

**AN ACT TO AMEND THE CONSTITUTION
OF THE BAHAMAS**

The Bahamas Constitution (Amendment) (No.2) Act, 2002.

(Date of coming into force: 1st February 2002)

WHEREAS it is enacted inter alia by Article 54 (1) of the Constitution that subject to the provisions of Article 54, Parliament may, by an Act of Parliament passed by both Houses, alter any of the provisions of the Constitution:

ENACTED by the Parliament of The Bahamas in accordance with the provisions of Article 54 of the Constitution.

Short title.

1. (1) This Act may be cited as The Bahamas Constitution (Amendment) (No.2) Act, 2002.

(2) This Act shall have effect for the purpose of the alteration of the Constitution.

Interpretation.

2. In this Act “the Constitution” means the Constitution set out in the Schedule to The Bahamas Independence Order, 1973.

Amendment of the Constitution.

3. The Constitution is amended by the insertion after Article 70 of the following –

“Establish—
ment of office and
functions of Parlia-
mentary
Commissioner.

70A. (1) There shall be a Parliamentary Commissioner for The Bahamas whose office shall be a public office.

(2) The Parliamentary Commissioner shall be appointed by the Governor—General acting on the recommendation of the Prime Minister after consultation with the Leader of the Opposition, by instrument under the Public Seal.

(3) A person shall not be qualified to hold or act in the office of Parliamentary Commissioner unless he is a person experienced in public administration.

(4) The Parliamentary Commissioner shall have general responsibility for, and shall supervise, the registration of electors for the election of members of the House of Assembly and the conduct of elections of such members and shall have such powers and other functions relating to such registration and such elections as may be prescribed.

(5) In the exercise of his functions under the provisions of paragraph (4) of this Article, the Parliamentary Commissioner shall not be subject to the direction or control of any other person or authority.

Remuneration of Parliamentary Commissioner.

70B. (1) The Parliamentary Commissioner shall receive such emoluments and be subject to such other terms and conditions of service as may from time to time be prescribed by or under any law:

Provided that the emoluments and terms and conditions of service of the Parliamentary Commissioner shall not be altered to his disadvantage during his continuance in office.

(2) The salary for the time being payable to the Parliamentary Commissioner under this Constitution shall be charged on and paid out of the Consolidated Fund.

Tenure of office of Parliamentary Commissioner.

70C. (1) Subject to the provisions of paragraphs (4) to (7) (inclusive) of this Article the Parliamentary Commissioner shall hold office until he attains the age of sixty—eight years:

Provided that the Governor-General, acting on the recommendation of the Prime Minister after consultation with the Leader of the Opposition, may permit a Parliamentary Commissioner who attains the age of sixty—eight years to continue in office until he has attained such later age, not exceeding seventy-two years, as may (before the Parliamentary Commissioner has attained the age of sixty-eight years) have been agreed between them.

(2) Nothing done by the Parliamentary Commissioner shall be invalid by reason only that he has attained the age at which he is required by this Article to vacate his office.

(3) If the office of Parliamentary Commissioner is vacant or the holder of that office is for any reason unable to perform his functions thereof, a person qualified for appointment to that office may be appointed to act therein, and any person so appointed shall, subject to the provisions of paragraph (1) of this Article, continue to act until the office of Parliamentary Commissioner is filled or, as the case may be, until the Parliamentary Commissioner has resumed the functions of his office or the appointment of that person is revoked by the Governor-General acting on the advice of the Public Service Commission.

(4) The Parliamentary Commissioner may be removed from office only for inability to discharge his functions thereof (whether arising from infirmity of mind or body or any other cause) or for misbehaviour, and shall not be so removed except in accordance with the provisions of paragraph (5) of this Article.

(5) The Parliamentary Commissioner shall be removed from office by the Governor-General if the question of his removal from office has been referred to a tribunal appointed under paragraph (6) of this Article and the tribunal has recommended to the Governor—General that he ought to be removed from office for inability as aforesaid or for misbehaviour.

(6) If the Prime Minister represents to the Governor—General that the question of removing the Parliamentary Commissioner from office for inability as aforesaid or for misbehaviour ought to be investigated, then -

(a) the Governor-General shall appoint a tribunal, which shall consist of a Chairman and not less than two other members, selected by the Governor-General, acting in accordance with the advice of the Judicial and Legal Service Commission, from among persons who hold or have held or are eligible to hold high judicial office; and

(b) the tribunal shall enquire into the matter and report on the facts thereof to the Governor-General and recommend to the Governor—General whether the Parliamentary Commissioner ought to be removed from office for inability as aforesaid or for misbehaviour.

(7) If the question of removing the Parliamentary Commissioner from office has been referred to a tribunal appointed under paragraph (6) of this Article, the Governor—General, acting in accordance with the advice of the Public Service Commission after the Public Service Commission has consulted with the Prime Minister, may suspend the Parliamentary Commissioner from performing the functions of his office.

(8) Any such suspension may at any time be revoked by the Governor—General acting in accordance with

the advice of the Public Service Commission and shall in any case cease to have effect if the tribunal recommends to the Governor—General that the Parliamentary Commissioner should not be removed from office.”.

OBJECTS AND REASON

This Act seeks to make several amendments to the Constitution of The Bahamas.

Clause 3 introduces new Articles 70A, 70B and 70C in the Constitution which create the office of the Parliamentary Commissioner. The Parliamentary Commissioner will be appointed by the Governor-General on the recommendation of the Public Service Commission. The Parliamentary Commissioner will be under a duty to keep the register of voters and to carry out duties relating to registration of voters and the holding of elections. The Parliamentary Commissioner is given independence from political interference and has security of tenure.