

THE CONSTITUTION (AMENDMENT) ACT, 2006

Arrangement of Sections

Section

1. Short title
2. Commencement
3. Alteration of the Constitution
4. Section 122 amended
5. Section 122A inserted
6. Section 123 repealed and substituted
7. Section 123A inserted
8. Section 127 amended
9. Section 129 amended
10. Section 132 amended
11. Section 134 amended
12. Transitional and savings

*Legal Supplement Part A to the "Trinidad and Tobago Gazette", Vol. 45,
No. 61, 18th April, 2006*

Fourth Session Eighth Parliament Republic of
Trinidad and Tobago



REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 6 of 2006

[L.S.]

AN ACT to amend the Constitution to reform the Police Service Commission, confer powers on the Commissioner of Police to control and manage the Police Service, and for other related matters.

[Assented to 13th April, 2006]

Preamble	<p>WHEREAS it is enacted by subsection (1) of section 54 of the Constitution that Parliament may alter any of the provisions thereof:</p> <p>And whereas it is provided in subsection (2) of the said section 54 that insofar as it alters certain provisions of the Constitution, a Bill for an Act of Parliament under the said section 54 shall not be passed by Parliament unless at the final vote thereon in each House it is supported by the votes of not less than two-thirds of all the members of each House:</p> <p>And whereas it is intended by this Act to alter the Constitution:</p>
Enactment	<p>ENACTED by the Parliament of Trinidad and Tobago as follows:—</p>
Short title	<p>1. This Act may be cited as the Constitution (Amendment) Act, 2006.</p>
Commencement	<p>2. This Act shall come into force on a date to be fixed by the President by Proclamation.</p>
Alteration of the Constitution	<p>3. The Act shall be construed as altering the Constitution.</p>
Section 122 amended	<p>4. The Constitution is amended in section 122 by repealing subsections (2), (3) and (4) and substituting the following subsections:</p> <p>“ (2) The members of the Police Service Commission shall be appointed by the President in accordance with this section.</p> <p>(3) The President shall, after consultation with the Prime Minister and Leader of the Opposition nominate persons, who are qualified and experienced in the disciplines of law, finance, sociology or management, to be appointed as members of the Police Service Commission.</p>

(4) The President shall issue a Notification in respect of each person nominated for appointment under subsection (3) and the Notification shall be subject to affirmative resolution of the House of Representatives.

(5) The President shall make an appointment under this section only after the House of Representatives has approved the Notification in respect of the relevant person.

(6) The President may in his own discretion appoint a Chairman of the Police Service Commission from among its members.

(7) The Members of the Police Service Commission shall hold office in accordance with section 126, other than subsections (4) and (5).”.

5. The Constitution is amended by inserting after section 122 the following section:

Section 122A
inserted

“Removal of
members

122A. (1) The President shall, after consultation with the Prime Minister and the Leader of the Opposition, terminate the appointment of a member of the Police Service Commission, if the member—

- (a) fails to attend four consecutive meetings without reasonable cause;
- (b) is convicted of a criminal offence in any court;
- (c) becomes infirm in mind or body;
- (d) fails to perform his duties in a responsible or timely manner;
- (e) fails to absent himself from meetings of the Police Service Commission where there is a conflict of interest;

- (f) demonstrates a lack of competence to perform his duties; or
- (g) misbehaves in office.

(2) The President, in the exercise of his power under subsection (1)(d) to (g), may consider the report of a Joint Select Committee laid in Parliament in furtherance of sections 66A(1)(e) and 66B.

(3) A member of the Police Service Commission shall not be removed from office except in accordance with this section.”.

Section 123
repealed and
substituted

6. The Constitution is amended by repealing section 123 and substituting the following section:

“Powers of
the Police
Service
Commission

123. (1) The Police Service Commission shall have the power to—

- (a) appoint persons to hold or act in the office of Commissioner and Deputy Commissioner of Police;
- (b) make appointments on promotion and to confirm appointments;
- (c) remove from office and exercise disciplinary control over persons holding or acting in the offices specified in paragraph (a);
- (d) monitor the efficiency and effectiveness of the discharge of their functions;
- (e) prepare an annual performance appraisal report in such form as may be prescribed by the Police Service Commission respecting and for the information of the Commissioner or Deputy Commissioner of Police; and

(f) hear and determine appeals from decisions of the Commissioner of Police, or of any person to whom the powers of the Commissioner of Police have been delegated, as a result of disciplinary proceedings brought against a police officer appointed by the Commissioner of Police.

Act No. 7 of
2006

(2) The Police Service Commission shall nominate persons for appointment to the offices specified in subsection (1)(a) and section 22(1) of the Police Service Act, 2006 in accordance with the criteria and procedure prescribed by Order of the President, subject to negative resolution of Parliament.

(3) The Police Service Commission shall submit to the President a list of the names of the persons nominated for appointment to the offices of Commissioner or Deputy Commissioner of Police.

(4) The President shall issue a Notification in respect of each person nominated under subsection (3) and the Notification shall be subject to affirmative resolution of the House of Representatives.

(5) The Police Service Commission shall appoint the Commissioner or Deputy Commissioner of Police only after the House of Representatives approves the Notification in respect of the relevant office.

(6) For the purpose of subsection (1)(d), the Commissioner of Police shall, every six months, report to the Police Service Commission on the management of the Police Service.

(7) Notwithstanding subsection (6), the Police Service Commission may, on its own initiative, request a special report from the Commissioner of Police at any time on any matter relating to the management of the Police Service, to which the Commissioner of Police shall respond in a timely manner.

(8) The Police Service Commission may terminate the services of the Commissioner or a Deputy Commissioner of Police on any of the following grounds:

- (a) where the officer is absent from duty without leave for seven consecutive days, during which he has failed to notify the Police Service Commission of the cause of his absence, whether he holds a permanent, temporary, or contractual appointment;
- (b) breach of contract, where the officer is appointed on contract;
- (c) reported inefficiency based on his performance appraisal reports,

after giving him an opportunity to be heard;

- (d) where the officer holds a permanent appointment—
 - (i) on dismissal in consequence of disciplinary proceedings;
 - (ii) on being retired on medical grounds;
 - (iii) on being retired in the public interest; or
 - (iv) on the abolition of office.

(9) The procedure for the termination of the services of the Commissioner or a Deputy Commissioner of Police shall be prescribed by the Police Service Commission in accordance with section 129.

(10) Notwithstanding section 132, no appeal shall lie to the Public Service Appeal Board in respect of a decision made by the Police Service Commission under this section.”.

7. The Constitution is amended by inserting after section 123 the following section: Section 123A inserted

“Powers of the Commissioner of Police 123A. (1) Subject to section 123(1), the Commissioner of Police shall have the complete power to manage the Police Service and is required to ensure that the human, financial and material resources available to the Service are used in an efficient and effective manner.

(2) The Commissioner of Police shall have the power to—

- (a) appoint persons to hold or act in an office in the Police Service, other than an officer referred to in section 123(1)(a), including the power to make appointments on promotion and to confirm appointments;
- (b) transfer any police officer; and
- (c) remove from office and exercise disciplinary control over police officers, other than an officer referred to in section 123(1)(a).

(3) The functions of the Commissioner of Police under this section may be exercised by him in person or through any police officer of or above the rank of Superintendent acting under and in accordance with his general or special instructions.

(4) In the performance of his functions under this section the Commissioner of Police shall act in accordance with the Police Service Act, 2006 and the regulations made thereunder.”.

Section 127 amended **8.** The Constitution is amended in section 127(1)—

- (a) in paragraph (b)(ii), by deleting the words “; and” and substituting a full stop; and
- (b) by deleting paragraph (c).

Section 129 amended **9.** The Constitution is amended in section 129 by inserting after subsection (7) the following subsection:

“ (8) A reference in subsection (5) to a Service Commission also includes a reference to the Commissioner of Police, as the case may be.”.

Section 134 amended **10.** The Constitution is amended in section 134 by—

- (a) deleting from subsection (1) the words “or subsection (3)” and inserting the words “, (3) or (3A)”;
- (b) deleting the words “Where a person” in the first line of subsections (2) and (3) and substituting the words “Subject to subsection (3A), where a person”; and

(c) inserting after subsection (3) the following subsection:

“ (3A) Where a person, who is eligible for benefits in respect of public service, was at the time he ceased to be a public officer subject to the jurisdiction of the Commissioner of Police, the power referred to in subsection (1) with respect to those benefits shall not be exercised without the approval of the Commissioner.”.

11.(1) Notwithstanding section 126 of the Constitution, all the members of the Police Service Commission, appointed under section 122, shall vacate their offices within six months after this Act comes into force, and in any event, the offices of the Commissioners are deemed to be vacant from the day following the expiry of the said six months. Transitional and savings

(2) Any matter which, immediately before the effective date specified in subsection (1), is pending before the Police Service Commission or before any person or authority to whom the power to deal with such matters has been delegated by the Police Service Commission, shall, from the effective date specified in subsection (1), be continued before the corresponding Police Service Commission after the commencement of this Act or the said person or authority, as the case may require.

(3) Any appeal filed by a police officer and pending before the Public Service Appeal Board, at the commencement of this Act, shall be heard and determined by the Board after the commencement of this Act, as though this Act had not been passed.

Passed in the House of Representatives this 27th day of March, 2006.

J. SAMPSON
Clerk of the House

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the House of Representatives and at the final vote thereon in the House has been supported by the votes of not less than two-thirds of all the members of the House, that is to say by the votes of 30 members of the House.

J. SAMPSON
Clerk of the House

Passed in the Senate this 28th day of March, 2006.

J. SANDY
Acting Clerk of the Senate

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the Senate and at the final vote thereon in the Senate has been supported by the votes of not less than two-thirds of all the members of the Senate, that is to say by the votes of 26 members of the Senate.

J. SANDY
Acting Clerk of the Senate