

A BILL
for
AN ACT TO AMEND THE CONSTITUTION
OF THE BAHAMAS

The Bahamas Constitution (Amendment) Act, 2001.

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:

AND WHEREAS it is further enacted by Article 54 (3) of the Constitution that in so far as an Act alters inter alia Articles 3, 5, 8, 9, 10, 13, 14, 26 and 54 of the Constitution a Bill for an Act of Parliament under the said Article 54 shall not be passed by Parliament unless -

- (i) at the final voting thereon in each House it is supported by the votes of not less than three-quarters of all the members of each House; and
- (ii) the Bill, after its passage through both Houses has been submitted to the electors qualified to vote for the election of members of the House of Assembly and, on a vote taken in such manner as Parliament may prescribe the majority of electors voting have approved the Bill:

AND WHEREAS it is expedient that Articles 3, 5, 8, 9, 10, 13, 14, 26 and 54 of the Constitution should be altered:

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

Short title and commencement.

1. (1) This Act may be cited as The Bahamas Constitution (Amendment) Act, 2001.

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

(3) This Act shall come into operation on such day as the result of the referendum is published in the Gazette after the majority of the electors voting have approved the Bill.

Interpretation.

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

Amendment of Article 3 of the Constitution.

3. Article 3 of the Constitution is amended by the insertion after paragraph (2) of the following -

“(2A) Paragraph (2) shall not apply to any person who, before the commencement of this paragraph, was not entitled to Bahamian citizenship by virtue of the application of that paragraph before that date”.

Amendment of the Constitution.

4. The Constitution is amended by the insertion after Article 3 of the following -

“Persons entitled to citizenship on the commencement of this Article

3A. (1) A person –
(a) who was born outside The Bahamas before the tenth day of July, 1973;
(b) who was not before the commencement of this Article entitled to Bahamian citizenship by virtue of any provision of this Constitution in force before that date; and
(c) whose father or mother, on the tenth day of July, 1973, became or would but for his or her death have become a citizen of The Bahamas in accordance with paragraph (1) of Article 3,
shall become a citizen of The Bahamas on the commencement of this Article.

(2) Paragraph (1) shall not affect the rights of any person who, before the commencement of this Article, was entitled to Bahamian citizenship by virtue of any provision of this Constitution which was in force before that date.”.

Amendment of Article 5 of the Constitution.

5. Article 5 of the Constitution is amended –
- (a) in paragraph (1) –
 - (i) by the deletion of the words “Any woman” and the substitution therefor of the words “Any man or woman”,
 - (ii) by the deletion of the words “his death” and the substitution therefor of the words “his or her death”;
 - (b) in paragraph (5), of the words “Any woman” and the substitution therefor of the words “Any man or woman”;
 - (c) in paragraph (6), by the deletion of the words “is not a woman” and the substitution therefore of the words “is not a man or woman”.

Amendment of Article 8 of the Constitution.

6. Article 8 of the Constitution is amended -
- (a) by renumbering the Article as paragraph (1) of Article 8;
 - (b) by the insertion after paragraph (1) as renumbered of the following -
 - “(2) Paragraph (1) shall not apply to any person who, before the commencement of this paragraph, was not entitled to Bahamian citizenship by virtue of the application of paragraph (1) before that date.
 - (3) Any person -
 - (a) who is born outside The Bahamas after the ninth day of July, 1973;
 - (b) who was not, before the commencement of this paragraph, entitled to Bahamian citizenship by virtue of any provisions of this Constitution in force before that day; and

(c) whose father or mother is, at the date of the person's birth, a citizen of The Bahamas other than by virtue of this paragraph or paragraph (2) of Article 3 of this Constitution,

shall become a citizen of The Bahamas with effect from the commencement of this paragraph, or the date of the person's birth, whichever is the later.

(4) Paragraph (3) shall not affect the right of any person who, before the commencement of this paragraph, was entitled to Bahamian citizenship by virtue of any provision of this Constitution in force before that date".

Repeal of Article 9 of the Constitution.

7. Article 9 of the Constitution is repealed.

Amendment of Article 10 of the Constitution.

8. Article 10 of the Constitution is amended -

(a) by the deletion of the words "Any woman" and by the substitution therefor of the words "Any man or woman"; and

(b) by the deletion of the words "provided she is" and by the substitution therefore of the words "provided he or she is"

Amendment of Article 13 of the Constitution.

9. Article 13 (b) of the Constitution is amended by the insertion after the words "Articles" of the words " 3A,".

Amendment of Article 14 of the Constitution.

10. Article 14 of the Constitution is amended -

(a) by the repeal of paragraph (1);

(b) by the renumbering of paragraph (2) as paragraph (1);

(c) by the repeal of paragraph (3) and the replacement thereof by the following -

“(2) Any reference in this Chapter to the national status of the parent of a person at the time of that person’s birth shall, in relation to a person born after the death of his parent, be construed as a reference to the national status of the parent at the time of that parent’s death; and where that death occurred before the tenth day of July, 1973 the national status that the parent would have had if he or she had died on the tenth day of July, 1973,

shall be deemed to be his or her national status at the time of death.”.

Amendment of Article 26 of the Constitution.

11. Paragraph (3) of Article 26 of the Constitution is amended by the insertion after the word “colour” of the word “ , gender”

Amendment of Article 54 of the Constitution.

12. Article 54 of the Constitution is amended in paragraph (3) (b) -

(a) by the insertion after the number and symbol “3 , “ of the number and symbol “3A,”;

(b) by the deletion of the number and symbol “9”.

Question to be put to the electors.

13 . The electors shall, in respect of the amendments made by this Act to the Constitution, be asked, in a referendum held under the Constitutional Referendum Act, 1977, to answer either “Yes” or “No” to the following question -

“Do you agree that all forms of discrimination against women, their children and spouses should be removed from the Constitution and that no person

should he discriminated against on the grounds of gender, and do you approve the proposed amendments to Articles 3, 5, 8, 9, 10, 13, .14, 26 and 54 of the Constitution as provided for in the Bill for an Act entitled The Bahamas Constitution (Amendment) Act, 2001?''.

OBJECTS AND REASONS

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

Clauses 4, 6 and 7 seek to amend Articles 3, 8 and 9. Article 8 permits a person born out side of The Bahamas after July 9, 1973 to automatically become a citizen of The Bahamas if on that date his or her father was a citizen of The Bahamas, but that is not so pursuant to Article 9 where it is the child's mother who was a citizen of The Bahamas. That child who had no control over whom his or her mother was to be has to wait until he or she is between ages 18 and 21 to apply. The proposed amendment will eliminate this manifest injustice.

Clause 5 makes provision for Article 5 to be amended in order to eliminate the gender discrimination prior to independence against Bahamian women who are married to foreign men. These foreign men are not allowed under the provisions of this Article to apply to be registered as citizens of The Bahamas as the foreign women married to Bahamian men. Once these amendments have been made, then the foreign men who are married to Bahamian women prior to independence, would be able to apply to be registered as citizens of The Bahamas.

Clause 8 seeks to amend Article 10 of the Constitution. Article

10 of Chapter II of the Constitution denies a Bahamian woman the right to have her non-Bahamian husband become a citizen. This amendment will eliminate this manifest injustice.

Clause 11 seeks to include the word “gender” in Article 26 to afford protection to women from discrimination.

Clause 12 seeks to amend Article 54 of the Constitution to insert the new Articles.

It should be noted that by virtue of Article 54 of the Constitution Articles 3, 5, 8, 9, 10, 13, 14, 26 and 54, must, at the final voting thereon in each House, be supported by the votes of not less than three-quarters of all the members of each House and a vote must be taken by way of a referendum held in accordance with the Constitutional Referendum Act, Chapter 1.