

OBJECTS AND REASONS

This Bill seeks to amend the *Constitution* to establish the Public Service Appeal Board and for related matters.

Arrangement of Sections

Section

1. Short title.
2. Amendment of the *Constitution*.
3. Amendment of section 117 of the *Constitution*.
4. Commencement.

BARBADOS

A Bill entitled

An Act to amend the *Constitution* to establish the Public Service Appeal Board and for related matters.

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

1. This Bill may be cited as the *Constitution (Amendment) (No. 2) Act, 2007*. Short title.

Amendment
of the
Constitu-
tion.

2. The *Constitution* is amended by inserting immediately after section 98 the following as section 98A:

"Public
Service
Appeal
Board.

98A. (1) There shall be a Public Service Appeal Board hereinafter called the "Appeal Board" comprising a Chairman who shall be a Judge or former Judge and 2 other members appointed by the Governor-General after consultation with the Prime Minister, and the Leader of the Opposition, to hear and determine appeals from any decisions of

- (a) a Service Commission with respect to discipline of public officers other than that of dismissal; or
- (b) any person to whom powers of the Commission have been delegated with respect to discipline.

(2) One member of the Appeal Board shall be a retired public officer.

(3) Sections 89(2), 89(3), 89(4), 89(5), 89(6) and 92(1), which relate to qualifications for appointment, eligibility for public office, the term and tenure of members of Service Commissions and the procedure of Service Commissions shall apply to members of the Appeal Board as they apply to members of a Service Commission.

(4) Before entering upon the duties of his office, a member of the Appeal Board shall take and subscribe the oath of office before the Governor-General or a person appointed by the Governor-General for the purpose.

(5) Notwithstanding subsection (1), nothing in this section shall be regarded as affecting the right of a public officer to have his case referred to the Privy Council in accordance with section 98 of the *Constitution*.

(6) Where a public officer has had his case determined by the Privy Council under section 98, no further proceedings in the matter may be brought before the Public Service Appeal Board.

(7) The provisions of section 92(3) of the *Constitution* shall apply to the Board.

(8) The Appeal Board, in exercise of its functions under the *Constitution*, shall not be subject to the direction and control of any other person or authority.

(9) The Appeal Board may by regulations make provision for regulating

- (a) its own procedure; and
- (b) the procedure in respect of appeals under this Act.

(10) The Appeal Board may, where it considers it necessary that further evidence be adduced

- (a) order such evidence to be adduced either before the Board or by affidavit; or
- (b) refer the matter back to the relevant Service Commission to take such evidence and
 - (i) to adjudicate upon the matter afresh; or

- (ii) to report for the information of the Appeal Board, specific findings of fact.

(11) Where a matter is referred to a Service Commission under paragraph (b) of subsection (10), the matter, so far as may be practicable or necessary, shall be dealt with as if it were being heard at first instance.

(12) Upon the conclusion of the hearing of an appeal under this section, the Appeal Board may

- (a) affirm, modify or amend the decision appealed against;
- (b) set aside the decision; or
- (c) substitute any other decision which the Service Commission could have made.

(13) Every decision of the Appeal Board shall require the concurrence of the majority of its members.

(14) The Appeal Board may by regulation or otherwise confer powers and impose duties on any public officer or any authority of the Government of Barbados for the purpose of the exercise of the functions of the Board."

Amend-
ment of
section 117
of the
Constitu-
tion.

3. Section 117 of the *Constitution* is amended in subsection (7) by deleting

- (a) all the words appearing after the word "Judge" in paragraph (d); and
- (b) paragraph (e).

Commence-
ment.

4. This Act comes into operation on a date to be fixed by Proclamation.