaining to those persons or to persons of any other such description, is reasonably justifiable in a democratic society;
 - (d) for the transfer between Barbados and other countries, in accordance with international arrangements entered into by Barbados, of persons detained in prisons, hospitals or other institutions by virtue of orders made in the course of the exercise by courts or tribunals of their criminal jurisdiction; or
 - (e) for the imposition of taxation or appropriation of revenue by the Government or by any local government authority for local purposes.
- (4) Nothing contained in any law shall be held to be inconsistent with or in contravention of subsection (1)(b) to the extent that it makes provision with respect to standards or qualifications (not being standards or qualifications specifically relating to race, ethnic or social origin, political opinions, colour, creed, age, sex, gender, class, culture, marital status, sexual orientation, pregnancy, disability or health) to be required of any person who is appointed to any office in the public service, any office in a disciplined force, or any office in the service of a local government authority or of a body corporate established by any law for public purposes.
- (5) Subsection (1)(c) shall not apply to anything which is expressly or by necessary implication authorized to be done by any such provision of law as is referred to in subsection (3) or (4).
- (6) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of subsection (1) to the extent that the law in question imposes a restriction on the rights of persons of a particular description with respect to freedom from arbitrary search or entry, or freedom of

conscience, or freedom of expression, or freedom of assembly and association, or freedom of movement, if the restriction is reasonably required

- (a) in the interest of defence, public safety, public order, public morality or public health; or
- (b) for the protection of the rights or freedoms of other persons,

unless the law is shown not to be reasonably justifiable in a democratic society.

(7) Subsection (1)(c) does not affect any discretion that is vested in any person by this Constitution or any law in relation to the institution, conduct or discontinuance of civil or criminal proceedings in any court.

(8) This section has effect for the purpose of affording protection of the right to discrimination set out in section 15(1)(h).

Protection of the right to work

22.(1) Every person has the right to work and shall not be denied the opportunity to gain a living by work which the person freely chooses or accepts, whether by pursuing a profession or occupation or by engaging in a trade or business or otherwise.

(2) Every person has the right to just and favourable conditions of work, including

- (a) the right to equal pay for equal work;
- (b) the right to just and favourable remuneration ensuring an existence worthy of human dignity;
- (c) the right not to be unfairly dismissed;
- (d) protection against unemployment;
- (e) the right of workers and employers to form and join trade unions or employers' organizations, as the case may be, for the purpose of protecting the person's interests, including the right to take collective action to defend those interests.

- (3) The rights set out in subsection (2)(e) are subject to such limitations as are reasonably required in the interest of defence, public safety, public order, public morality or public health.
- (4) It shall not be inconsistent with subsection (1) to require, as a condition of embarking upon or continuing work, the payment of professional fees, trade or business licence fees or similar charges, or the possession of appropriate licences or qualifications.
- (5) Parliament may make provision for workers and employers or their respective organizations to have the right to negotiate and conclude collective agreements at the appropriate level and in cases of conflict of interests to take collective action to defend their interests, including strike action.
- (6) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes reasonable provision
 - (a) that is required in the interest of defence, public safety, public order, public morality or public health;
 - (b) that is required for the purpose of protecting the rights or freedoms of other persons; or
 - (c) for the imposition of restrictions on the right to work of any person who is not a citizen of Barbados.
- (7) This section has effect for the purpose of affording protection to the right to fair administrative action set out in section 15(1)(m).

Protection of right to fair administrative action

- 23.(1)** Every person has the right to administrative action that is lawful, reasonable and procedurally fair.
- (2) Every person whose rights have been adversely affected by administrative action has the right to be given written reasons.

(3) Parliament may make provision to give effect to the right referred to in subsections (1) and (2) and must

- (a) provide for the review of administrative action by a court or, where appropriate, an independent and impartial tribunal;
- (b) impose a duty on the State to give effect to that right; and
- (c) promote an efficient administration.

(4) This section has effect for the purpose of affording protection to the right to fair administrative action set out in section 15(1)(o).

Protection of right to access information

24.(1) Every person has the right of access to

- (a) any information held by the State; and
- (b) any information that is held by another person and that is required for the exercise or protection of any rights.

(2) Parliament may make provision

- (a) for reasonable measures to alleviate any administrative or financial burden on the State that may be occasioned in giving effect to this right;
- (b) limiting or authorizing the limitation of the right mentioned in subsection (1); and
- (c) prescribing the procedure under which information held by a public body may be made available.

(3) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision that is required in the interest of national security.

(4) This section has effect for the purpose of affording protection to the right of access to information set out in section 15(1)(n).

Right to vote and to stand for election

25.(1) Subject to section 77, every citizen who is 18 years of age or over has the right

- (a) to be registered as an elector for the purpose of elections of members to the House of Assembly;
- (b) to vote in free and fair elections; and
- (c) to stand for, and, if elected, to hold public office.

(2) Nothing contained in or done under the authority of a law shall be held to be inconsistent with or in contravention of subsection (1) to the extent that the law in question authorizes limitations on the right described in that subsection, that are reasonably justifiable in a democratic society.

(3) This section has effect for the purpose of affording protection to the right to vote and to stand for election set out in section 15(1)(p).

Part 2

Rights of the Individual Subject to Progressive Realization

Declaration of rights of the individual subject to progressive realization

26.(1) It is hereby recognized and declared that every person in Barbados is entitled to the following fundamental rights and freedoms which affirm the highest moral value of human dignity and the equality of persons before the law and are essential to a peaceful and democratic society:

- (a) the right to have access to education;
- (b) the right to have access to adequate food of acceptable quality and clean and safe water;

- (c) the right to have access to health care services;
 - (d) the right to have access to adequate housing; and
 - (e) the right to a safe and healthy environment.
- (2) It is hereby recognized and declared that the rights and freedoms listed in subsection (1)
- (a) are held equally by everyone without regard to class, colour creed, culture, ethnic or social origin, race, conscience or belief, political opinion, disability, gender, sexual orientation, marital status or pregnancy; and
 - (b) are subject to the limitations that the State shall take reasonable legislative and other measures within its available resources to achieve the progressive realization of these rights.
- (3) In applying any right under this section, if the State claims that it does not have the resources to implement the right, a court, tribunal or other authority shall be guided by the following principles:
- (a) it is the responsibility of the State to show that the resources are not available;
 - (b) in allocating resources, the State shall give priority to ensuring the widest possible enjoyment of the right or fundamental freedom having regard to prevailing circumstances, including the vulnerability of particular groups or individuals; and
 - (c) the court, tribunal or other authority may not interfere with a decision by a state organ concerning the allocation of available resources, solely on the basis that it would have a different conclusion.

Protection of the right to have access to education

27.(1) Every person has the right

- (a) to free early childhood, primary and secondary education;

- (b) to access further education and tertiary education; and
 - (c) to access educational services for persons who are unable to complete their secondary education.
- (2) Subject to any law as may be prescribed by Parliament, every parent or guardian of a child has the right to have the child educated in a private educational institution at the parent's or guardian's own expense.
- (3) The State may direct any educational institution to teach subjects pertaining to health, civic education and issues of national interest; and educational institutions shall comply with any such direction made by the State.
- (4) Every person has the right to establish and maintain, at the person's own expense, independent educational institutions that
- (a) do not discriminate on the basis of race;
 - (b) are registered with the State; and
 - (c) maintain standards that are not inferior to standards at comparable public educational institutions.

Protection of right to a safe and healthy environment

- 28.(1)** Every person has the right to a safe environment that is not harmful to health or well-being and that is protected, for the benefit of present and future generations, through reasonable legislative and other measures
- (a) from pollution and ecological degradation;
 - (b) that promote conservation; and
 - (c) that secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.
- (2) This right is subject to limitations that are reasonably justifiable in a free and democratic society, being limitations designed to ensure that the exercise and enjoyment of the right does not prejudice the equal right and freedom of others,

the public interest, the welfare, safety and security of Barbados and the well-being of the community.

Protection of right of persons with disabilities

- 29.** Every person with a disability is entitled
- (a) to be treated with dignity and respect and to be addressed and referred to in a manner that is not demeaning;
 - (b) to access educational institutions and facilities for persons with disabilities that are integrated into society to the extent compatible with the interests of the person;
 - (c) to reasonable access to all places, public transport and information;
 - (d) to use sign language, braille or other appropriate means of communication; and
 - (e) to access materials and devices to overcome constraints arising from the person's disability.

Part 3

Emergency Provisions

Public emergency

- 30.(1)** The President may at any time by proclamation, hereinafter referred to as a "proclamation of emergency", declare that a period of public emergency exists.
- (2) A proclamation of emergency is not effective unless it states that the President is satisfied that a public emergency has arisen
- (a) as a result of a state of war, or the imminence of a state of war, between Barbados and a foreign State;

- (b) as a result of the occurrence of an earthquake, hurricane, flood or fire, or the outbreak of pestilence or infectious disease, or some other calamity whether similar to the foregoing or not; or
 - (c) by reason that action has been taken, or is immediately threatened, by some person or persons, of such a nature and on so extensive a scale as to be likely to
 - (i) endanger the public safety; or
 - (ii) deprive the community or a substantial portion of the community of supplies or services essential to life.
- (3) Within 3 days of the making of a proclamation of emergency, the President shall deliver to the Speaker for presentation to the House of Assembly a statement setting out the specific grounds on which the decision to declare the existence of a period of public emergency was based; and the Speaker shall fix a date for a debate on that statement as soon as practicable but in any event not later than 15 days from the date of the Proclamation.
- (4) A proclamation of emergency shall be dated and shall also state the date on which the period of public emergency commenced.
- (5) In performing any function conferred upon the President, by this section, section 31 or 33 , the President shall act in accordance with the advice of the Prime Minister unless the President, acting in the President's discretion, determines that, owing to a breakdown of government, neither the Prime Minister nor any other Minister is able to proffer the required advice.

Emergency regulations

31.(1) Where a proclamation of emergency has been made and published under this Part, the President, subject to this Part, may make regulations for the purpose of dealing with any situation that in the President's judgment has arisen or is likely to arise during the period of public emergency mentioned in the proclamation.

(2) Regulations made under subsection (1), "emergency regulations" may make provision for the making of rules, directions, orders, notices and any other instruments that the President thinks fit.

(3) Without prejudice to the generality of subsection (1), emergency regulations may, subject to this Part, make provision for the detention of persons.

Duration of public emergency

32.(1) A proclamation of emergency, unless previously revoked, and the period of public emergency referred to in the proclamation (hereinafter referred to as "the emergency period") shall remain in force for one month or such longer time not exceeding 6 months beginning on the date of the proclamation as the House of Assembly may determine by a majority resolution.

(2) A proclamation of emergency and the emergency period may be further extended from time to time by a majority resolution for a period not exceeding 6 months on each occasion.

(3) A resolution under subsection (1) or (2) may be revoked at any time by a majority resolution.

(4) In this section, "a majority resolution" means a resolution passed by the House of Assembly and supported by the votes of a majority of all the members of that House.

Publication

33.(1) Subject to subsection (2), a proclamation of emergency and any emergency regulations, and any rules, directions, notices, orders or other instruments made under any such regulations, shall be published in the *Official Gazette*.

(2) Where at any time the President deems it impracticable or inexpedient to publish in the *Official Gazette* a proclamation of emergency or any emergency regulations, or any rules, directions, notices, orders or other instruments made

under any such regulations, the President may cause the proclamation or the instrument in question to be published by notice affixed to one or more public buildings or distributed amongst the public or by oral public announcements.

(3) Upon the publication of a proclamation of emergency, all such emergency regulations, rules, directions, notices, orders and instruments as abovementioned may be made, issued or given and executed upon any person or authority, even if publication in the *Official Gazette* has not yet been made under subsection (1).

Detention of persons

34.(1) Where a person is detained by virtue of emergency regulations, the following rules apply:

- (a) that person shall as soon as practicable, and in any case not more than 10 days after the commencement of the detention, be furnished with a statement in writing, in a language that that person understands, of the grounds upon which the detention exists;
- (b) not more than 28 days after the commencement of the detention, a notification shall be published in the *Official Gazette* stating that that person has been detained and giving particulars of the provision of law which authorized the detention;
- (c) that person may from time to time request that the case be reviewed under paragraph (d) but, where such a request has been made, no subsequent request shall be made before the expiration of 3 months from the making of the previous request;
- (d) where a request is made under paragraph (c), the case shall, within one month of the making of the request, be reviewed by a tribunal;
- (e) the detained person shall be afforded reasonable facilities to consult and instruct, at the person's own expense, an attorney-at-law of the person's own choice, and along with that person's attorney-at-law shall

be permitted to make written or oral representations or both to the tribunal appointed for the review of the case.

(2) A review tribunal for the purposes of this section shall be an independent and impartial tribunal established by law consisting of a chairperson, who shall be an attorney-at-law of not less than 7 years standing appointed by the President acting in accordance with the advice of the Chief Justice, and two other members appointed by the President acting in the President's discretion.

(3) At least one review tribunal shall be appointed within 72 hours of the commencement of the period of public emergency.

(4) On any review by a tribunal of the case of a detained person pursuant to subsection (1), the tribunal may make to the authority by whom the detention was ordered, recommendations concerning the necessity or expediency of continuing the detention; but, unless otherwise provided by law, that authority is not obliged to act in accordance with those recommendations.

(5) Where a person is detained by virtue of emergency regulations, the Prime Minister or a Minister authorized by the Prime Minister shall, not more than 30 days

(a) after the first such detention; and

(b) after each report made under this subsection thereafter,

cause a report to be made to each House stating the number of persons so detained and the number of cases in which the authority that ordered the detention has not acted in accordance with the recommendations of a tribunal appointed under this section.

(6) In calculating any period of 30 days for the purposes of subsection (5), account shall not be taken of any period during which Parliament stands prorogued or dissolved.

Exception: emergency regulations

35. Nothing contained in or done under the authority of emergency regulations shall be held to be inconsistent with or in contravention of any provisions of sections 15 to 29 to the extent that the regulations authorize the taking during a period of public emergency of measures that are reasonably justifiable in a democratic society for the purpose of dealing with the situation obtaining during that period of public emergency.

Interpretation

36.(1) In this Chapter

“attorney-at-law” has the same meaning as in the *Legal Profession Act*, Cap. 370A;

“contravention”, in relation to any requirement, includes a failure to comply with that requirement;

“court” means any court of law having jurisdiction in Barbados, other than a court established by a disciplinary law, and includes the Caribbean Court of Justice and

(a) in sections 16, 17 19, 20 and 21 includes, in relation to an offence against a disciplinary law, a court established by such a law; and

(b) in sections 17 and 21 includes, in relation to an offence against a disciplinary law, any person or authority empowered to exercise jurisdiction in respect of that offence;

“disciplinary law” means a law regulating the discipline of any disciplined force;

“disciplined force” means

- (a) a naval, military or air force; or
- (b) a protective service.

“emergency regulations ” means regulations made under section 31;

“member” , in relation to a disciplined force, includes any person who, under the law regulating the discipline of that force, is subject to that discipline;

“period of public emergency” means the emergency period referred to in section 30;

“Proclamation of emergency” has the meaning assigned to it in section 30;

(2) References in sections 16, 17 and 19 to a criminal offence shall be construed as including references to offences against a disciplinary law, and such references in subsections (2), (3) to (9) and (13)(a) of section 19 shall, in relation to proceedings before a court established by a disciplinary law, be similarly construed.

(3) In relation to any person who is a member of a disciplined force raised under the law of any country other than Barbados and lawfully present in Barbados, nothing contained in or done under the authority of the disciplinary law of that force shall be held to be inconsistent with or in contravention of any provision of sections 15 to 29.

CHAPTER V

THE PRESIDENT

Office of President and Head of State

37.(1) There shall be an office of President.

(2) The President shall be Head of State.

(3) The President is Head of the armed forces.

(4) The President has such other functions as are assigned by this Constitution or any other law.

Qualification

38. A person is qualified to be nominated for election as President if that person is a citizen of Barbados.

Disqualifications

39. A person is not qualified to be elected to the office of President if that person

- (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 12 months immediately preceding the date of that person's nomination; or
- (c) is disqualified to be elected as a member of the House of Assembly by virtue of section 60 or any law made under subsection (2) of that section.

Determination of certain questions

40.(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 41 is conclusive evidence of the facts stated in the certificate and shall not be questioned in any court.

Election of President

41.(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 90 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) Where 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 and if no member objects thereto, the Speaker shall declare the candidate duly elected.

(3) Where 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) Where 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) Where the Prime Minister and the Leader of the Opposition do not within 60 days of a vacancy occurring in the office of President, or within 30 days of the office of the President being due to expire, 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) Where 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 10 members of the House of Assembly, jointly,

may each, within the period of 14 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 *Official Gazette*, but the period of such notice shall not be more than 21 days following the date of such publication.

(12) Where 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, 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 the Speaker 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 38 and 39 are, or will be, satisfied in relation to the election.

Acting president

42. 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 is for any other reason unable to perform the functions of the office, those functions shall be performed

- (a) by any person, for the time being designated by the Prime Minister, acting after consultation with the Leader of the Opposition, who is qualified to be elected to the office of President and who is in Barbados and able to perform those functions;
- (b) at any time when there is no person in Barbados so designated and able to perform those functions, by the holder of the office of President of the Senate;
- (c) at any time referred to in paragraph (b) when the office of President of the Senate is vacant or the holder thereof is absent from Barbados or is for any other reason unable to perform those functions, by the holder of the office of Speaker; or
- (d) at any time referred to in paragraph (c) when the office of Speaker is vacant or the holder thereof is absent from Barbados or is for any other reason unable to perform those functions, by the holder of the office of Deputy President of the Senate.

Term of office

43.(1) A person who has been declared duly elected President under section 41 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 46, the President shall hold office for a term of 7 years beginning on the date of the President's assumption of office and is eligible for re-election.

(3) 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 6 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

44.(1) Except in the case of a person performing the functions of President under section 42, 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

45. The office of President becomes vacant before the expiration of the term of office as fixed by section 43 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 46 and 47.

Removal from office

46. The President shall be removed from office

- (a) where the President wilfully violates any provision of the Constitution;
- (b) where the President behaves in a way that endangers the security of the State;

- (c) where the President fails 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

47.(1) The President shall be removed from office where

- (a) a motion that the President's 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 the President's 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 3 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 the President shall be removed from office.

(2) Where a motion is adopted as is provided for in subsection (1)(c) the President shall cease to perform functions as President and the provisions of section 42 shall apply.

(3) The tribunal may regulate its own procedure.

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

Oath

48.(1) A President shall before entering upon the duties of office take and subscribe the oath of office set out in the *First Schedule* and the oath of allegiance set out in the *Second Schedule*, such oaths 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

49.(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 determines.

(4) The President may appoint to any of the offices prescribed under subsection (1) such public officers as the President 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 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 the officer shall thereupon vacate office on the personal staff of the President, but the President may 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 IX, be deemed to be public offices.

Exercise of President's functions

50.(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 the President's functions other than

- (a) any function which is expressed, in whatever terms, to be exercisable by the President 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 the President in the President's 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 76(2) (which requires the President to dissolve Parliament in certain circumstances);
 - (b) section 84(2) (which requires the President to revoke the appointment of the Prime Minister in certain circumstances); and
 - (c) section 129(1) 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, the President shall exercise that function in accordance with such recommendation.
- (4) Before the President acts pursuant to subsection (3)
 - (a) the President may refer that recommendation 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 subsection 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 the President 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 the 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 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 the President's powers and duties in the exercise of the executive authority of Barbados and to any other powers and duties conferred or imposed on the President as President by or under this Constitution or any other law.

Immunities of President

51.(1) Subject to section 47, the President shall not be answerable to any court for the performance of the functions of the office of President or for any act done by the President 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 the President in respect of anything done or omitted to be done by the President, whether in the President's official or private capacity; and
- (b) civil proceedings in which relief is claimed against the President in respect of anything done or omitted to be done by the President in the President's private capacity shall not be instituted or continued against the President.

(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 that person.

CHAPTER VI

PARLIAMENT

Establishment of Parliament

52. There shall be a Parliament of Barbados which shall consist of a Senate and a House of Assembly.

Senate

53.(1) The Senate shall consists of 21 persons, who, being qualified for appointment as Senators under this Constitution, have been appointed under this section or, as the case may be, under section 63.

(2) The appointment of Senators next after a general election of members of the House of Assembly shall be made in accordance with subsections (3).

(3) Every Senator shall be appointed by the President by instrument under the Public Seal as follows:

- (a) 12 Senators, of whom 6 shall be women and 6 shall be men shall be appointed by the President, acting in accordance with the advice of the Prime Minister;
- (b) 4 Senators, of whom 2 shall be women and 2 shall be men shall be appointed by the President, acting in accordance with the advice of the Leader of the Opposition; and
- (c) 5 Senators, of whom at least 2 shall be women and at least 2 shall be men, shall be appointed by the President in the President's discretion acting after consultation with such persons as the President considers ought to be consulted to represent religious, economic or social interests or such other interests as the President considers ought to have representation in the Senate.

Qualification for membership of Senate

54. Subject to the provisions of section 55, any person who at the date of appointment is a citizen of Barbados of the age of 18 years or over shall be qualified to be appointed as a Senator.

Disqualifications for membership of Senate

- 55.(1)** A person is not qualified to be appointed as a Senator if the person
- (a) is a member of the House of Assembly;
 - (b) holds or is acting in the office of Judge, Director of Public Prosecutions, Auditor-General or Ombudsman;
 - (c) has, within the period of 10 years immediately preceding the proposed date of appointment as a Senator, been convicted by a court of competent jurisdiction of any criminal offence, and
 - (i) has not appealed against that conviction, or
 - (ii) has appealed against that conviction and the appeal has not been allowed, and
 - (iii) has not received a free pardon in respect of the offence;
 - (d) is under sentence of death imposed by a court in any part of the Commonwealth or is serving a sentence of imprisonment (by whatever name called) exceeding 6 months imposed on the person by such a court or substituted by competent authority for some other sentence imposed on the person by such a court, or is under such a sentence of imprisonment the execution of which has been suspended;
 - (e) is a person certified to be insane or otherwise adjudged to be of unsound mind;
 - (f) is an undischarged bankrupt under any law in force in Barbados; or

- (g) is disqualified for membership of the House of Assembly by or under any law in force in Barbados by reason of having been convicted or reported guilty of any corrupt or illegal practice at an election.
- (2) Without prejudice to subsection (1)(c), Parliament may provide that, subject to such exceptions and limitations as Parliament may prescribe, a person shall not be qualified to be appointed as a Senator if the person
 - (a) holds or is acting in any office or appointment prescribed by Parliament either individually or by reference to a class of office or appointment;
 - (b) belongs to any armed force of Barbados or to any class of person that is comprised in any such force; or
 - (c) belongs to any police service of Barbados or to any class of person that is comprised in any such service.
- (3) For the purposes of subsection (1)(e), (f) or (g)
 - (a) 2 or more sentences of imprisonment that are required to be served consecutively shall be regarded as separate sentences if none of those sentences exceeds 6 months, but if any one of those sentences exceeds that term they shall be regarded as one sentence; and
 - (b) no account shall be taken of a sentence of imprisonment imposed as an alternative to or in default of the payment of a fine.

Tenure of seats of Senators

- 56.(1)** The seat of a Senator shall become vacant
- (a) upon the next dissolution of Parliament after the Senator has been appointed;
 - (b) if, with the Senator's consent, the Senator is nominated as a candidate for election to the House of Assembly;

- (c) if the Senator is absent from Barbados for a period exceeding 40 days at any time when the Senate is sitting, without the leave of the President given in accordance with the provisions of subsection (2);
 - (d) if the Senator ceases to be a citizen of Barbados;
 - (e) subject to the provisions of subsection (3), if any circumstances arise that, if the Senator were not a Senator, would cause the Senator to be disqualified for appointment as such by virtue of paragraphs (a) to (e) of section 55(1) or of any law enacted in pursuance of section 55(2);
 - (f) in the case of a Senator
 - (i) who was appointed as such in accordance with the advice of the Prime Minister, if the President, so acting by instrument under the Public Seal, declares the seat of that Senator to be vacant;
 - (ii) who was appointed as such by the President, acting in accordance with the advice of the Leader of the Opposition, if the President, so acting, by instrument under the Public Seal declares the seat to be vacant; or
 - (iii) who was appointed otherwise than in accordance with paragraphs (i) and (ii), if the President, acting in the President's discretion by instrument under the Public Seal declares the seat to be vacant.
- (2) The President of the Senate may grant leave to any Senator to be absent from Barbados for any period not exceeding 6 months at any one time.
- (3) Where
- (a) the circumstances mentioned in subsection (1)(e) arise because a Senator
 - (i) is convicted of an offence involving dishonesty;
 - (ii) is under a sentence of death or imprisonment;
 - (iii) is adjudged to be of unsound mind;

- (iv) is declared bankrupt; or
 - (v) is convicted or reported guilty of a corrupt or illegal practice at an election; and
- (b) it is open to the Senator to appeal against the decision, either with leave of a court or without such leave,

the Senator shall forthwith cease to perform the functions of a Senator but subject to this section, shall not vacate the seat until the expiration of a period of 30 days.

(4) The President of the Senate may, at the request of said Senator from time to time, extend the period of 30 days mentioned in subsection (3) for further periods of 30 days to enable the Senator to pursue an appeal against the decision, but extensions of time exceeding in aggregate 150 days shall not be given without approval, signified by resolution of the Senate.

(5) Where on the determination of any appeal, the circumstances referred to in subsection (1)(e) continue to exist and no further appeal is open to the Senator, or where, by reason of the expiration of any period for entering an appeal or notice thereof or the refusal of leave to appeal or for any other reason, it ceases to be open to the Senator to appeal, the Senator shall forthwith vacate the seat.

(6) Where at any time before the Senator vacates the seat such circumstances referred to in subsection (1)(e) cease to exist, the seat shall not become vacant on the expiration of the period referred to in subsection (3) and the Senator may resume the performance of functions as a Senator.

President and Deputy President of Senate

57.(1) When the Senate first meets after a dissolution of Parliament and before it proceeds to the despatch of any other business, it shall elect a Senator, not being a Minister or Parliamentary Secretary, to be President of the Senate; and whenever the office of President becomes vacant for any reason other than a dissolution of Parliament the Senate shall, not later than its second sitting after the vacancy has arisen, elect another Senator to fill that office.

(2) When the Senate first meets after a dissolution of Parliament, it shall, as soon as practicable, elect a Senator, not being a Minister or Parliamentary Secretary, to be Deputy President of the Senate; and whenever the office of Deputy President becomes vacant for any reason other than a dissolution of Parliament, the Senate shall, as soon as convenient, elect another Senator to fill that office.

(3) A person shall vacate the office of President or Deputy President of the Senate

- (a) if the person announces the person's resignation of office to the Senate or if, by writing addressed, in the case of the President, to the Clerk of the Senate or, in the case of the Deputy President, to the President, or if the office of President of the Senate is vacant or the President is absent from Barbados, to the Clerk, the Senator resigns that office;
- (b) if the person ceases to be a Senator;
- (c) if the person is appointed to be a Minister or Parliamentary Secretary;
- (d) if, by virtue of the provisions of section 56(3), the Senator is required to cease to perform functions as a Senator; or
- (e) in the case of the Deputy President, if the person elected to be President.

(4) For the purposes of subsection (3)(b), the President of the Senate shall not vacate office by reason only that the President has ceased to be a Senator on a dissolution of Parliament, until the Senate first meets after such dissolution;

House of Assembly

58.(1) The House of Assembly shall consist of 30 members or such greater number of members as Parliament may prescribe.

(2) The members of the House (who shall be known as "Members of Parliament") shall be persons who, being qualified for election as such in accordance with this Constitution, have been so elected in the manner provided by this Constitution.

Qualifications for membership of the Assembly

- 59.** Subject to section 61, any person who
- (a) is a citizen of Barbados of the age of 18 years or over; and
 - (b) has been residing in Barbados for such period as may be prescribed by Parliament,
- shall be qualified to be elected as a member of the House of Assembly.

Disqualifications for membership of the Assembly

- 60.(1)** A person is not qualified to be elected as a member of the House of Assembly if the person
- (a) holds or is acting in the office of a Judge, Director of Public Prosecutions, Auditor General or Ombudsman;
 - (b) is under sentence of death imposed by a court in any part of the Commonwealth or is serving a sentence of imprisonment (by whatever name called) exceeding 6 months imposed by such a court or substituted by competent authority for some other sentence imposed by such a court, or is under such a sentence of imprisonment the execution of which has been suspended;
 - (c) is a person certified or otherwise adjudged under any law in force in Barbados to be suffering from a mental disorder;
 - (d) is an undischarged bankrupt under any law in force in Barbados;
 - (e) is disqualified for such membership of the House of Assembly by or under any law by reason of his having been
 - (i) convicted or reported guilty of any corrupt or illegal practice at elections;
 - (ii) convicted of making a false declaration of qualification for election;

- (f)* is disqualified for such membership by or under any such law on any ground not mentioned in the foregoing provisions of this subsection, being a ground for disqualification for membership of the House of Assembly.
- (2) Without prejudice to the provisions of subsection (1)(b), Parliament may prescribe subject to such exceptions and limitations that a person shall not be qualified to be elected as a member of the House of Assembly if the person
 - (a)* holds or is acting in any office or appointment prescribed by Parliament either individually or by reference to a class of office or appointment;
 - (b)* belongs to any armed force of Barbados or to any class of person that is comprised in such a force; or
 - (c)* belongs to any police service of Barbados or to any class of person that is comprised in such a service.
- (3) For the purposes of subsections (1)(b)
 - (a)* 2 or more sentences of imprisonment that are required to be served consecutively are to be regarded as separate sentences if none of those sentences exceeds 6 months, but if any one of those sentences exceeds that term they are to be regarded as one sentence; and
 - (b)* no account shall be taken of a sentence of imprisonment imposed as an alternative to or in default of the payment of a fine.

Tenure of seats of members of Assembly

- 61.(1)** The seat of a member of the House of Assembly becomes vacant
- (a)* upon the next dissolution of Parliament after the member has been elected;
 - (b)* if the member resigns it in such manner as may be provided by any law or, subject to any such law, by the Standing Orders of the House;

- (c) if the member is absent from the sittings of the House of Assembly for such period and in such circumstances as may be provided by any law or, subject to any such law, by the Standing Orders of the House;
 - (d) if the member ceases to be a citizen of Barbados;
 - (e) if the member contravenes the provisions of section 65 (relating to the taking of the oath of allegiance) or any law requiring him to make a declaration of qualification for election before taking part in the proceedings of the House of Assembly contained in any law in force in Barbados;
 - (f) subject to subsection (2), if any circumstances arise that, if the member were not a member of the House, would disqualify the member for election as such under section 60(1) or under any law enacted pursuant to subsection (2) of that section;
 - (g) if the member is expelled from the House in accordance with any enactment relating to the House and the Standing Orders of the House.
- (2) Where
- (a) circumstances mentioned in subsection (1)(f) arise because a member
 - (i) is convicted of any criminal offence involving dishonesty;
 - (ii) is under sentence of death or imprisonment;
 - (iii) is adjudged to be of unsound mind;
 - (iv) is declared bankrupt;
 - (v) is convicted or reported guilty of a corrupt or illegal practice at elections or of making a false declaration of qualification; and
 - (b) it is open to the member to appeal against the decision (either with the leave of a court or other authority or without such leave),

the member shall forthwith cease to perform the functions of a member but, subject to this section, shall not vacate the seat until the expiration of a period of 30 days.

(3) The Speaker may at the request of the member, from time to time extend the period of 30 days mentioned in subsection (2) for further periods of 30 days to enable the member to pursue an appeal against the decision, but extensions of time exceeding in the aggregate 150 days shall not be given without the approval, signified by resolution, of the House of Assembly.

(4) Where, on the determination of an appeal, the circumstances mentioned in subsection (2) continue to exist and no further appeal is open to the member, or where, by reason of the expiration of any period for entering an appeal or notice of appeal or the refusal of leave to appeal or for any other reason, it ceases to be open to the member to appeal, the member shall forthwith vacate the seat.

(5) Where at any time before the member vacates the seat such circumstances as aforesaid mentioned in subsection (2) cease to exist, the seat does not become vacant on the expiration of the period mentioned in subsections (2) and (3) and the member may resume the performance of the functions as a member.

Determination of questions of membership of Senate and Assembly

62.(1) Any question whether

- (a) a person has been validly appointed as a Senator; or
- (b) a person has vacated the person's seat as a Senator or is required under section 56(3) and (5) to cease to perform the functions as a Senator,

shall be determined by the High Court, whose decision shall be final.

(2) Any question whether

- (a) a person has been validly elected as a member of the House of Assembly; or
- (b) a person has vacated the seat as such a member or is required under section 61(2) to cease to perform functions as such a member,

shall be determined by an election court constituted by or under any law for the time being in force in Barbados.

Filling of casual vacancies in Senate and Assembly

63.(1) Whenever any person vacates the person's seat as a Senator for any reason other than a dissolution of Parliament, the President shall appoint another person to fill the vacancy in accordance with the procedure set out in section 53(3) as the person whose seat has become vacant was appointed.

(2) Whenever any person vacates a seat as a member of the House of Assembly for any reason other than a dissolution of Parliament, the President shall issue a writ for the election of a member to fill the vacancy returnable within 90 days from the occurrence of the vacancy.

Part 2

Power and Procedure of Parliament

Power to make laws

64.(1) Subject to the provisions of this Constitution, Parliament may make laws for the peace, order and good government of Barbados.

(2) Without prejudice to the generality of subsection (1) and subject to the provisions of subsection (3), Parliament may by law determine the privileges, immunities and powers of the Senate and the House of Assembly and the members of those Houses.

(3) No process issued by any court in the exercise of its civil jurisdiction shall be served or executed within the precincts of the Senate or the House of Assembly while it is sitting, or through the President or the Speaker, the Clerk or any other officer of either House.

Oath of allegiance

65. A member of either House shall not take part in the proceedings of the House unless that member has taken the oath of allegiance set out in the *Second Schedule*.

Regulation of procedure in Parliament

66.(1) Subject to the provisions of this Constitution, each House may regulate its own procedure and for this purpose may make Standing Orders.

(2) Each House may act notwithstanding any vacancy in its membership and the presence or participation of any person not entitled to be present at or to participate in the proceedings of the House shall not invalidate those proceedings.

Presiding in Senate

67.(1) The President of the Senate or, in the President's absence, the Deputy President or, if they are both absent, a member of the Senate (not being a Minister or a Parliamentary Secretary) elected by the Senate for the sitting shall preside at any sitting of the Senate.

(2) References in this section to circumstances in which the President of the Senate or Deputy President is absent include references to circumstances in which the office of President of the Senate or Deputy President is vacant.

Quorum of Senate

68.(1) If at any time during a sitting of the Senate objection is taken by a member that there is not a quorum present and, after such interval as may be prescribed by the Standing Orders of the Senate, the person presiding ascertains that there is still not a quorum present, the person shall thereupon adjourn the Senate.

(2) For the purposes of this section a quorum of the Senate shall consist of 8 Senators besides the person presiding.

Voting in Senate

69. Unless as is otherwise provided in this Constitution, all questions proposed for decision in the Senate shall be determined by a majority of the votes of the Senators present and voting; but the person presiding shall not vote unless on any question the votes are equally divided, in which case the person has and shall exercise a casting vote.

Introduction of Bills, etc

70.(1) Subject to the provisions of this Constitution and of the Standing Orders of the Senate or the House of Assembly, as the case may be, any member of either House may introduce a Bill or propose a motion for debate in, or may present a petition to, that House; and the Bill, motion or petition shall be debated and disposed of according to the Standing Orders of that House.

(2) A Bill other than a Money Bill may be introduced in either House, but a Money Bill shall not be introduced in the Senate.

(3) Except on the recommendation of the Cabinet signified by a Minister, the House of Assembly shall not

- (a) proceed upon any Bill (including any amendment to a Bill) which, in the opinion of the person presiding, makes provision for
 - (i) imposing or increasing any tax;
 - (ii) imposing any charge on the Consolidated Fund or any other public fund;
 - (iii) altering any such charge otherwise than by reducing it;
 - (iv) compounding or remitting any debt due to Barbados; or
- (b) proceed upon any motion (including any amendment to a motion) the effect of which, in the opinion of the person presiding, is that provision is to be made for any of the purposes set out in paragraph (a).

- (4) The Senate shall not
- (a) proceed upon any Bill, other than a Bill sent from the House of Assembly, or any amendment to a Bill, which, in the opinion of the person presiding, makes provision for
 - (i) imposing or increasing any tax;
 - (ii) imposing any charge on the Consolidated Fund or any other public fund;
 - (iii) altering any such charge otherwise than by reducing it; or
 - (iv) compounding or remitting any debt due to Barbados; or
 - (b) proceed upon any motion, including any amendment to a motion, the effect of which, in the opinion of the person presiding, is that provision is to be made for any of the purposes set out in paragraph (a).

Restrictions on powers of Senate as to Money Bills

71.(1) Subject to the provisions of this Constitution, if a Money Bill, having been passed by the House of Assembly and sent to the Senate at least one month before the end of the session, is not passed by the Senate without amendment within one month after it is sent to the Senate, the Bill shall, unless the House of Assembly otherwise resolves, be certified by the Speaker as having been passed notwithstanding that the Senate has not consented to the Bill.

(2) There shall be endorsed on every Money Bill when it is sent to the Senate the certificate of the Speaker signed by the Speaker that it is a Money Bill.

Restrictions on powers of Senate as to Bills other than Money Bills

72.(1) If a Bill other than a Money Bill is passed by the House of Assembly in 2 successive sessions (whether or not Parliament is dissolved between those sessions) and, having been sent to the Senate in each of those sessions at least one month before the end of the session, is rejected by the Senate in each of those sessions, that Bill shall, on its rejection for the second time by the Senate, unless

the House of Assembly otherwise resolves, be certified by the Speaker as having been passed notwithstanding that the Senate has not consented to the Bill.

(2) Subsection (1) shall not have effect unless at least 7 months have elapsed between the date on which the Bill is passed by the House of Assembly in the first session and the date on which it is passed by the House of Assembly in the second session.

(3) For the purposes of this section, a Bill that is sent to the Senate from the House of Assembly in any session is to be taken to be the same Bill as a former Bill sent to the Senate in the preceding session if, when it is sent to the Senate, it is identical with the former Bill or contains only such alterations as are certified by the Speaker to be necessary

- (a) owing to the time that has elapsed since the date of the former Bill; or
- (b) to represent any amendments which have been made by the Senate in the former Bill in the preceding session.

(4) The House of Assembly may, if it thinks fit, on the passage through the House of a Bill that is to be taken to be the same Bill as a former Bill sent to the Senate in the preceding session, suggest any amendments without inserting the amendments in the Bill; and any such amendments shall be considered by the Senate, and, if agreed to by the Senate, shall be treated as amendments made by the Senate and agreed to by the House of Assembly; but the exercise of this power by the House of Assembly shall not affect the operation of this section in the event of the rejection of the Bill in the Senate.

(5) There shall be inserted in any Bill that is certified by the Speaker as having been passed in pursuance of this section any amendments that are certified by the Speaker to have been made in the Bill by the Senate in the second session and agreed to by the House of Assembly.

(6) The provisions of this section shall not apply to a Bill which is required by section 186 to be passed by both Houses.

Provisions relating to sections 70, 71 and 72

73.(1) In sections 70, 71 and 72, " Money Bill " means a public Bill which, in the opinion of the Speaker, contains only provisions dealing with all or any of the following matters, namely,

- (a) the imposition, repeal, remission, alteration or regulation of taxation;
- (b) the imposition, for the payment of debt or other financial purposes, of charges on the Consolidated Fund or any other public funds or on monies provided by Parliament, or the variation or repeal of any such charges;
- (c) the grant of money to the State or to any authority or person, or the variation or revocation of any such grant;
- (d) the appropriation, receipt, custody, investment, issue or audit of accounts of public money;
- (e) the raising or guarantee of any loan or the repayment of any loan, or the establishment, alteration, administration or abolition of any sinking fund provided in connection with any loan; or
- (f) subordinate matters incidental to any of the matters set out in paragraph (a) to (e).

(2) In subsection (1) the expressions " taxation ", " debt ", "public fund ", " public money " and " loan " do not include any taxation imposed, debt incurred, fund or money provided or loan raised by any local authority or body for local purposes.

(3) For the purposes of section 72, a Bill shall be deemed to be rejected by the Senate if

- (a) it is not passed by the Senate without amendment; or
- (b) it is passed by the Senate with any amendment which is not agreed to by the House of Assembly.

- (4) Whenever the office of Speaker is vacant or the Speaker is for any reason unable to perform any function conferred by subsection (1) or by section 71 or 72, that function may be performed by the Deputy Speaker.
- (5) Any certificate of the Speaker or Deputy Speaker given under section 71 or 72 shall be conclusive for all purposes and shall not be questioned in any court.

Bill to become law

- 74.(1) A Bill shall become law when it has been certified as having been passed by both Houses by the Speaker and President of the Senate.
- (2) A Bill shall not be certified by the Speaker in accordance with subsection (1) unless it has been passed by both Houses, either without amendment or with such amendments only as are agreed to by both Houses.
- (3) Notwithstanding the provisions of subsection (1), a Bill to which section 71 or 72 applies shall become law when it has been certified as having been passed by the House of Assembly in accordance with the provisions of section 71 or 72, as the case may be, by the Speaker.

Part 3

Summoning, Prorogation and Dissolution

Sessions of Parliament.

- 75.(1) Each session of Parliament shall be held at such place and commence at such time as the President may appoint.
- (2) The time appointed for the commencement of any session of Parliament shall be such that a period of 6 months does not intervene between the end of one session and the first sitting of Parliament in the next session.

Prorogation and dissolution of Parliament

76.(1) The President may, acting in accordance with the advice of the Prime Minister, at any time by proclamation prorogue Parliament.

(2) Subject to subsection (3), the President may, acting in accordance with the advice of the Prime Minister, at any time by proclamation dissolve Parliament.

(3) If the office of Prime Minister is vacant and the President, acting in the President's discretion, considers that there is no prospect of the President being able within a reasonable time to appoint to the office of Prime Minister a person who can command the confidence of a majority of the members of the House of Assembly, the President acting in the President's discretion, shall dissolve Parliament.

(4) Subject to subsection (5), Parliament, unless sooner dissolved, shall continue for 5 years from the date of its first sitting after any dissolution and shall then stand dissolved.

(5) At any time when Barbados is at war, Parliament may extend the period of 5 years specified in subsection (4) for not more than 12 months at a time.

(6) The life of Parliament shall not be extended under subsection (5) for more than 2 years.

(7) If, between a dissolution of Parliament and the next ensuing general election of members to the House of Assembly, an emergency arises of such a nature that, in the opinion of the Prime Minister, it is necessary for the two Houses or either of them to be summoned before the general election can be held, the President may, acting in accordance with the advice of the Prime Minister, summon the two Houses of the preceding Parliament, and that Parliament shall thereupon be deemed, except for the purposes of section 77, not to have been dissolved but shall be deemed, (except for these purposes) to be dissolved on the date on which the polls are held in the next ensuing general election.

General election and appointment of Senators

77.(1) After every dissolution of Parliament the President shall issue writs, returnable within 90 days from that dissolution, for a general election of members of the House of Assembly.

(2) As soon as may be after every general election the president shall proceed under section 53 to the appointment of Senators.

CHAPTER VII

EXECUTIVE POWERS

Part 1

Executive Authority of Barbados

Executive authority of Barbados

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

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

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

Part 2

Cabinet and Ministers

The Cabinet

79. There shall be a Cabinet for Barbados which shall consist of the Prime Minister and not less than 5 other Ministers appointed in accordance with the provisions of section 82.

Authority and functions of the Cabinet

80.(1) The Cabinet

- (a) is the principal instrument of policy for Barbados; and
- (b) has the general direction and control of the government of Barbados.

(2) The authority and function of the Cabinet described in subsection (1) may, with the Cabinet's consent, be exercised on behalf of the Cabinet by a Minister.

(3) Nothing in this section prevents Parliament from assigning particular Government functions to persons or authorities other than the Cabinet.

Collective responsibility of the Cabinet

81. The Cabinet is collectively responsible to Parliament for the exercise of the Cabinet's authority and functions.

Appointment of Ministers

82.(1) Whenever the President has occasion to appoint a Prime Minister the President shall, acting in the President's discretion, appoint the member of the House of Assembly who, in the President's judgment, is best able to command the confidence of a majority of the members of that House.

(2) Ministers, other than the Prime Minister shall be appointed by the President, acting in accordance with the advice of the Prime Minister, from among the members of the two Houses.

(3) Subsections (1) and (2) have effect in relation to any period between a dissolution of Parliament and the day on which the next election of members of the House of Assembly is held as if Parliament had not been dissolved.

(4) Appointments under this section shall be made by instrument under the Public Seal.

Tenure of Ministers

83.(1) The office of Prime Minister becomes vacant

- (a) if the Prime Minister ceases to be a member of the House of Assembly for any reason other than a dissolution of Parliament;
- (b) if, after an election of members of the House of Assembly following a dissolution of Parliament and before that House first meets after, that election, the Prime Minister is informed by the President, acting in the President's discretion, that the President is about to re-appoint the Prime Minister as Prime Minister or appoint another person as Prime Minister; or
- (c) if the President revokes the Prime Minister's appointment under subsection (2).

(2) If the House of Assembly by a resolution which has received the affirmative vote of a majority of all the members of that House resolves that the appointment of the Prime Minister ought to be revoked and the Prime Minister does not within 3 days of the passing of the resolution either resign or advise the President to dissolve Parliament, the President shall, by instrument under the Public Seal, revoke the appointment of the Prime Minister.

(3) The office of a Minister, other than the office of Prime Minister, becomes vacant

- (a) upon the appointment or re-appointment of any person to the office of Prime Minister;

- (b) if the Minister's appointment to the office is revoked by the President, acting in accordance with the advice of the Prime Minister, by instrument under the Public Seal;
- (c) if, for any reason other than a dissolution of Parliament, the Minister ceases to be a member of the House of which the Minister was a member at the date of appointment as a Minister; or
- (d) if the Minister is not a member of either House at the date of the first sitting of Parliament after a dissolution of Parliament.

Performance of Prime Minister's functions in certain events

84.(1) Whenever the Prime Minister is unable, by reason of

- (a) illness or absence from Barbados; or
- (b) absence from office on vacation leave,

to perform the functions of the office, the President may, by instrument under the Public Seal, authorize any other Minister who is a member of the House of Assembly to perform the functions conferred on the Prime Minister by this Constitution (other than the functions conferred by subsection (3)).

(2) The President may, by instrument under the Public Seal, revoke any authority given under this section.

(3) The powers conferred on the President by subsections (1) and (2) shall be exercised by the President acting on the advice of the Prime Minister but the President shall act in the President's discretion, if in the President's opinion, it is impracticable to obtain the advice of the Prime Minister owing to the Prime Minister's illness, being on leave or absence.

Temporary Ministers

85.(1) Whenever a Minister other than the Prime Minister is unable, by reason of

- (a) illness or absence from Barbados; or

(b) absence from office on vacation leave,

to perform the functions of office, the President may, by instrument under the Public Seal, appoint a member of the Senate or the House of Assembly to act as Minister and authorize the member to perform the functions of the office of the absent Minister or assign the functions of the office of the absent Minister to another Minister and authorize the other Minister to perform the functions of the office of the absent Minister.

(2) Subsection (1) shall have effect in relation to any period between a dissolution of Parliament and the day on which the next election of members of the House of Assembly is held as if Parliament had not been dissolved.

(3) Subject to section 83(3), a temporary Minister shall hold office

(a) until notified by the President, by instrument under the Public Seal, that the Minister on account of whose inability to perform the functions of the office to which the temporary Minister was appointed is again able to perform those functions; or

(b) until that Minister vacates office.

(4) The powers conferred on the President by this section shall be exercised by the President in accordance with the advice of the Prime Minister.

Oaths to be taken by Ministers

86. The Prime Minister and every other Minister shall, before entering upon the duties of office, take before the President the oath of allegiance in the form set out in the *Second Schedule* and an oath for the due execution of office in the form set out in the *Third Schedule*.

Presiding in Cabinet

87. The Prime Minister shall, so far as is practicable, attend and preside at all meetings of the Cabinet and in the Prime Minister's absence such other Minister as the Prime Minister shall appoint shall preside.

President to be informed concerning matters of government

88. The Prime Minister shall keep the President fully informed concerning the general conduct of the government of Barbados and shall furnish the President with such information as the President, acting in the President's discretion, may request with respect to any particular matter relating to the Government.

Assignment of responsibilities to Ministers

89.(1) Subject to the provisions of this Constitution, the President, acting in accordance with the advice of the Prime Minister may by directions in writing, assign to the Prime Minister or any other Minister responsibility for any business of the Government, including the administration of any department of the Government.

(2) A Minister referred to in subsection (1), other than the Prime Minister, styled Attorney General, shall be assigned the functions of principal legal adviser to the Government.

(3) Nothing in this section empowers the President to assign to any Minister any function that is assigned by this Constitution or any other law to the President or any person or authority other than that Minister.

Parliamentary Secretaries

90.(1) The President, acting in accordance with the advice of the Prime Minister may, by instrument under the Public Seal, appoint from among the members of the 2 Houses, Parliamentary Secretaries to assist Ministers in the discharge of their functions.

(2) Subsection (1) has effect in relation to any period between a dissolution of Parliament and the day on which the next election of members of the House of Assembly is held as if Parliament had not been dissolved.

(3) The provisions of section 83(3) and section 86 shall apply to Parliamentary Secretaries as they apply to Ministers.

Code of Conduct for Ministers and Parliamentary Secretaries

91.(1) The Prime Minister shall cause to be prepared and laid before each House a Code of Conduct for Ministers and Parliamentary Secretaries.

(2) The Code, and any amendments to the Code, shall take effect when approved by resolutions of both Houses; and is binding on Ministers and Parliamentary Secretaries.

(3) The Integrity Commission

(a) may, on its own initiative; and

(b) shall, on a reference by either House or by a committee of either House, investigate any alleged breach of the Code by any person who is or has at any time been a Minister or a Parliamentary Secretary, and shall lay before the House of which the person under investigation is or was a member, and shall publish a report of the findings of the Commission.

(4) The House before which a report is laid under subsection (3) shall consider the report within 60 days after it has been laid and shall record the findings of the House.

Part 3

Leader of the Opposition

Leader of the Opposition

92.(1) There shall be a Leader of the Opposition, who shall be appointed by the President by instrument under the Public Seal.

- (2) Whenever there is occasion for a Leader of the Opposition to be appointed, the President, acting in the President's discretion, shall appoint
 - (a) the member of the House of Assembly who, in the President's judgment, is best able to command the support of a majority of those members who do not support the Government; or
 - (b) if there is no such person as referred to in paragraph (a), the member of that House who, in the President's judgment, commands the support of the largest single group of such members who are prepared to support one leader.
- (3) Subsection (2) has effect in relation to any period between a dissolution of Parliament and the day on which the next election of members of the House of Assembly is held as if Parliament had not been dissolved.
- (4) The office of Leader of the Opposition becomes vacant
 - (a) if, after an election of members of the House of Assembly following any dissolution of Parliament and before that House first meets after that election, the Leader of the Opposition is informed by the President that the President is about to appoint another person as Leader of the Opposition;
 - (b) if the Leader of the Opposition ceases to be a member of the House of Assembly for any reason other than a dissolution of Parliament; or
 - (c) if the appointment of the Leader of the Opposition is revoked under the provisions of subsection (5).
- (5) If, in the judgment of the President, the Leader of the Opposition is no longer able to command the support of
 - (a) a majority of those members of the House of Assembly who do not support the Government; or
 - (b) the largest single group of such members who are prepared to support one leader,

the President may by instrument under the Public Seal revoke the appointment of the Leader of the Opposition.

(6) Subject to subsection (7), in the exercise of the President's functions under this section, the President shall act in the President's discretion.

(7) If during any period mentioned in subsection (4)(a), the President considers that it is doubtful whether a person commands such support as is mentioned in subsection (2) the President shall, in determining the question, act in accordance with the advice of the Speaker.

Certain vacancies in office of the Leader of the Opposition

93.(1) Where there is no Leader of the Opposition and the Constitution provides that

- (a) the President, the Prime Minister or any other person shall act in accordance with the advice of the Leader of the Opposition; or
- (b) the President, the Prime Minister or any other person shall act after consultation with the Leader of the Opposition,

the reference to the Leader of the Opposition shall be read as a reference to the opposing political party which obtained the highest number of votes in the general election following the dissolution of Parliament.

(2) Where the opposing political party which obtained the highest number of votes in the general election following the dissolution of Parliament fails or refuses to advise or facilitate consultation with the President, the Prime Minister or any other person in accordance with subsection (1), the President, the Prime Minister or that other person shall seek the advice of or consult with the opposing political party that received the next highest number of votes in succession and if no opposing political party advises or facilitates consultation with the President, the Prime Minister or that other person, the President, the Prime Minister or that other person shall act in the President's, Prime Minister's or other person's own discretion.

(3) For the purposes of subsections (1) and (2), the opposing political party shall designate in writing to the President, the name of the person from whom the President, Prime Minister or other person should seek advice or should consult.

(4) For the purposes of this section, “opposing political party” means the members of the political party which contested the general election but which does not form the Government.

(5) For the purposes of this section, where the identity of the opposing political party is doubtful, a certificate of the Chairman of the Electoral and Boundaries Commission shall be conclusive evidence of the opposing political party.

Part 4

Presidential Advisory Council

Presidential Advisory Council

94.(1) There shall be a Presidential Advisory Council, in this Chapter referred to as “the Council”, which shall consist of no less than 7 persons.

(2) Subject to sections 95 and 96, the members of the Council shall be appointed by the President by instrument under the Public Seal acting after the President has consulted the Prime Minister.

Qualifications for membership of Council

95.(1) Subject to section 96, any person who

- (a) is a citizen of Barbados;
- (b) is at least 18 years of age; and
- (c) is resident in Barbados;

is eligible for appointment as a member of the Council.

Disqualifications for membership of Council

96. A person shall be disqualified for appointment as a member if the person would be disqualified for appointment as a member of the House of Assembly; and accordingly section 60 applies to this section with such modifications and adaptations as may be necessary to give effect to this section.

Termination of membership of Council

97.(1) A member shall cease to be a member of the Council if a newly elected President assumes office, notwithstanding that the member's term of office has not expired.

(2) The office of a member becomes vacant

- (a) at the expiration of 7 years from the date of appointment or such shorter period as may be specified in the instrument of appointment; or
- (b) if the member's appointment is revoked by the President after consultation with the Prime Minister.

Oaths

98. Before any member enters upon the duties of office, that member shall take and subscribe before the President the oath of allegiance in the form set out in the *Second Schedule*.

Function of Council

99.(1) It shall be the function of the Council to advise and make recommendations to the President on any matter referred to the Council by the President under this Constitution or any law.

(2) Notwithstanding subsection (1), the President may refer any matter the President thinks fit to the Council.

(3) Subject to this Constitution, the President is not bound to accept the advice of the Council, unless otherwise provided by this Constitution or any law.

Proceedings of the Council

- 100.**(1) The Council shall not be summoned except by the authority of the President acting in the President's discretion.
- (2) Notwithstanding section 18(11), the proceedings of the Council shall be conducted *in camera* and the Council may require any public officer or any officer of any statutory board to appear before the Council and to give such information in relation to any matter referred to the Council by the President and such officer shall not disclose or divulge to any person any matter which has arisen at any meeting of the Council unless expressly authorized to do so by the President.
- (3) The President shall, so far as is practicable, attend and preside at all meetings of the Council.
- (4) Subject to the provisions of this Constitution, the Council may regulate its own procedure.
- (5) The question whether the Council has validly performed any function vested in it by this Constitution shall not be inquired into by any court.

Allowances

- 101.**(1) There shall be paid to the appointed members of the Council such allowances as may be determined by the Prime Minister.
- (2) The allowances payable under subsection (1) shall be charged on and paid out of the Consolidated Fund and shall not be reduced whilst there are serving members of the Council.

Secretary

- 102.** The President's Private Secretary shall be the Secretary to the Council.

Powers of pardon, clemency etc

103.(1) The President may

- (a) grant to any person convicted of any offence a pardon, either free or subject to lawful conditions;
- (b) grant to any person a respite, either indefinitely or for a specified period of time, from the execution of any punishment imposed on that person for an offence;
- (c) substitute a less severe form of punishment for that imposed on a person for any offence; or
- (d) remit the whole or part of any punishment imposed on any person for any offence or any penalty or forfeiture otherwise due to the State on account of such an offence.

(2) In the exercise of the powers conferred on the President by subsection (1) or of any power conferred by any other law to remit any penalty or forfeiture due to any person other than the State, the President shall act in accordance with the advice of the Council.

(3) Where any person has been sentenced to death for an offence, the President shall cause a written report of the case from the trial judge, together with such other information derived from the record of the case or elsewhere as the President may require, to be forwarded to the Council so that the Council may advise the President on the exercise of the powers conferred by subsection (1) in relation to that person.

(4) The power of requiring information conferred upon the President by subsection (3) shall be exercised by the President on the recommendation of the Council or, in any case in which in the President's judgment the matter is too urgent to admit of such recommendation being obtained by the time within which it may be necessary for the President to act, in the President's discretion.

- (5) A person has a right to submit, directly or through a legal or other representative, written representation in relation to the exercise by the President or the Council of any function under this section, but is not entitled to an oral hearing.
- (6) A person may, in such circumstances as may be determined by the President or the Council, be granted an oral hearing and may make oral submissions directly or through a legal or other representative, in relation to the exercise by the President or the Council, of any function under this section.
- (7) The President, acting in accordance with the advice of the Council, may by instrument under the Public Seal direct that there shall be time limits within which a person referred to in subsection (1) may appeal to, or consult, any person or body of persons, other than the Caribbean Court of Justice, outside Barbados in relation to the offence in question.
- (8) Where a time limit referred to in subsection (7) has expired, the President and the Council may exercise functions under this section in relation to the person referred to in that subsection, notwithstanding that such an appeal has not been concluded.
- (9) Nothing in subsections (7) and (8) is inconsistent with any provision of section 19.

Part 6

Constitutional Offices Commission

Establishment of Constitutional Offices Commission

104.(1) There shall be a Constitutional Offices Commission which shall consist of the following persons:

- (a) the Prime Minister, who shall be chairperson;
- (b) the Leader of the Opposition;

- (c) the Attorney General;
 - (d) two persons appointed by the President acting in accordance with the advice of the Prime Minister;
 - (e) one person appointed by the President acting in accordance with the advice of the Leader of the Opposition; and
 - (f) one person appointed by the President in the President's discretion.
- (2) Where there is no Leader of the Opposition, the person designated under section 94(3) shall be deemed to be the Leader of the Opposition for the purposes of this Part.
- (3) The Constitutional Offices Commission shall perform the functions conferred upon it by this Constitution and any other law.

Qualification for membership

105. A person is qualified for appointment as a member of the Constitutional Offices Commission if the person is at least 18 years of age and resident in Barbados.

Disqualification for membership

106. A person is disqualified for membership of the Constitutional Offices Commission if the person would be disqualified for election as a member of the House of Assembly under section 60.

Tenure of office

- 107.(1)** The appointed members of the Constitutional Offices Commission shall hold office for a term of 5 years and are eligible for reappointment.
- (2) An appointed member of the Constitutional Offices Commission may resign office by letter in writing addressed to the President.
- (3) Where there is a change in the office of Prime Minister or Leader of the Opposition any member appointed by the outgoing Prime Minister or outgoing

Leader of the Opposition shall cease to hold office notwithstanding that the term for which the member was appointed has not expired.

Quorum

108. A quorum of the Constitutional Offices Commission shall be the chairperson and 3 other members.

Remuneration

109.(1) The remuneration, allowances and gratuity payable to appointed members of the Constitutional Offices Commission shall be prescribed by Parliament and shall be a charge on the Consolidated Fund.

(2) The remuneration, allowances and gratuity payable to and the terms and other conditions of appointment of an appointed member of the Constitutional Offices Commission shall not be altered to the disadvantage of the member after appointment.

Removal from office

110.(1) Section 157 (which relates to removal from office) shall apply to the office of an appointed member of the Constitutional Offices Commission, and the prescribed authority for the purposes of subsection (4) of that section shall be the Prime Minister acting after consultation with the Leader of the Opposition.

Functions of the Constitutional Offices Commission

111. The Constitutional Offices Commission

(a) shall be responsible for providing advice to the President for the appointment to the following offices:

(i) the Chief Justice;

- (ii) the chairperson and deputy chairperson of the Electoral and Boundaries Commission;
 - (iii) the members of the Service Commissions;
 - (iv) the Ombudsman; and
 - (v) such other offices as may be provided by this Constitution or any other law; and
- (b) shall perform such other functions as may be conferred by this Constitution or any other law.

Part 7

The Director of Public Prosecutions

Office and functions of Director of Public Prosecutions

112.(1) There shall be a Director of Public Prosecutions whose office shall be a public office.

(2) The Director of Public Prosecutions, in this section, sections 113 and 114, referred to as "the Director", shall be appointed by the President, by instrument under the Public Seal, acting on the recommendation of the Judicial and Legal Service Commission.

(3) A person is not qualified to hold or to act in the office of Director unless the person is qualified for appointment as a Judge.

(4) If the office of the Director is vacant or the Director is for any reason unable to perform the functions of that office, the President, acting on the recommendation of the Judicial and Legal Service Commission, may appoint a person to act in that office; and a person so appointed shall, subject to subsection (6), continue so to act until

- (a) the Director resumes those functions;

- (b) another person is appointed to that office and assumes those functions;
or
 - (c) the appointment of the acting Director is revoked by the President, acting on the recommendation of the Judicial and Legal Service Commission.
- (5) Subject to subsection (6), the Director shall vacate office on attaining the age of 67 years.
- (6) Section 157, which relates to removal from office of certain persons, applies to the office of the Director; and the prescribed authority for the purposes of subsections (4) and (6) of that section is the Judicial and Legal Service Commission.

Functions of the Director of Public Prosecutions

113.(1) Subject to section 114, the Director has power in any case in which the Director considers it desirable so to do

- (a) to institute and undertake criminal proceedings against any person before any court other than a court-martial in respect of any offence against the law of Barbados;
- (b) to take over and continue any such criminal proceedings that may have been instituted by any other person or authority;
- (c) to discontinue at any stage before judgment is delivered any such criminal proceedings instituted or undertaken by himself or any other person or authority; and
- (d) [to enter into an agreement, in such circumstances and on such terms and conditions as may be prescribed by or under any law, with such person as may be so prescribed, in lieu of instituting and undertaking any such criminal proceedings against the person, if the High Court considers the agreement to be in the interest of justice.]

- (2) The powers of the Director under subsection (1) may be exercised by the Director in person or through other persons acting under and in accordance with the Director's general or special instructions.
- (3) Subject to subsection (4) and section 114, the powers conferred upon the Director by paragraphs (b), (c) and (d) of subsection (1) shall be vested in the Director to the exclusion of any other person or authority.
- (4) Where any other person or authority has instituted criminal proceedings, nothing in subsection (3) shall prevent the withdrawal of those proceedings by or at the instance of that person or authority and with the leave of the court.
- (5) Subject to section 114, in the exercise of the powers conferred upon the Director by this section, the Director is not subject to the direction or control of any other person or authority.
- (6) For the purposes of this section, any appeal from any determination in any criminal proceedings before any court, or any case stated or question of law reserved for the purposes of any such proceedings, to any other court or to the Caribbean Court of Justice shall be deemed to be part of those proceedings.
- (7) The Director shall not enter upon the duties of office until the Director has taken and subscribed the oath of allegiance and an oath for the due execution of office in the form set out in the *Fourth Schedule*.

Attorney-General may give directions in the case of certain offences

114.(1) The Attorney-General may, in the case of any offence to which this section applies, give general or special directions to the Director as to the exercise of the powers conferred upon the Director by section 113, and the Director shall act in accordance with those directions.

- (2) This section applies
 - (a) to offences under the laws of Barbados relating to
 - (i) piracy,
 - (ii) trading or otherwise dealing in slaves,

- (iii) foreign enlistment;
- (iv) publications calculated to interfere with the peaceful relations of Barbados with foreign states,
- (v) high treason, treason, misprision of treason or treachery,
- (vi) sedition or seditious meetings,
- (vii) official secrets,
- (viii) mutiny or incitement to mutiny,
- (ix) unlawful oaths;
- (b) to any offence under an enactment relating to any right or obligation of Barbados under international law; or
- (c) to any offence which, in the opinion of the Attorney General, relates to the Security of the State.

CHAPTER VIII

THE JUDICATURE

Part 1

The Caribbean Court of Justice, The Supreme Court And The Magistrate's Courts

Interpretation

115. For the purposes of this Chapter,

“Agreement” means the Agreement establishing the Caribbean Court of Justice, to which Barbados is a party, and which was signed at Bridgetown, Barbados on 14th February, 2002;

“Court” means the Caribbean Court of Justice;

“Regional Judicial and Legal Services Commission” or “Commission” means the Commission established by Article V of the Agreement;

“Treaty” means the Revised Treaty of Chaguaramas establishing the Caribbean Community, including the CARICOM Single Market and Economy,

(a) which was signed in The Bahamas on 5th July, 2001; and

(b) to which Barbados is a party.

Establishment of Judicature

116. There is established a Judicature consisting of

(a) the Caribbean Court of Justice established by the Agreement; and

(b) the Supreme Court and Magistrate’s Courts,

which shall exercise jurisdiction under this Constitution or any other law.

Independence of judicature

117.(1) The judicature established by paragraph (b) of section 116

(a) shall be subject only to this Constitution and the law; and

(b) shall not be subject to the control or direction of any person or authority.

(2) The Judicature shall be provided with such staff, resources and facilities as are adequate to facilitate the efficient discharge of its responsibilities.

The Caribbean Court of Justice

118.(1) The Caribbean Court of Justice

(a) shall have exclusive and compulsory jurisdiction in

(i) disputes between Contracting Parties to the Agreement;

(ii) disputes between any Contracting Parties to the Agreement and the Community;

- (iii) referrals from national courts or tribunals of Contracting Parties to the Agreement;
- (iv) applications by persons in accordance with the *Caribbean Court of Justice Act*, Cap. 117,

concerning the interpretation and application of the Treaty;

(b) shall have exclusive jurisdiction

- (i) to deliver advisory opinions concerning the interpretation and application of the Treaty upon the request of Contracting Parties or the Community;
- (ii) where there is a dispute as to whether the Court has jurisdiction in a matter, to decide whether the Court has such jurisdiction; and

(c) shall be the final court of appeal from any decision given by the Court of Appeal.

(2) Where a court or tribunal is seized of an issue whose resolution involves a question concerning the interpretation or application of the Treaty, the court or tribunal shall, if it considers that a decision on the question is necessary to enable it to deliver judgment, before delivering judgment, refer the question to the Court for determination.

(3) The Court shall be a superior court of record and, save as otherwise provided by Parliament, shall have all the powers of such a court.

(4) A decision of the Court concerning Barbados shall be enforced in Barbados in like manner as if it were a decision of the High Court.

Constitution of the Caribbean Court of Justice

119.(1) The Judges of the Court shall be the President and not more than 9 other Judges, of whom at least 3 shall possess expertise in international law, including international trade law.

- (2) The determination of any matter before the Court shall be by a majority of the Judges hearing the case.
- (3) The Court may sit in such divisions as the President directs, and a Judge may sit in every division.

Appointment of Judges of the Caribbean Court of Justice

- 120.(1)** The President of the Court shall be appointed by the qualified majority vote of three-quarters of the Contracting Parties to the Agreement on the recommendation of the Commission.
- (2) A Judge of the Court other than the President shall be appointed by the majority vote of all the members of the Regional Judicial and Legal Services Commission.
- (3) The qualification for appointment of the President and a Judge shall be as prescribed by law.
- (4) A Judge of the Court shall not enter upon the duties of office until the Judge has taken and subscribed the judicial oath in the form set out in the *Fifth Schedule*.

Tenure of office of Judges of the Caribbean Court of Justice

- 121.(1)** The President of the Court shall hold office for
 - (a) a term of 7 years; or
 - (b) until the President of the Court attains the age of 72 years or sooner resigns or retires,
 whichever is the earlier.
- (2) A Judge of the Court shall hold office until the Judge attains the age of 72 years or sooner resigns or retires.

(3) Notwithstanding that

- (a) the Judge has attained the age at which a Judge is required by the provisions of this section to vacate office; or
- (b) the Judge has retired or resigned before reaching such age,

the President or other Judge of the Court may sit as a Judge for the purposes of delivering judgment or doing any other thing in relation to proceedings which were commenced before the Judge before the Judge attained that age or, as the case may be, retired or resigned.

(4) Notwithstanding subsections (1) and (2), the Commission may, if it appears to the Commission at any time on or after 8th June, 2007 and during the evolutionary phase of the Court that special circumstances so require, extend the tenure in office of a Judge of the Court by a period,

- (a) in the case of the President, that does not extend beyond the date on which the Judge attains the age of 75 years or the date on which the Judge completes 7 years in office, whichever of those events first occurs;
- (b) in the case of any other Judge of the Court, that does not extend beyond the date on which the Judge attains the age of 75 years.

(5) For the purposes of subsection (4),

- (a) “the evolutionary phase of the Court” means the period
 - (i) ending with the appointment of the maximum number of Judges as specified in paragraph 1 of Article IV of the Agreement; and
 - (ii) defined in paragraph 4 of Article II of the Protocol to the Agreement that was signed on behalf of Barbados at Barbados on 3rd June, 2007; and
- (b) the other provisions of Article II of the Protocol shall have effect.

Removal of Judges of the Caribbean Court of Justice

122. A Judge may be removed from office only for inability to perform the function of the office, whether arising from illness or any other cause or for misbehaviour, and shall not be so removed except in accordance with such provisions as are prescribed by law.

Resignation and retirement of Judges

123. The resignation or retirement of a Judge shall be in accordance with provisions prescribed by law.

Establishment of Supreme Court

124.(1) There shall be a Supreme Court which shall consist of the Court of Appeal and the High Court, and shall have such jurisdiction, powers and authority as may be conferred upon those courts respectively by this Constitution or any other law.

(2) The Judges of the Supreme Court shall be the Chief Justice, the President of the High Court and such number of Justices of Appeal and Judges of the High Court as may be prescribed by Parliament.

(3) No office of Judge shall be abolished while there is a substantive holder thereof.

(4) The Supreme Court shall be a superior court of record and, save as otherwise provided by Parliament, shall have all the powers of such a court.

Appointment of Judges of the Supreme Court

125.(1) The Chief Justice shall be appointed by the President, by instrument under the Public Seal, on the advice of the Constitutional Offices Commission.

(2) The President of the High Court shall be appointed by the President, by instrument under Public Seal, on the advice of the Judicial and Legal Services Commission, from among the Judges of the High Court.

- (3) The Justices of Appeal and the Judges of the High Court shall be appointed by the President by instrument under the Public Seal on the advice of the Judicial and Legal Service Commission.
- (4) The qualifications for appointment as a Judge shall be such as may be prescribed by any law for the time being in force.
- (5) A person who has been appointed as a Judge may continue in office notwithstanding any subsequent variations in qualifications so prescribed.

Acting Judges of the Supreme Court

126.(1) If the office of Chief Justice is vacant or if the holder thereof is performing the functions of the office of President or is for any other reason unable to perform the functions of the office, then, until a person has been appointed to that office and assumed its functions or, as the case may be, until the holder thereof has resumed those functions, they shall be performed by such other person, qualified under section 125 for appointment as a Judge, as the President, acting on the recommendation of the Constitutional Offices Commission, may appoint to act as Chief Justice by instrument under the Public Seal.

(2) If the office of President of the High Court is vacant or if the holder of the office is for any reason unable to perform the functions of the office, then, until a person has been appointed to that office and assumed its functions or until the holder thereof has resumed those functions, they shall be performed by such other person, qualified under section 125 for appointment as the President of the High Court, as the President, acting on the recommendation of the Constitutional Offices Commission, may appoint to act as President of the High Court by instrument under the Public Seal.

(3) If the office of a Justice of Appeal or Judge of the High Court is vacant, or if any such Judge is appointed to act as Chief Justice or is for any reason unable to perform the functions of the office, or if the Chief Justice advises the President that the state of business of the Supreme Court so requires, the President, acting in accordance with the advice of the Judicial and Legal Service Commission,

may, by instrument under the Public Seal, appoint a person qualified under section 125(3) for appointment as a Judge to act as a Judge; and any person so appointed shall continue to act until the appointment is revoked by the President, acting in accordance with the advice of the Judicial and Legal Service Commission.

(4) A person may be appointed under the provisions of this section to act as Chief Justice, President of the High Court or other Judge notwithstanding that the person has attained the age at which that office is required by section 128 to be vacated by the holder thereof.

(5) Any person so appointed may, notwithstanding that the period of his appointment has expired or the appointment has been revoked, sit as a Judge for the purpose of delivering judgment or doing any other thing in relation to proceedings which were commenced before that person while acting as such.

Oaths to be taken by Judges

127. A Judge shall not enter upon the duties of the office until the Judge has taken and subscribed the oath of allegiance and the judicial oath in the form set out in the *Sixth Schedule*.

Tenure of office of Judges

128.(1) Subject to the provisions of section 129, a person holding the office of Judge, other than the Chief Justice or the President of the High Court, shall vacate office when that person attains the age of 72 years.

(2) The Chief Justice shall hold office for a term of 7 years or until attaining the age of 72 years, whichever is the earlier.

(3) If the term of office of the Chief Justice expires before the holder of that office attains the age of 72 years in accordance with subsection (2), the Chief Justice shall cease to hold that office but may opt to be appointed to the office as a Justice of Appeal.

- (4) Where the holder of the office of Chief Justice opts to be appointed as a Justice of Appeal in accordance with subsection (3), the President shall appoint that person as a Justice of Appeal, notwithstanding that such appointment may exceed number of Justices of Appeal as may be prescribed by Parliament.
- (5) The President of the High Court shall hold office for a term of 5 years or until attaining the age of 72 years, whichever is the earlier.
- (6) If the term of office of the President of the High Court expires before the holder of that office attains the age of 72 years in accordance with subsection (5), President of the High Court shall cease to hold that office, but may opt to be appointed to the office of Judge of the High Court.
- (7) Where the holder of the office of President of the High Court opts to be appointed to the office of Judge of the High Court in accordance with subsection (6), the President shall appoint that person as a Judge of the High Court notwithstanding that such appointment may exceed the number of Judges of the High Court as may be prescribed by Parliament.
- (8) Where a person who held the office of Chief Justice or President of the High Court becomes a Justice of Appeal or Judge of the High Court, as the case may be, in accordance with subsection (4) or (7), that person shall continue to receive the salary and allowances commensurate with the office of Chief Justice or President of the High Court, as the case may be.
- (9) Notwithstanding that a Judge has attained the age at which a judge is required by the provisions of this section to vacate office or has retired or resigned before reaching such age, a person may sit as a Judge for the purpose of delivering judgment or doing any other thing in relation to proceedings which were commenced before the Judge attained that age or, as the case may be, retired or resigned.
- (10) The provisions of this section shall be without prejudice to the provisions of section 126.

Removal from office

- 129.(1)** A Judge may be removed from office only
- (a) for inability to discharge the functions of the office (whether arising from inability of body or mind or any other cause);
 - (b) for misbehaviour;
 - (c) for excessive or inordinate delay in delivering judgment; or
 - (d) for persistent delays of more than 6 months in delivering judgment.
- (2) A Judge shall not be removed from office except in accordance with the provisions of section 130.

Procedure for removal from office

- 130.(1)** A Judge shall be removed from office by the President, by instrument under the Public Seal, if the question of the removal of that Judge from office has been referred by the President to the Caribbean Court of Justice in accordance with subsection (4) and the Court has advised the President that the Judge ought to be removed from office for inability, misbehaviour or delay.
- (2) Any person may file a complaint with the Judicial and Legal Service Commission (referred to in this section as the “Commission”) alleging that any of the grounds for removal set out in section 129(1) has arisen in relation to a Judge.
- (3) Where a complaint is filed in accordance with subsection (2), the Commission shall enquire into the matter and where the Commission determines that
- (a) no sanction should be imposed, it shall so inform the complainant and the Judge against whom the complaint was filed;
 - (b) a sanction less than removal should be imposed on the Judge, the Commission may impose that sanction; or

- (c) that the question of the removal of that Judge should be referred to the Caribbean Court of Justice, the Commission shall advise the President that such question should be referred to the Court.
- (4) If the Commission advises the President that the question of the removal of a Judge should be referred by the President to the Caribbean Court of Justice, the President shall request that the question should be referred accordingly.
- (5) In the course of the inquiry referred to in subsection (3), adequate opportunity shall be provided for the complainant and the Judge against whom the complaint is filed to make representations.
- (6) Where the question of removal of a Judge has been referred to the Caribbean Court of Justice in accordance with subsection (4), the Caribbean Court of Justice may determine whether the Judge in question should be removed, a sanction less than removal should be imposed or that no action should be taken.
- (7) Where a complaint has been filed in accordance with subsection (2) which concerns or relates to the Chief Justice or the President of the High Court, then the Chief Justice or the President of the High Court, as the case may be, shall not participate in the consideration of the complaint by the Commission.
- (8) Where the question of removing a Judge from office has been referred to the Caribbean Court of Justice under subsection (4), the President, acting in accordance with the advice of the Judicial and Legal Service Commission may suspend the judge from performing the functions of office.
- (9) Any such suspension may at any time be revoked by the President, acting in accordance with the advice of the Judicial and Legal Service Commission (as the case may be), and shall in any case cease to have effect
 - (a) if the tribunal advises the President that the President should not request that the question of the removal of the Judge from office be referred by the President to the Caribbean Court of Justice; or
 - (b) the Caribbean Court of Justice advises the President that the Judge ought not be removed from office.

(10) The provisions of the *Seventh Schedule*, other than paragraphs 1, 2 and 10, shall apply in relation to the Commission during the course of any inquiry conducted in accordance with subsection (3).

Part 2

Appeals

Constitution of Court of Appeal

131.(1) Subject to the provisions of subsection (2), the Court of Appeal established by Part 1 of this Chapter shall be constituted by not less than 3 Judges sitting together.

(2) A Judge shall not sit as a Judge of the Court of Appeal on the hearing of an appeal

- (a) from any decision given by that Judge or any decision given by any court of which that Judge was sitting as a member; or
- (b) against a conviction or sentence if he was the Judge by or before whom the appellant was convicted.

Other arrangements for appeals

132.(1) Notwithstanding anything contained in Part 1 of this Chapter, Parliament may make provision

- (a) for implementing arrangements made between the Government of Barbados and the Government or Governments of any other part or parts of the Commonwealth relating to the establishment of a court of appeal to be shared by Barbados with that part or those parts of the Commonwealth, and for the hearing and determination by such a court of appeals from decisions of any court in Barbados; or

- (b) for the hearing and determination of appeals from decisions of any court in Barbados by a court established for any other part of the Commonwealth.

(2) A law enacted in pursuance of subsection (1) may provide that the jurisdiction conferred on any such court as is referred to in that subsection shall be to the exclusion, in whole or in part, of the jurisdiction of the Court of Appeal established by Part 1 of this Chapter; and during any period when jurisdiction is so conferred to the exclusion of the whole jurisdiction of the said Court of Appeal, Parliament may suspend the provisions of the said Part 1 establishing that Court.

(3) In subsection (1), the expression “any court in Barbados” includes the Court of Appeal established by Part 1 of this Chapter.

Appeals relating to fundamental rights and freedoms

133.(1) An appeal to the Court of Appeal shall lie as of right from final decisions of the High Court given in exercise of the jurisdiction conferred on the High Court by section 187 (which relates to the enforcement of fundamental rights and freedoms).

(2) An appeal shall lie as of right to the Caribbean Court of Justice from any decision given by the Court of Appeal in any such case.

(3) In this section “the Court of Appeal” means such court as may be vested with jurisdiction to hear appeals from any court in Barbados in pursuance of section 132 or, if there is no such court, the Court of Appeal established by Part 1 of this Chapter.

Appeals to the Caribbean Court of Justice in other cases

134.(1) Parliament may provide for an appeal to lie from

- (a) decisions of the Court of Appeal established by Part 1 of this Chapter;
- or

- (b) decisions of any other court in exercise of jurisdiction conferred by a law enacted in pursuance of section 132(2),

to the Caribbean Court of Justice, either as of right or with the leave of the said Court of Appeal or other court, as the case may be, in such cases other than those referred to in section 132(2) as may be prescribed by Parliament.

(2) Nothing in this Constitution shall affect any right of the Caribbean Court of Justice to grant special leave to appeal from decisions such as are referred to in subsection (1).

(3) A decision of the Caribbean Court of Justice is final and shall not be the subject of any appeal or enquiry in any tribunal or other court.

CHAPTER IX

THE PUBLIC SERVICE

Part 1

The Service Commissions

Administrative, General and Professional Service Commission

135.(1) There shall be an Administrative, General and Professional Service Commission consisting of a Chairperson and not fewer than 3 nor more than 8 other members.

(2) Subject to subsection (3), the members of the Administrative, General and Professional Service Commission shall be appointed by the President by instrument under the Public Seal acting in accordance with the advice of the Constitutional Offices Commission.

(3) At least one of the members referred to in subsection (2) shall be appointed after the Commission has consulted such bodies as the Commission determines represent the interest of labour.

Protective Services Commission

136.(1) There shall be a Protective Services Commission consisting of a Chairman and not fewer than 3 nor more than 8 other members.

(2) Subject to subsection (3), the members of the Protective Services Commission shall be appointed by the President by instrument under the Public Seal acting on the recommendation of the Constitutional Offices Commission.

(3) At least one of the members referred to in subsection (2) shall be appointed after the Commission has consulted such bodies as the Commission determines represent the interest of labour.

Judicial and Legal Service Commission

137.(1) There shall be a Judicial and Legal Service Commission consisting of the following members who shall be appointed the President by instrument under the Public Seal as follows:

- (a) a Chairperson appointed on the advice of the Constitutional Offices Commission;
- (b) the Chief Justice;
- (c) the President of the High Court;
- (d) two persons who have held office as judges of a court having unlimited jurisdiction in civil and criminal matters in any part of the Commonwealth or of a court having jurisdiction in appeals from such a court, appointed on the advice of the Constitutional Offices Commission;
- (e) an attorney-at-law of at least 10 years standing, appointed on the advice of the Barbados Bar Association;
- (f) an attorney-at-law no longer in active practice, appointed on the advice of the Constitutional Offices Commission; and

- (g) two lay members, appointed on the advice of the Constitutional Offices Commission.

(2) Subject to the provisions of section 139(6), the Chairperson shall hold office for a term of 6 years but is not eligible for reappointment; and appointed members shall hold office for a term of 4 years but are eligible for reappointment.

Teaching Service Commission

138.(1) There shall be a Teaching Service Commission consisting of a Chairperson and not fewer than 3 nor more than 8 other members.

(2) Subject to subsection (3), the members of the Teaching Service Commission shall be appointed by the President by instrument under the Public Seal, acting on the recommendation of the Constitutional Offices Commission.

(3) At least one of the members referred to in subsection (2) shall be appointed after the Commission has consulted such bodies as the Commission determines represent the interest of labour.

Provisions relating to membership of Service Commission

139.(1) Subsections (2) to (7) shall have effect in relation to membership of every Service Commission, but subject to the exceptions specified in subsections (8) and (9).

(2) If the office of Chairperson of the Commission is vacant or the Chairperson is for any reason unable to perform the functions of the office, the President may by instrument under the Public Seal appoint one of the other members of the Commission to act as Chairperson; and a person so appointed shall, subject to subsection (5), continue so to act until

- (a) the Chairperson resumes those functions; or
- (b) another person is appointed to the office and assumes those functions.

(3) If the office of a member of a Commission other than the Chairperson is vacant or such a member is for any reason unable to perform the functions of the

office, the President may by instrument under the Public Seal, acting on the recommendation of the Constitutional Offices Commission appoint a person who is qualified for appointment as a member of the Commission to act in the office of that member; and a person so appointed shall, subject to subsection (5), continue so to act until

- (a) the member resumes those functions; or
- (b) another person is appointed to the office and assumes those functions;
or
- (c) the appointment of the acting member is revoked by the President.

(4) A person is not qualified to be appointed as a member of a Commission if the person is a member of either House or a public officer or holds the office of Ombudsman.

(5) Subject to subsection (6), the office of a member of a Commission becomes vacant

- (a) at the expiration of 3 years from the date of appointment or at such earlier time as may be specified in the instrument of appointment; or
- (b) if the person becomes a member of either House or a public officer or Ombudsman.

(6) Section 157 (which relates to removal from office) applies to the office of a member of a Commission; and the prescribed authorities for the purposes of subsections (4) and (6) of that section is

- (a) in relation to the Chairperson, the Constitutional Offices Commission;
and
- (b) in relation to any other member, the Chairperson of the appropriate Service Commission.

(7) A member of the Commission is not, within the period of one year beginning on the date on which the member last held or acted in the office of member, eligible for appointment to any office power to make appointments to

which is vested by this Constitution in the President acting on the recommendation, or in accordance with the advice, of the Constitutional Offices Commission.

(8) Subsection (5) does not apply in relation to the Judicial and Legal Service Commission.

(9) In relation to the Judicial and Legal Service Commission, subsection (7) applies in relation to the appointed members of that Commission.

Procedure etc. of Service Commission

140.(1) In relation to every Service Commission, the President, acting in accordance with the advice of the Commission, may by regulations or otherwise regulate the Commission's procedure and, subject to the consent of the Prime Minister, confer powers and impose duties on any public officer or any authority of the Government for the purpose of the discharge of the functions of the Commission.

(2) At any meeting of a Service Commission a quorum is constituted if 3 members are present and, if 3 members are present, the Commission is not disqualified for the transaction of business by reason of any vacancy among the Commission's members or the absence of any member.

(3) Any proceedings of a Service Commission are valid notwithstanding that some person took part in those proceedings who was not entitled to do so.

(4) Any question proposed for decision at a meeting of a Service Commission is determined by a majority of the votes of the members of the Commission present and voting, and if on any such question the votes are equally divided the member presiding has and shall exercise a casting vote.

(5) Every Service Commission shall be provided with an office, and with staff and administrative facilities, appropriate to the Commission's responsibilities; and shall not be subject to the direction or control of any other person or authority.

Appointment, Removal and Discipline of Public Officers

Appointment etc. of public officers

141.(1) Subject to the provisions of this Constitution, power to make appointments to public offices, and to remove and to exercise disciplinary control over persons holding or acting in those offices, is vested in the President, acting in accordance with the advice of the Administrative, General and Professional Service Commission.

(2) Before the Administrative, General and Professional Service Commission advises the appointment to a public office of a person holding or acting in an office power to make appointments to which is vested by this Constitution in the President, acting in accordance with the advice of another Service Commission, the Administrative, General and Professional Service Commission shall consult that other Service Commission.

(3) The provisions of this section do not apply in relation to

- (a) the office of any member of the President's personal staff;
- (b) any office to which section 135, 136, 137 or 138 applies or;
- (c) so far as the provisions of this section relate to power to make appointments or to make appointments on transfer for which provision is made in section 149; or
- (d) so far as the provisions of this section relate to power to make appointments on transfer, any office to which section 151 applies; or
- (e) the office of the Director of Public Prosecutions; or
- (f) the office of the Auditor-General.

Delegation of powers under section 141

142.(1) The President acting in accordance with the advice of the Administrative, General and Professional Service Commission, may by instrument under the Public Seal direct that, to such extent and subject to such conditions as may be specified in that instrument, the powers, other than the power to remove from office, vested in the President by section 155, shall (without prejudice to the exercise of such powers by the President under that section) be exercisable by such one or more members of the Administrative, General and Professional Service Commission, or by such public officer, as may be so specified.

(2) In any case where an appointment is to be made by virtue of an instrument made under this section and the person to be appointed holds or is acting in any office power to make appointments to which is vested in the President, acting in accordance with the advice of another Service Commission, the person empowered by the instrument to make the appointment shall consult that Service Commission before making the appointment.

(3) Where the power to exercise disciplinary control over any officer has been exercised by virtue of an instrument made under this section, the officer in respect of whom it was so exercised may apply for the case to be referred to the President, and thereupon the disciplinary action taken shall cease to have effect except in so far as it may have included the suspension of the officer from performing the functions of the office and the case shall be referred to the President accordingly; and, subject to the provisions of section 148, the President shall then take such action in respect of the officer as the Administrative, General and Professional Service Commission may advise.

Appointment etc. to offices in a protective service

143.(1) Subject to the provisions of this Constitution, power to make appointments to the offices to which this section applies, and to remove and to exercise disciplinary control over persons holding or acting in such offices, is

vested in the President, acting in accordance with the advice of the Protective Services Commission.

(2) This section applies to public offices established by an order made under the *Public Service Act*, Cap. 29 relating to public officers in a protective service.

(3) Before the Protective Services Commission advises the appointment to a public office to which this section applies of a person holding or acting in an office power to make appointments to which is vested by this Constitution in the President, acting in accordance with the advice of another Service Commission, the Protective Services Commission shall consult that other Service Commission.

(4) Parliament may make provision with respect to offences against discipline in a protective service 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 persons holding or acting in any office in such a service, being a power conferred by or under the provisions of this Chapter, shall be exercised in accordance with any such provision.

Delegation of powers under section 143

144.(1) The President, acting in accordance with the advice of the Protective Services Commission, may by instrument under the Public Seal direct that, to such extent and subject to such conditions as may be specified in that instrument, the powers, other than the power to remove from office, vested in the President by section 143 in relation to offices in a protective service below the relevant rank shall (without prejudice to the exercise of such powers by the President under that section) be exercisable by such one or more members of the Protective Services Commission, or by such public officer, as may be so specified.

(2) In subsection (1), the expression "the relevant rank",

(a) in relation to the Customs and Excise Service, means the rank of Customs Officer I;

- (b) in relation to the Fire Service, means the rank of Station Officer;
- (c) in relation to the Security Guard Service, means the rank of Senior Security Guard;
- (d) in relation to the Immigration Service, means the rank of Assistant Chief Immigration Officer;
- (e) in relation to the Police Service, means the rank of Inspector; and
- (f) in relation to the Prison Service, means the rank of Assistant Chief Officer.

(3) In any case where an appointment is to be made by virtue of an instrument made under this section and the person to be appointed holds or is acting in an office power to make appointments to which is vested in the President, acting in accordance with the advice of another Service Commission, the person empowered by that instrument to make the appointment shall consult that other Service Commission before making the appointment.

(4) Where the power to exercise disciplinary control over any officer has been exercised by virtue of an instrument made under this section, the officer in respect of whom it was so exercised may apply for the case to be referred to the President, and thereupon the disciplinary action taken shall cease to have effect except in so far as it may have included the suspension of the officer from performing the functions of the office, and the case shall be referred to the President accordingly; and, subject to the provisions of section 148, the President shall then take such action in respect of the officer as the Protective Services Commission may advise.

Appointment etc. of legal officers

145.(1) Subject to the provisions of this Constitution, power to make appointments to the offices to which this section applies and to remove and to exercise disciplinary control over persons holding or acting in such offices is vested in the President, acting in accordance with the advice of the Legal Service Commission.

(2) This section applies to those public offices (other than the office of the Director of Public Prosecutions) for appointment to which persons are required to possess legal qualifications prescribed by Parliament.

Appointment, etc., of teachers

146.(1) Subject to the provisions of this Constitution, power to make appointments to the offices to which this section applies and to remove and to exercise disciplinary control over persons holding or acting in such offices is hereby vested in the President acting in accordance with the advice of the Teaching Service Commission.

(2) This section applies to public offices established by an order relating to teachers made under the *Public Service Act*, Cap. 29.

(3) Before the Teaching Service Commission advises the appointment to any public office of any person holding or acting in any office power to make appointments to which is vested by this Constitution in the President acting in accordance with the advice of another Service Commission, the Teaching Service Commission shall consult the other Service Commission.

Delegation of powers under section 146

147.(1) The President acting in accordance with the advice of the Teaching Service Commission may by instrument under the Public Seal direct that, to such extent and subject to such conditions as may be specified in that instrument, the powers, other than the power to remove from office, vested in the President by section 146(1) shall (without prejudice to the exercise of such powers by the President under that section) be exercisable by such one or more members of the Teaching Service Commission or by such public officer as may be so specified.

(2) In any case where an appointment is to be made by virtue of an instrument made under this section and the person to be appointed holds or is acting in any office power to make appointments to which is vested in the President, acting in accordance with the advice of the Judicial and Legal Service Commission, the Administrative, General and Professional Service Commission or the Protective

Services Commission, the person empowered to make the appointment shall consult the Judicial and Legal Service Commission, the Administrative, General and Professional Service Commission or the Protective Services Commission, as the case may be, before making the appointment.

(3) Where the power to exercise disciplinary control over any officer has been exercised by virtue of an instrument made under this section, the officer in respect of whom it was so exercised may apply for the case to be referred to the President, and thereupon the disciplinary action taken shall cease to have effect except in so far as it may have included the suspension of the officer from performing the functions of the office, and the case shall be referred to the President accordingly; and, subject to the provisions of section 154, the President shall then take such action in respect of the officer as the Teaching Service Commission may advise.

Appeals in disciplinary cases

148.(1) Before the President acts in accordance with the advice of a Service Commission that a public officer should be removed from office or that a penalty should be imposed on a public officer by way of disciplinary control, the President shall inform the officer of that advice and, if the officer then applies for the case to be reviewed, the President shall not act in accordance with that advice but shall refer the case to the Public Service Appeal Board; but, acting in accordance with the advice of the Commission, the President may nonetheless suspend the officer from performing the functions of the office pending the review.

(2) Where a case has been referred to the Public Service Appeal Board under subsection (1), the Board shall consider the case and where the case is dealt with by the Board, the Board shall render its decision to the Commission, which shall then advise the President in conformity with the decision of the Board, what action should be taken in respect of the officer; and the President shall act in accordance with that advice.

Appointment of permanent secretaries and certain other public officers

149.(1) Notwithstanding anything contained in the preceding provisions of this Chapter,

- (a) except as provided in paragraph (b), power to make appointments to the offices to which this section applies is vested in the President, acting on the recommendation of the appropriate Service Commission made after that Commission has consulted the Prime Minister; and
- (b) power to make appointments to the office of a permanent secretary on transfer from another such office carrying the same salary is vested in the President, acting on the recommendation of the Prime Minister.

(2) This section applies to the offices of Solicitor-General, Director of Finance and Economic Affairs, Secretary to the Cabinet, Permanent Secretary, Commissioner of Police, the Chief Immigration Officer, Chief Fire Officer, the Chief Security Officer, the Superintendent of Prisons, chief or deputy chief professional or technical adviser or officer in a Ministry of the Government (by whatever name called) and head or deputy head of a department of the Government.

(3) In this section,

“the appropriate Service Commission” means

- (a) in relation to the office of the Solicitor-General, the Judicial and Legal Service Commission;
- (b) in relation to the office of the Commissioner of Police, the Chief Immigration Officer, Chief Fire Officer, the Chief Security Officer and the Superintendent of Prisons, the Protective Services Commission;
- (c) in relation to the office of Principal of a primary or secondary school, the Teaching Service Commission; and

- (d) in relation to any other office to which this section applies, the Administrative, General and Professional Service Commission;

“permanent secretary” means the public officer (whether or not styled “permanent secretary”) who, subject to the general direction and control of a Minister, supervises any department of the Government.

- (4) For the purpose of supervising departments of Government, two or more departments may be placed under the supervision of one permanent secretary and 2 or more permanent secretaries may be appointed to supervise any department of government for which a Minister has been assigned responsibility.

Appointment etc. of principal representatives abroad

150.(1) Power to make appointments to the offices to which this section applies and to remove persons holding or acting in such offices vests in the President, acting in accordance with the advice of the Prime Minister.

- (2) Before tendering advice for the purposes of this section in relation to any person who holds a public office other than an office to which this section applies, the Prime Minister shall consult the appropriate Service Commission.

(3) This section applies to the office of Ambassador, High Commissioner, Consul-General or other principal representative of Barbados in any other country or accredited to any international organization.

- (4) In this section,

“appropriate Service Commission” means

- (a) in relation to a person who holds an office to which section 143 applies, the Protective Services Commission;
- (b) in relation to a person who holds an office to which section 145 applies, the Judicial and Legal Service Commission;
- (c) in relation to a person to whom section 146 applies, the Teaching Service Commission;

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

Appointment on transfer to certain offices

151.(1) The power to make appointments on transfer to offices to which this section applies shall vest in the Prime Minister.

(2) The offices to which this section applies are

- (a) offices (other than those to which section 150 applies) the holders of which are required to reside outside Barbados for the proper discharge of their functions; and
- (b) such offices in the Ministry responsible for the external affairs of Barbados as may be designated by the Prime Minister.

PART 3

PENSIONS

Protection of pension rights

152.(1) Subject to section 153, the law applicable to the grant and payment to any officer, or to any officer's widow, children, dependants or personal representatives, of any pension, compensation, gratuity or other like allowance (in this section and section 154 referred to as an "award") in respect of the service of that officer in a public office is that in force on the relevant date or any later law that is not less favourable to the person concerned.

(2) In subsection (1), "the relevant date" means,

- (a) in relation to an award granted before 30th November 1966, the date on which the award was granted;

- (b) in relation to an award granted or to be granted on or after 30th November 1966 to or in respect of any person who was a public officer before 29th November 1966;
 - (c) in relation to an award granted or to be granted to or in respect of any person who becomes a public officer on or after 30th November, 1966, the date on which that person becomes a public officer.
- (3) Where a person is entitled to exercise an option as to which of 2 or more laws apply in the person's case, the law specified by the person in exercising the option is for the purposes of this section to be taken to be more favourable to the person than the other law or laws.
- (4) Awards granted under any law in respect of service in a public office (not being awards that are a charge upon some other public fund of Barbados) are charged on the Consolidated Fund.
- (5) For the purposes of this section and of section 167, service as a Judge is to be taken to be public service.

Grant and withholding of pensions etc.

- 153.(5)** The power to grant any award under any pensions law for the time being in force in Barbados (other than an award to which, under that law, the person to whom it is payable is entitled as of right) and, in accordance with any provisions contained in any such law, to withhold, reduce in amount or suspend any award payable under any such law is vested in the President.
- (2) Subject to subsections (5) and (6), the power vested in the President by subsection (1) shall be exercised by the President on the recommendation of the appropriate Service Commission.
- (3) The appropriate Service Commission shall not recommend to the President that any award for which a person who holds or has held the office of a Judge, Director of Public Prosecutions or Auditor General is eligible shall not be granted, or that any award payable to the person shall be withheld, reduced in amount or

suspended on the ground that he has been guilty of misbehaviour, unless such person has been removed from office by reason of such misbehaviour.

- (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 in an office to which
 - (i) section 136 applies, the Protective Services Commission; and
 - (ii) section 138 applies, the Teaching 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
 - (i) as a Judge;
 - (ii) as the Director of Public Prosecutions; or
 - (iii) in any other office to which section 137 applies, the Judicial and Legal Service Commission;
 - (c) in any other case, the Administrative, General and Professional Service Commission.
- (5) Where the appropriate Service Commission makes a recommendation to the President under this section that any award that may be granted under any pensions law in respect of the service in a public office of any person should not be granted, or that any award payable under any such law in respect of such service should be withheld, reduced in amount or suspended, the President shall inform the person concerned or the person's personal representatives of that recommendation; and if that person then applies, or, as the case may be, those personal representatives then apply, for the case to be reviewed, the President shall not act in accordance with that recommendation but shall refer the case in accordance with the terms of the application.

(6) The provisions of subsection (2) of section 148 (which section relates to appeals to the Public Service Appeal Board) apply *mutatis mutandis* in relation to an application made to the President under subsection (5) as those provisions apply in relation to an application made to the President under subsection (1) of section 148.

(7) In this section "pensions law" means any law relating to the grant to any person, or to the widow, children, dependants or personal representatives of any person, of an award of any pension, compensation, gratuity or other like allowance in respect of that person's service in a public office.

Part 4

Public Service Appeal Board

Public Service Appeal Board

154.(1) There shall be a Public Service Appeal Board (hereinafter called "the Board") consisting of

- (a) a Chairperson, who shall be a person who held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in any part of the Commonwealth or of a court having jurisdiction in appeals from such a court;
- (b) a Deputy Chairperson who shall be an attorney-at-law of at least 10 years standing; and
- (c) not less than 4 other members,
 - (i) at least 2 of whom shall be retired public officers; and
 - (ii) at least 2 of whom shall be appointed after consultation with bodies representing the interest of labour.

(2) The Chairperson and the other members of the Board shall be appointed by the President, by instrument under the Public Seal acting after consultation with the Prime Minister, the Leader of the Opposition and the Chief Justice.

(3) The provisions of subsections (2) to (7) of section 139 (which relate to the tenure of members of the Service Commissions) have effect in relation to the Board as those provisions have effect in relation to those Commissions.

Jurisdiction of Board

155.(1) An appeal may be made to the Board from any decision of a Service Commission

- (a) that a public officer should be removed from office; or
- (b) that a penalty should be imposed on a public officer by way of disciplinary control.

(2) An appeal may also be made to the Board from any recommendation of a Service Commission to the President under subsection (5) of section 153 that an award mentioned in that subsection should not be granted or should be withheld, reduced in amount or suspended.

(3) An appeal under subsection (1) may be brought by the public officer in respect of whom the decision was made.

(4) An appeal under subsection (2) may be brought by the public officer concerned, or by the officer's personal representatives.

(5) Upon an appeal, the Board may

- (a) affirm, modify or amend the Commission's decision or recommendation that is the subject of the appeal;
- (b) set aside that decision or recommendation; or
- (c) substitute for that decision or recommendation any other decision or recommendation that the Commission could have made.

- (6) The Board may by regulations
 - (a) make provision for the procedure to be followed in appeals to the Board; and
 - (b) prescribe the Board's own procedure in the hearing of such appeals.
- (7) Without prejudice to subsection (6), in any case where the Board requires further evidence, it may either
 - (a) order that evidence to be adduced before it orally or by affidavit; or
 - (b) refer the matter back to the Commission with a direction to the Commission
 - (i) to adjudicate upon the matter afresh; or
 - (ii) to make and report specific findings of fact to the Board;

and, where a matter is so referred back to a Commission, the Commission may, so far as the Commission deems necessary or expedient, deal with the matter as if it were seized of the matter in the Commission's original jurisdiction.

- (8) With the consent of the Prime Minister, the Board may, by regulations or otherwise, confer powers or impose duties on any public officer or any authority of the Government for the purpose of the exercise of the Board's functions.
- (9) This section and section 153 are in addition to, and not in derogation from, any other means by which a decision or recommendation of a Service Commission may be reviewed or called in question.

Values and principles of public service

156.(1) The Public Service, statutory authorities, government-controlled entities, and public enterprises shall adhere to values and principles which reflect a service that

- (a)* maintains the high standards of professionalism, ethics, impartiality and integrity;
- (b)* ensures transparent, efficient, economic and effective use of public resources;
- (c)* is committed to appointment and promotion on the basis of merit and impartiality;
- (d)* provides frank, honest, impartial, comprehensive, accurate and timely advice to the Government;
- (e)* faithfully and earnestly implements the policies and programmes of the Government;
- (f)* provides and delivers services fairly, effectively, impartially, responsively and courteously to the public;
- (g)* provides a workplace that promotes the fair treatment of its officers and establishes relations that value communication, consultation and co-operation with officers on matters affecting their workplace;
- (h)* establishes conditions conducive to the good health, welfare and safety of its officers while at work;
- (i)* is a development-oriented and career-based service characterised by good human-resource management practices to maximise employee potential;

- (j) adheres to the Constitution and other laws of Barbados and upholds the rule of law; and
 - (k) promotes accountability for public administration.
- (2) Parliament may by law give effect to the principles set out in subsection (1).

Removal from office of certain persons

157.(1) Where it is provided in this Constitution that this section shall apply to any office, a person holding such office (in this section referred to as “the officer”) shall not be removed therefrom or suspended from the exercise of the functions thereof except in accordance with the provisions of this section; and the prescribed authority for the purposes of subsection (4) or subsection (6) shall, in relation to any office, be the authority prescribed for that purpose by the provision of this Chapter by which this section is applied to that office.

(2) The officer may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour.

(3) The officer shall be removed from office by the President if the question of the person’s removal from office has been referred to a tribunal appointed under this section and the tribunal has advised the President that the person ought to be removed from office for inability or for misbehaviour.

(4) If the prescribed authority advises the President that the question of removing the officer from office under this section ought to be investigated, then

- (a) the President shall appoint a tribunal which shall consist of a Chairperson and not less than 2 other members, selected by the President acting in accordance with the advice of the Chief Justice, from among persons
 - (i) who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the

Commonwealth or a court having jurisdiction in appeals from any such court; or

(ii) who attorneys-at-law of at least 10 years standing; and

(b) that tribunal shall enquire into the matter and report on the facts thereof to the President and advise the President whether the officer ought to be removed from office for inability or for misbehaviour.

(5) The provisions of the *Seventh Schedule* shall apply to tribunals appointed under this section.

(6) If the question of removing the officer from office has been referred to a tribunal under this section, the President, acting in accordance with the advice of the prescribed authority, may suspend the officer from performing the functions of the office, and any such suspension may at any time be revoked by the President, acting as aforesaid, and shall in any case cease to have effect if the tribunal advises the President that the officer should not be removed from office.

CHAPTER X

INSTITUTIONS NOT SUBJECT TO THE DIRECTION OR CONTROL OF ANY OTHER PERSON OR INSTITUTION

Institutions not subject to direction and control

158.(1) The institutions established by this Chapter, in this Part collectively referred to as “Institutions”, shall not be subject to the direction or control of any other person or authority.

(2) The Institutions are independent, and subject only to this Constitution and the law, and they shall be impartial and shall exercise their powers and perform their functions without fear or favour, affection or ill will.

(3) Other organs of state, through legislative and other measures, shall assist and protect these Institutions to ensure the independence, impartiality, dignity and effectiveness of these institutions.

- (4) No person or organ of state may interfere with the functioning of these Institutions.
- (5) These Institutions are accountable to the Parliament, and must report on their activities and the performance of their functions to Parliament at least once a year.
- (6) Parliament shall allocate adequate funds to enable each institution to perform its functions and the budget of each institution shall be a separate vote.
- (7) Parliament may prescribe the offices constituting the Institutions and provide for all other matters, including financial matters, to enable the Institutions to perform their functions.
- (8) Each institution shall appoint its own staff acting after consultation with the Administrative, General and Professional Service Commission.
- (9) The salaries and allowances of the staff of the Institutions shall be charged on and shall be paid out of the Consolidated Fund.
- (10) The Institutions in this Chapter shall provide an annual report to Parliament on their administration and operations
- (11) An annual report required by subsection (6) shall be examined by a committee of either House, or a joint select committee of both Houses, which shall, after due consideration, report to the House.

Part 1

Human Rights Commission

Human Rights Commission

- 159.(1)** There shall be a Human Rights Commission.

- (2) The functions of the Human Rights Commission are
- (a) to promote respect for human rights and develop a culture of human rights;
 - (b) to promote gender equality and equity generally and to coordinate and facilitate gender mainstreaming in national development;
 - (c) to promote the protection, and observance of human rights in public and private institutions;
 - (d) to monitor, investigate and report on the observance of human rights in all spheres of life, including observance by the national security organs;
 - (e) to receive and investigate complaints about alleged abuses of human rights and take steps to secure appropriate redress where human rights have been violated;
 - (f) on its own initiative or on the basis of complaints, to investigate or research a matter in respect of human rights, and make recommendations to improve the functioning of state organs;
 - (g) to act as the principal organ of the State in ensuring compliance with obligations under treaties and conventions relating to human rights;
 - (h) to investigate any conduct in state affairs, or any act or omission in public administration in any sphere of government, that is alleged or suspected to be prejudicial or improper or to result in any impropriety or prejudice;
 - (i) to investigate complaints of abuse of power, unfair treatment, manifest injustice or unlawful, oppressive, unfair or unresponsive official conduct;
 - (j) to report on complaints investigated under paragraphs (h) and (i) and take remedial action; and
 - (k) to perform any other functions prescribed by Parliament.

- (3) Every person has the right to complain to the Commission, alleging that a right or fundamental freedom has been denied, violated, infringed or threatened.
- (4) Parliament shall provide for the Constitution of the Commission and other matters in relation thereto.

Part 2

The Electoral and Boundaries Commission

Electoral and Boundaries Commission

- 160.**(1) There shall be an Electoral and Boundaries Commission for Barbados, in this Chapter called the “Commission”.
- (2) The Commission shall consist of a Chairperson, a Deputy Chairperson and three other members.
 - (3) The Chairperson and the Deputy Chairperson of the Commission shall be appointed by the President, by instrument under the Public Seal, acting on the recommendation of the Constitutional Offices Commission.
 - (4) Two members of the Commission shall be appointed by the President, by instrument under the Public Seal, acting on the recommendation of the Prime Minister after consultation with the Leader of the Opposition.
 - (5) One member shall be appointed by the President acting on the recommendation of the Leader of the Opposition after consultation with the Prime Minister.
 - (6) A person shall not be qualified to hold office as a member of the Commission if the person is a Minister, a Parliamentary Secretary, a member of, or a candidate for election to the House of Assembly, a Senator, a public officer or Ombudsman.

(7) Subject to the provisions of this section, the office of a member of the Commission becomes vacant

- (a) at the expiration of 5 years from the date of appointment or such shorter period as may be specified in the instrument by which the member was appointed; but the member is eligible for reappointment;
- (b) where any circumstances arise that if the member were not a member of the Commission, would cause the member to be disqualified for appointment as a member; or
- (c) if the member resigns office, by writing under the member's hand addressed to the President.

(8) Whenever the office of a member other than the Chairperson is vacant or such member is for any reason unable to perform the functions of office, the President may in accordance with the manner prescribed in this section, appoint a person to act in the office of that member.

(9) If the office of Chairperson is vacant or the Chairperson is for any reason unable to perform the functions of office, the Deputy Chairperson shall perform the functions of that office.

(10) The provisions of section 157 (which relate to removal from office) shall apply to the office of a member of the Commission, and the prescribed authority for the purposes of subsection (4) of that section is the Prime Minister acting after consultation with the Leader of the Opposition.

(11) At any meeting of the Commission, a quorum is constituted if 3 members are present; and, if a quorum is present, the Commission shall not be disqualified for the transaction of business by reason of any vacancy among its members or the absence of any member.

(12) The fact that a person took part in proceedings of the Commission who was not entitled to do so does not invalidate the proceedings.

(13) Any question proposed for decision at a meeting of the Commission shall be determined by a majority of the votes of the members of the Commission

present and voting, and if on any such question the votes are equally divided, the member presiding has and shall exercise a casting vote.

(14) Subject to the provisions of this section, the Commission may regulate its own procedure.

Functions and autonomy of Commission

161.(1) The registration of voters and the conduct of elections of members of the House of Assembly in every constituency, and any matters that appear to the Commission to be incidental to or consequential upon either of those functions, shall be subject to the direction and supervision of the Commission.

(2) In the exercise of its functions under this section, the Commission shall not be subject to the direction or control of any person or authority.

Procedure for review of constituency boundaries

162.(1) The Commission shall, in accordance with this section, review the number and boundaries of the constituencies into which Barbados is divided and the Chairperson shall submit to the Speaker and the President of the Senate for laying in both Houses in accordance with this section reports either

- (a) showing the constituencies into which it recommends that Barbados should be divided in order to give effect to the rules set out in the *Eighth Schedule*; or
- (b) stating that, in the opinion of the Commission, no alteration is required to the existing number or boundaries of constituencies in order to give effect to the rules referred to in paragraph (a).

(2) Reports under subsection (1) shall be submitted by the Commission

- (a) in the case of its first report, not less than one nor more than 5 years from the date of appointment of members of the Commission;
- (b) in the case of any subsequent report, not less than 2 nor more than 5 years from the date of the submission of its last report.

- (3) Not more than 2 months after submission of the report by the Commission a draft Electoral and Boundaries Commission (Review of Boundaries) Order to be made by the President shall be prepared.
- (4) By a message to each House, the President shall seek approval for the making of the Order.
- (5) By an address to the President, each House shall signify its approval or rejection of the Order.
- (6) If the Order referred to in subsection (4) is approved, the provisions of subsection (8) shall apply.
- (7) If the Order referred to in subsection (4) is rejected, the Commission shall amend the draft and submit the amended draft to the Speaker and the President of the Senate to be laid in each House, not later than 2 months after rejection of the draft.
- (8) Where any draft made under this section is approved by resolution of each House, the Minister shall submit it to the President who shall make the order in terms of the draft; and that order shall come into force on the next dissolution of Parliament and, until revoked by a further order made by the President in accordance with this section, shall have the force of law.
- (9) Nothing in subsection (5) shall be construed as preventing the publication of any electoral register or the carrying out of any other requirement connected with the registration of electors in accordance with an order made before that dissolution by the President pursuant to that subsection.
- (10) The validity of any order by the President purporting to be made under this section and reciting that a draft of the order has been approved by resolution of each House shall not be inquired into in any court.

Validity of performance of functions by Electoral and Boundaries Commission

- 163.(1)** The question whether
- (a) the Commission has validly performed any function vested in it by or under this Constitution; or
 - (b) any member of the Commission or any other person or authority has validly performed any other function in relation to the work of the Commission,

may not be inquired into in the High Court.

- (2) Nothing in this subsection or subsection (1) shall be construed as preventing

- (a) the election of a member of the House of Assembly from being called in question on the ground that the conduct of that election was inconsistent with the law providing for the election of members of the House of Assembly; or
- (b) the conduct of any member of the Commission or any other person or authority from being called into question on the ground that the conduct of the member or the other person or authority constitutes an offence under any law providing for election offences or for the election of members of the House of Assembly.

- (3) No suit shall lie against any member of the Commission or any member of the staff thereof in respect of any act done in good faith in connection with the performance of the functions of the Commission.

Electoral law

- 164.(1)** The election of members to the House of Assembly shall be conducted under the direction and supervision of the Commission.

(2) Any law providing for the election of members of the House of Assembly shall in particular contain provisions

- (a) for the division of Barbados into Constituencies in accordance with any report submitted under section 162;
- (b) for the registration of voters;
- (c) designed to ensure that as far as practicable any person registered and qualified to vote at an election of members of the House of Assembly, has a reasonable opportunity of voting;
- (d) relating to the conduct of elections of members of the House of Assembly, including provisions relating to the identification of electors designed to ensure that as far as practicable a person shall not vote at an election of a member of the House of Assembly
 - (i) who is not entitled to vote;
 - (ii) when he is not entitled to vote; or
 - (iii) where he is not entitled to vote;
- (e) contain provisions permitting or restricting political broadcasts and the allocation of broadcasting time to political parties;
- (f) relating to the nomination of candidates;
- (g) relating to the appointment of returning officers;
- (h) relating to election deposits;
- (i) relating to spending limits for candidates during election campaigns;
- (j) relating to restrictions on sources of financing;
- (k) relating requirements to declare sources of financing;
- (l) relating to the suppression of corrupt or illicit electoral practices; and
- (m) for any other purpose relating to the conduct of elections and referendums.

The Office of the Ombudsman

Office and functions of Ombudsman

165.(1) There shall be an office of Ombudsman.

(2) Subject to section 167, it is the function of the Ombudsman, at the instance of any person, to investigate whether injustice has been caused to the person or to any other person by improper, unreasonable or inadequate administrative conduct on the part of a government ministry or department or any other public authority, and to make on the results of those investigations such reports to such persons as justice may require.

Appointment and tenure of Ombudsman

166.(1) The Ombudsman shall be appointed, by the President, by instrument under the public seal, acting on the recommendation of the Constitutional Offices Commission.

(2) Subject to subsection (3), the Ombudsman shall vacate office on attaining the age of 67 years.

(3) Section 157 (which relates to removal from office) applies to the office of Ombudsman; and the prescribed authority for the purposes of subsections (4) and (6) of that section is the Constitutional Offices Commission.

Parliament may confer power on Ombudsman

167. Parliament may

- (a) confer on the Ombudsman such investigatory functions as Parliament may see fit in addition to the function specified in section 165(2);
- (b) provide for exceptions to, or restrictions upon, the power (including any power implied by section 165(2)) of the Ombudsman to make investigations;

- (c) provide for an office and staff of the Ombudsman, and assign to persons such functions as are necessary or expedient for the Ombudsman to operate effectively;
- (d) regulate the procedure of office of Ombudsman's procedures; and
- (e) generally give effect to, or supplement, or make more effective, the provisions of this Part.

Part 4

The Office of The Auditor-General

Office of Auditor-General

168. There shall be an office of Auditor-General, which shall be a public office.

Appointment and tenure of Auditor-General

169.(1) The Auditor-General shall be appointed by the President, by instrument under the Public Seal, acting on the recommendation of the Administrative, General and Professional Service Commission made after consultation with the Prime Minister and the Leader of the Opposition.

(2) If the office of Auditor-General is vacant or the Auditor-General is for any reason unable to perform the functions of that office, the President, acting on the recommendation of the Administrative, General and Professional Service Commission made after consultation with the Prime Minister and the Leader of the Opposition, shall appoint a person to act in that office; and a person so appointed shall, subject to subsection (3), continue so to act until

- (a) the Auditor-General resumes those functions; or
 - (b) another person is appointed to that office and assumes those functions;
- or

- (c) the appointment of the acting Auditor-General is revoked by the President, acting on the recommendation of the Administrative, General and Professional Service Commission made after consultation with the Prime Minister and the Leader of the Opposition.
- (3) The Auditor-General shall vacate office on attaining the age of 67 years.
- (4) Section 157 (which relates to removal from office) applies to the office of Auditor-General; and the prescribed authority for the purposes of subsections (4) and (6) of that section is the President, acting on the recommendation of the Administrative, General and Professional Service Commission made after consultation with the Prime Minister and the Leader of the Opposition.

Functions of Auditor-General

- 170.(1)** The accounts of the Supreme Court, the Management Commission of Parliament, all departments and offices of the Government (including the offices of the Cabinet, the Presidential Advisory Council, the Constitutional Offices Commission and any Service Commission but excluding the office of the Auditor-General) and the institutions set out in Chapter X shall, at least once in every year, be audited and reported on, and laid before the House of Assembly and the Senate, by the Auditor-General who, with the Auditor-General's staff, is at all times entitled to have access to all books, records, returns and reports relating to those accounts.
- (2) The Auditor-General may carry out examination into the economy, efficiency and effectiveness with which any department, office or other body to which the Auditor-General's duties under subsection (1) relate has used the resources available for the discharge of the functions of that department, office or body.
 - (3) Nothing in subsection (2) entitles the Auditor-General in any examination mentioned in that subsection to question the merits of the policy objectives of any department, office or body.

(4) The Auditor-General is not subject to the direction or control of any other person or authority in the exercise of the Auditor-General's functions under subsections (1) and (2).

(5) Nothing in this section prevents the performance by the Auditor-General of such other functions in relation to

- (a) the accounts of the Government and the accounts of other public authorities and bodies administering public funds; or
- (b) the supervision and control of expenditure from public funds

as may be prescribed by Parliament.

(6) Where in any report by the Auditor-General on the accounts or activities of a Government department or any other public body (being a report whether made under this section or any other law and laid before the House of Assembly) the Auditor-General makes any comment or judgment that is, in the opinion of the head of that department or body, unduly or unfairly critical of that department or body, the head of that Department or body may, within 30 days after that report is so laid, make such response in writing to that comment or judgment as the head of that Department or body thinks fit; and any such response shall be placed before, and be considered by, the Public Accounts Committee.

(7) The accounts of the office of the Auditor-General shall be audited and reported on by the Minister responsible for Finance; and the provisions of subsections (1), (2), (4) and (6) of this section apply *mutatis mutandis* in relation to the exercise by that Minister of those functions as those provisions apply in relation to audits and reports made by the Auditor-General.

(8) The Auditor-General shall be provided with an office, and with staff and administrative facilities commensurate with the Auditor-General's responsibilities.

Parliament may confer power on the Auditor-General

- 171.** Parliament may
- (a) confer on the Auditor-General such investigatory functions as Parliament may see fit in addition to the functions specified in section 170;
 - (b) provide for exceptions to, or restrictions upon, the power (including any power implied by section 170(2)) of the Auditor-General to perform examination;
 - (c) regulate the Auditor-General's procedures; and
 - (d) generally give effect to or supplement, or make more effective the provisions of this Part.

Part 5

The Integrity Commission

The Integrity Commission

172. There shall be an Integrity Commission (in this Part referred to as "the Commission"), which shall be constituted in such manner as may be prescribed by Parliament.

The duty of the Commission

173.(1) It is the duty of the Commission to promote integrity in the conduct of government and, for that purpose,

- (a) to institute and maintain arrangements for the submission on a periodic basis to the Commission, by the persons to whom this section applies, of declarations in writing of their assets, liabilities and income; and

- (b) to make investigations into issues appearing to be raised by those declarations and, if thought fit, to publish reports on those investigations.

(2) This section applies to the holders of such offices as Parliament may prescribe.

Enabling legislation

174. Parliament shall make provision

- (a) for the holders of offices to whom this Chapter applies;
- (b) for the performance by the Commission and by others of such functions (including enforcement functions) as may be thought necessary or expedient to be performed for the furtherance of the Commission's work;
- (c) for the safe keeping of declarations and other documents held by the Commission, and for maintaining the confidentiality of information held by the Commission that ought to be protected by confidentiality;
- (d) as to the procedures to be followed in the carrying out of the Commission's work; and
- (e) generally for facilitating and enforcing the fulfilment of the Commission's functions under sections 91(3) and 173.

CHAPTER XI

DEFENCE AND SECURITY

Defence and security

175. The State's defence and security policy shall be to defend national independence, preserve the country's sovereignty and integrity, and guarantee the normal functioning of institutions and the security of citizens against any armed aggression.

CHAPTER XII

FINANCE

The Consolidated Fund

176. There shall be a Consolidated Fund, to which, subject to any law to the contrary, shall be credited all revenues of Barbados.

Estimates

177.(1) Before the end of each financial year, the Minister shall cause to be prepared and laid before the House of Assembly annual estimates of revenue and expenditure for public services during the next financial year.

(2) The estimates of expenditure shall show separately

- (a) the sums required to meet statutory expenditure; and
- (b) the sums required to meet other expenditure proposed to be paid out of the Consolidated Fund.

(3) In this Chapter,

“financial year” means any period of twelve months beginning in any year on 1st April or on such other date as may be prescribed by Parliament;

“Minister” means Minister responsible for Finance;

“relevant law” means a provision of this Constitution or another law;

“statutory expenditure” means expenditure charged on the Consolidated Fund, or on the general revenues and assets of Barbados, by a relevant law.

Authorization of expenditure

178.(1) At the earliest convenient moment before the commencement of each financial year, the Minister shall introduce in the House of Assembly an Appropriation Bill containing, under appropriate heads for the several services

required, the estimated aggregate sums which are proposed to be expended (otherwise than by way of statutory expenditure) during that financial year.

(2) Subject to sections 179 and 180, the sums voted on the estimates of expenditure by the House of Assembly in respect of a financial year represent the limit and extent of the public expenditure for that financial year.

(3) Where at the end of a financial year there is an unexpended balance of a sum voted on the estimates by the House of Assembly in respect of that financial year, that balance lapses.

(4) Parliament may make provision whereby, if the *Appropriation Act* in respect of any financial year has not come into operation by the beginning of that financial year, the Minister may authorize the withdrawal of moneys from the Consolidated Fund for the purpose of meeting expenditure necessary to carry on the services of the Government until the expiration of 30 days from the beginning of that financial year or the coming into operation of the *Appropriation Act*, whichever is the earlier.

Supplementary estimates of expenditure

179.(1) The Minister may, in case of necessity, from time to time cause to be prepared supplementary estimates of expenditure, which shall

- (a) be laid before and voted on by the House of Assembly; and
- (b) be laid before the Senate for consideration by the Senate.

(2) Where supplementary estimates of expenditure are laid before the Senate under paragraph (b) of subsection (1) and are either

- (a) not agreed to by the Senate within the period of 15 days beginning on the day those estimates were so laid; or
- (b) rejected by the Senate within that period,

those estimates are to be taken, notwithstanding that fact, to have been approved by the Senate on the expiration of that period.

(3) In respect of all supplementary expenditure voted on by the House of Assembly in pursuance of subsection (1)(a), the Minister

- (a) may, at any time before the end of the financial year, introduce in the House of Assembly a *Supplementary Appropriation Bill* containing, under appropriate heads, the aggregate sums so voted; and
- (b) shall, as soon as possible after the end of the financial year, introduce in that House a final *Appropriation Bill* containing any such sums which have not yet been included in an *Appropriation Bill*.

Statutory expenditure not to be voted on

180. Any part of an estimate of expenditure (including a supplementary estimate of expenditure) laid before either House under the provisions of this Chapter, being a part that shows statutory expenditure, shall not be voted on by either House, but the expenditure to which that part relates shall, without Parliament's further authority, be paid out of the Consolidated Fund.

Meeting expenditure from Consolidated Fund

181. A sum shall not be paid out of the Consolidated Fund except upon the authority of a warrant under the hand of the Minister or a person authorized by the Minister in writing; and any sum so paid out shall

- (a) be applied for meeting expenditure authorized by section 178; or
- (b) in the case of statutory expenditure, be used for the purposes appointed by the relevant law.

The public debt

182. The public debt of Barbados, as well as

- (a) the interest on that debt;
- (b) sinking fund payments and redemption moneys in respect of that debt; and

- (c) the costs, charges and expenses incidental to the management of that debt,

are charged on the Consolidated Fund.

Remuneration of President and certain other officers

183.(1) There shall be paid to the holders of the offices to which this section applies such salaries as may be prescribed by Parliament.

(2) The salaries payable to the holders of the offices to which this section applies are charged on the Consolidated Fund.

(3) The salary and allowances payable to, and the other terms of service of, a person holding an office to which this section applies shall not be altered to the person's disadvantage after appointment; and, for the purposes of this subsection, in so far as the terms of service of a person depend upon the option of that person, the terms for which the person opts are to be taken to be more advantageous to the person than any other terms for which the person might have opted.

(4) This section applies to the following offices:

- (a) President;
- (b) Judge;
- (c) Director of Public Prosecutions;
- (d) Auditor-General;
- (e) member of the Constitutional Offices Commission;
- (f) member of the Administrative, General and Professional Service Commission, the Protective Services Commission, the Teaching Service Commission; and
- (g) appointed member of the Judicial and Legal Service Commission.

Remuneration of public officers and soldiers

184. Except as may be allowed by any law relating to discipline, the salaries and allowances payable to the holders of offices established under the *Public Service Act*, Cap. 29 and the *Defence Act*, Cap. 159 shall not be altered to their disadvantage.

Public Accounts Committee

185.(1) There shall be a joint committee of Parliament, to be known as the Public Accounts Committee.

(2) The Public Accounts Committee

- (a) shall be constituted in such manner;
- (b) shall have such functions for the oversight of the accounts referred to in subsections (1) and (7) of section 170; and
- (c) may have such other functions in relation to public accounts,

as may be prescribed by Parliament.

CHAPTER XIII

ALTERATION OF THIS CONSTITUTION

Alteration of this Constitution

186.(1) Subject to this section, Parliament may, by an Act passed by both Houses, alter this Constitution.

(2) A Bill for an Act of Parliament under this section that alters any of the following provisions shall not be passed in either House unless at the final voting thereon in the House it is supported by the votes of not less than two-thirds of all the members of the House:

- (a) this Chapter;
- (b) Chapters II to IV;

- (c) sections 37, 50, 52 to 56, 58 to 61, 64, 75(2), 76, 77 and 78;
- (d) Parts 4 to 7 of Chapter VII;
- (e) Chapter VIII (except section 127);
- (f) Chapter IX (except section 157);
- (g) Chapters X, XI, XII and XIV; and
- (h) any provision of Chapter XV in its application to any of the provisions specified in paragraphs (a) to (g).

(3) A Bill for an Act of Parliament under this section to which subsection (2) does not apply shall not be passed in either House unless at the final voting thereon in the House it is supported by the votes of a majority of all the members of the House.

(4) In this section

- (a) references to this Constitution or to any particular provision thereof include references to any other law in so far as that law alters the Constitution or, as the case may be, that provision; and
- (b) references to altering this Constitution or any particular provision thereof include references
 - (i) to repealing it, with or without re-enactment thereof or the making of different provision *in lieu* thereof;
 - (ii) to modifying it (whether by omitting, amending or overriding any of its provisions or inserting additional provisions in it or otherwise); and
 - (iii) to suspending its operation for any period or terminating any such suspension.

(5) No Act of Parliament shall be construed as altering this Constitution unless it is stated in the Act that it is an Act for that purpose.

- (6) Nothing in this section shall be construed as including any of the provisions of the Schedules among the provisions specified in this section.

CHAPTER XIV

ENFORCEMENT OF CONSTITUTION

Enforcement of this Constitution

187.(1) Subject to this section, if a person alleges that a provision of this Constitution has been, is being, or is likely to be, contravened (or if, in the case of a person who has been detained, another person alleges such a contravention in relation to the detained person), then, without prejudice to any other action with respect to the same matter that is lawfully available, that person (or that other person) may apply to the High Court for redress.

- (2) The following may make an application under subsection (1):

- (a) a person acting in the person's own interest;
- (b) a person acting on behalf of another person who cannot act in that other person's own name;
- (c) a person acting as a member of, or in the interest of, a group or class of persons;
- (d) an association acting in the interest of its members.

- (3) The High Court has original jurisdiction

- (a) to hear and determine any application under subsection (1); and
- (b) to determine any question referred to it under subsection (4),

and to make such orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing or securing the enforcement of the provision of this Constitution in question.

- (4) If in proceedings in a court subordinate to the High Court a question arises as to the contravention of a provision of this Constitution, the person presiding

in the subordinate court shall refer the question to the High Court unless, in that person's opinion, the raising of the question is merely frivolous or vexatious.

(5) Where a question is referred to the High Court under subsection (4), the High Court shall decide the question, and the court in which the question arose shall dispose of the case in accordance with that decision or, if that decision is the subject of an appeal to the Court of Appeal or to the Caribbean Court of Justice, in accordance with the decision of the Court of Appeal or, as the case may be, of the Caribbean Court of Justice.

(6) Parliament may confer upon the High Court such powers in addition to those conferred by this section as may appear to Parliament to be necessary or desirable for the purpose of enabling the High Court more effectively to exercise the jurisdiction conferred upon the High Court by this section.

(7) Parliament may make provision with respect to the practice and procedure

- (a) of the High Court in relation to the jurisdiction and powers conferred upon the High Court by or under this section;
- (b) of the High Court and the Court of Appeal in relation to appeals to the Court of Appeal from decisions of the High Court in the exercise of that jurisdiction or those powers; and
- (c) of the Court of Appeal and the Caribbean Court of Justice in relation to appeals to the Caribbean Court of Justice from decisions made by the Court of Appeal in appeals referred to in paragraph (b); and
- (d) of subordinate courts in relation to references to the High Court under subsection (4),

including provision with respect to the time within which any application, reference or appeal shall or may be made or brought; and, subject to any provision so made, provision may be made with respect to any of the above matters by rules of court.

CHAPTER XV
MISCELLANEOUS AND INTERPRETATION

Appointments

188.(1) A person who has vacated an office established by this Constitution (including an office mentioned in section 58(1), 79 or 124(2) and (3) may, if qualified, again be appointed, elected or otherwise selected to hold the vacated office in accordance with the provisions of this Constitution.

(2) Where by this Constitution power is conferred upon any person or authority to make an appointment to a public office, a person may be appointed to that office notwithstanding that some other person may be holding that office when that other person, being on leave of absence pending relinquishment of the office, also may be holding the office; and where two or more persons are holding the same office in accordance with this subsection, then for the purposes of any function assigned to the holder of the office the person last appointed is deemed to be the sole holder of the office.

(3) Subsection (2) has effect in relation to the office of a Judge as if that office were a public office.

Resignations

189.(1) A person who is appointed or elected to or otherwise selected for an office established by this Constitution (including an office mentioned in section 58(1), 79 or 124(2) and (3) may resign from that office and, except as otherwise provided, shall do so by writing addressed to the person or authority by whom or by which the person resigning was appointed, elected or selected.

(2) A resignation takes effect under subsection (1) when the writing signifying the resignation is received

- (a) by the person or authority to whom or to which the writing is addressed;
- or

- (b) by a person authorized by that person or authority to receive the writing;
or
- (c) by a person employed to assist that person or authority in the performance of the functions of that person or authority.

Vacation of office on attaining a prescribed age

190. Nothing done in the performance of the functions of an office by a person who is required by this Constitution to vacate that office on attaining an age prescribed by or under this Constitution is invalid by reason only that the person has attained the prescribed age.

Interpretation

191.(1) In this Constitution, unless the context requires otherwise,

“Act of Parliament” means any law made by Parliament;

“commencement day” means the day on which this Constitution comes into operation;

“Consolidated Fund” means the Consolidated Fund referred to in section 176;

“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 fire service established by the *Fire Service Act*, Cap. 163 or any law amending or replacing that Act;

“House” means the Senate or the House of Assembly, as the context may require;

“immigration officer” means the Chief Immigration Officer, Deputy Chief Immigration Officer, Assistant Chief Immigration Officer and Immigration Officer appointed under the *Public Service Act*, Cap. 29;

- “Immigration Service” means the body of immigration officers appointed under the *Public Service Act*, Cap. 29;
- “judge” means a person exercising judicial power;
- “Judge” means the Chief Justice, a Justice of Appeal, the President of the High Court or a Judge of the High Court;
- “law” includes any instrument having the force of law and any unwritten rule of law;
- “oath of allegiance” means the oath of allegiance set out in the *Second Schedule*;
- “Parliament” means the Parliament of Barbados;
- “Police Service” means the police service established by the *Police Act* , Cap. 167 or any law amending or replacing that Act;
- “prescribed” means prescribed by or under an Act;
- “Presidential Advisory Council” means the Council referred to in section 94;
- “Prison Service” means the Prison Service established by the *Prisons Act*, Cap. 168 or any law amending or replacing that Act;
- “protective service” means the Customs and Excise Service, the Fire Service, the Government Security Guard Service, the Immigration Service, the Police Service or the Prison Service;
- “public office” means an office of emolument in the public service;
- “public officer” means the holder of a public office and includes any person appointed to act in a public office;
- “public service” means, subject to the provisions of subsection (7), the service of the Government in a civil capacity;
- “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;

“Service Commission” means the Administrative, General and Professional Service Commission or the Protective Services Commission or the Judicial and Legal Service Commission;

“session” in relation to Parliament, means the sittings of Parliament commencing when it first meets after commencement day or after the prorogation or dissolution of Parliament at any time, and terminating when Parliament is prorogued or is dissolved without having been prorogued;

“sitting” in relation to a House, means a period during which that House is sitting continuously without adjournment, and includes any period during which the House is in committee;

“Speaker” means the member of the House of Assembly from time to time elected by that House to be Speaker of that House, and "Deputy Speaker" has a corresponding meaning;

“State” means the State of Barbados.

(2) A reference in this Constitution to power to make appointments to an office is to be construed as including a reference to power to make appointments on promotion or transfer to that office, and to power to appoint a person to act in or perform the functions of that office during any period during which the office is vacant or during which the holder of the office is unable (whether by reason of absence or infirmity of body or mind or any other cause) to perform those functions.

(3) A reference in this *Constitution* to the holder of an office by the term designating the office is to be construed as including a reference to any person for the time being lawfully performing the functions of that office.

(4) Where by this Constitution any person is directed, or power is conferred on any person or authority to appoint a person, to perform the functions of any office if the holder of the office is unable to perform those functions, the validity of any performance of those functions by the person so directed or of any

appointment made in exercise of that power shall not be called in question in any court on the ground that the holder of that office was not or is not unable to perform those functions.

(5) For the purposes of this Constitution, a person is not to be considered as holding a public office by reason only that he is in receipt of a pension or other like allowance in respect of public service.

(6) In this Constitution references to the public service are not to be construed as including service in

- (a) the office of President, Prime Minister or other Minister, Parliamentary Secretary, Leader of the Opposition, President or Deputy President or member of the Senate, Speaker or Deputy Speaker or member of the House of Assembly or member of the Presidential Advisory Council;
- (b) the office of a member of any Service Commission;
- (c) the office of a member of the Constitutional Offices Commission;
- (d) the office of a member of any board, committee or other similar body (whether incorporated or not) established by any law;
- (e) except as otherwise provided in this Constitution, the office of Judge; or
- (f) an office which is not established under the *Public Service Act*, Cap. 29.

(7) References in this *Constitution* to the power to remove a public officer are to be construed as including references to any power conferred by any law to require or permit that officer to retire from the public service, but

- (a) this subsection does not confer on any person or authority power to require a Judge or the Director of Public Prosecutions or the Auditor-General to retire from the public service; and
- (b) any power conferred by any law to permit a person to retire from the public service shall, in the case of a public officer who may be removed

from office by some person or authority other than the President acting in accordance with the advice of a Commission established by this Constitution, vest in the President acting on the recommendation of the Administrative, General and Professional Service Commission.

(8) Where power is conferred by this Constitution to make a proclamation or order or to give directions, the power is to be construed as including a power exercisable in like manner to amend or revoke the proclamation, order or directions.

(9) Words in this Constitution providing that a person or authority, in exercising any functions under this Constitution, is not subject to the direction or control of any other person or authority are not to be construed as precluding a court from exercising jurisdiction in relation to any question whether that first-mentioned person or authority has performed those functions in accordance with this Constitution or any other law.

FIRST SCHEDULE

(Section 48(1))

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

SECOND SCHEDULE

(Sections 48(1), 65, 86 and 98)

Oath 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))

THIRD SCHEDULE

(Section 86)

*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))

FOURTH SCHEDULE

(Section 113(7))

*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)).

FIFTH SCHEDULE

(Section 120(4))

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)).

SIXTH SCHEDULE

(Section 127)

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))

SEVENTH SCHEDULE

(Sections 130(9) and 157(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 any members of the tribunal are equally divided on any question that arises during the proceeding of the tribunal, the chairperson 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 \$1 000 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;
- (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 is not compellable to commit self-incrimination; and every such person, in respect of any evidence that the person gives before the tribunal, is 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 related is 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 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 charged on the Consolidated Fund.

11. A proceeding shall not 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.

EIGHTH SCHEDULE

(Section 162)

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.