
**CONSTITUTION OF GRENADA (ELECTIONS AND BOUNDARIES
COMMISSION) (AMENDMENT) BILL, 2016**

EXPLANATORY MEMORANDUM

The *clauses* of the Bill for the *Constitution of Grenada (Elections and Boundaries Commission) (Amendment) Act*, its short title by its *clause 1 (1)*, would amend the Constitution to provide for an independent Elections and Boundaries Commission. *Clause 1 (2)* spells out that the Act shall be read and construed as altering the Constitution.

The composition of and protection for the Commission would be provided for, *clause 5*, repealing and replacing section 54.

The Commission would exercise general supervision over, and discharge responsibility for the duties of, the registration of voters in parliamentary elections, and the conduct of such elections, *clause 6* for new section 55. It would conduct any referendum on proposed constitutional amendments, *clause 4* on section 39. It would consider and report to the Governor-General on whether changes are needed to the number and boundaries of electoral constituencies, *clause 7* inserting new section 55A (old section 54), *clause 8* altering section 56.

The Chief Elections Officer would replace the Supervisor of Elections and be the Chief Executive Officer of the Commission, carrying out its instructions and directions, *clause 3* on section 35.

The date of commencement of the Act would be appointed by the Governor-General by Proclamation published in the Gazette, by *clause 1 (3)*. It says that the Act shall not have effect retroactively to any date prior to its commencement.

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A. K. Cajeton Hood
HON. ATTORNEY-GENERAL

**CONSTITUTION OF GRENADA (ELECTIONS AND BOUNDARIES
COMMISSION) (AMENDMENT) BILL, 2016****ARRANGEMENT OF CLAUSES****PART I
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**CONSTITUTION OF GRENADA (ELECTIONS AND BOUNDARIES
COMMISSION) (AMENDMENT) BILL, 2016**

GRENADA

ACT NO. 2016

AN ACT to alter the Constitution of Grenada to establish an Elections and Boundaries Commission to carry out the functions formerly performed by the Supervisor of Elections and the Constituency Boundaries Commission.

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Grenada, and by the authority of the same as follows—

**PART I
PRELIMINARY**

Short title, commencement and alteration of the Constitution

1. (1) This Act may be cited as the—

**CONSTITUTION OF GRENADA (ELECTIONS AND BOUNDARIES
COMMISSION) (AMENDMENT) ACT, 2016.**

- (2) This Act shall come into effect on such date as may be appointed by Proclamation issued by the Governor-General and published in the *Gazette*; and different dates may be appointed for the various provisions of this Act.

- (3) This Act shall be read and construed as altering the Constitution.

Interpretation

2. In this Act—

“**Constitution**” means the Constitution of Grenada which is set out in Schedule 1 to the Grenada Constitution Order 1973;

“**constitutional instruments**” includes the—

- (a) Grenada Constitution Order 1973;
- (b) Constitution of Grenada;

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- (c) West Indies Associated States Supreme Court Order 1967;
 - (d) West Indies Associated States (Appeals to Privy Council) Order 1967; and
 - (e) West Indies Associated States (Appeals to Privy Council) (Grenada) Order.

“**Constitution Order**” means the Grenada Constitution Order 1973;

“**Courts Order**” means the Order styled so by the Constitution but made as the West Indies Associated States Supreme Court Order 1967;

“**West Indies Associated States Supreme Court Order**” means the West Indies Associated States Supreme Court Order 1967 which is styled by the Constitution as the Courts Order.

PART II ALTERATIONS OF THE CONSTITUTIONS

Alteration of section 35 of the Constitution

3. Section 35 of the Constitution is altered—

(a) by deleting subsections (1) and (2) and substituting the following—

“(1) There shall be a Chief Elections Officer whose duty shall be to perform the functions of chief executive officer of the Elections and Boundaries Commission appointed under section 54 of this Constitution.

(2) The Governor-General acting in accordance with the advice of the Elections and Boundaries Commission shall appoint the Chief Elections Officer.”;

(b) by deleting subsection (5) and substituting the following—

“(5) The Chief Elections Officer—

(a) may, whenever he considers it necessary or expedient, submit a report to the Elections and Boundaries Commission on the exercise of his functions under the provisions of this section; and

(b) shall, if required by the Elections and Boundaries Commission, submit such a report to the Commission.”.

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- (c) in subsection (6), by inserting after the word “authority” the words “, other than the Elections and Boundaries Commission”; and
- (d) by inserting after subsection (7) the following—
- “(8) Any function, responsibility or duty vested in or imposed on the Chief Elections Officer by this Constitution or any other law shall be exercised or performed by the Chief Elections Officer in accordance with any instructions or directions that may be given by the Elections and Boundaries Commission.”.

Alteration of section 39 of the Constitution

4. Section 39 of the Constitution is altered—

- (a) by deleting subsection (7) and substituting the following—

“(7) The conduct of any referendum for the purposes of subsection (5) shall be under the general supervision of the Elections and Boundaries Commission and the provisions of section 55 of this Constitution shall apply in relation to the exercise by the Commission, or any person acting in accordance with its instructions or directions, of its functions with respect to a referendum as they apply in relation to the exercise of its functions with respect to elections of members of the House of Representatives.”; and

- (b) in subsection (8)(a), by deleting the words “Supervisor of Elections” where they appear and substituting the words “Chairman of the Elections and Boundaries Commission”.

Repeal and replacement of section 54 of the Constitution

5. (1) The Part heading “Delimitation of Constituencies” immediately before section 54 of the Constitution is deleted and the following substituted therefor—

“Elections and Boundaries Commission”

- (2) Section 54 of the Constitution is repealed and replaced by the following—

“Establishment and operation of Elections and Boundaries Commission

54. (1) There shall be an Elections and Boundaries Commission for Grenada which shall consist of five members, as follows—

- (a) a Chairman appointed by the Governor-General in his own deliberate judgment after consultation with such civil society organizations or interests as the Governor-General considers appropriate; and for this purpose, the expression “civil society organizations or interests” includes community-based organizations, faith-based bodies, non-governmental

organizations, the private sector, trade unions, youth and women's organizations;

- (b) two members appointed by the Governor-General acting in accordance with the advice of the Prime Minister; and
- (c) two members appointed by the Governor-General acting in accordance with the advice of the Leader of the Opposition.

(2) A person shall not be qualified to be appointed as a member of the Commission if he is a Minister, a Parliamentary Secretary, a Senator, a member of the House of Representatives, a public officer or a person who is a candidate for election to the House of Representatives.

(3) Subject to the provisions of this Part, a member of the Commission shall vacate his office—

- (a) at the expiration of five years from the date of his appointment, unless he is re-appointed;
- (b) if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified for appointment as a member; or
- (c) if the member resigns from office as a member.

(4) A member of the Commission may be removed from office but only for inability to discharge the functions of the office (whether arising from infirmity of body or mind or any other cause) or for misbehavior, and the member shall not be removed from office except in accordance with the provisions of this section.

(5) A member of the Commission 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 subsection (6) and the tribunal has recommended to the Governor-General that he ought to be removed from office for inability or for misbehavior as set out in subsection (4).

(6) If—

- (a) the Governor-General considers that the question of removal from office of the Chairman appointed under subsection (1) (a) ought to be investigated;
- (b) the Prime Minister, in the case of a member appointed under subsection (1)(b), represents to the Governor-General that

the question of removal of such member from office ought to be investigated; or

- (c) the Leader of the Opposition, in the case of a member appointed under subsection (1)(c), represents to the Governor-General that the question of removal of such member from office ought to be investigated,

then—

- (i) 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 Chief Justice, from among persons 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 such a court; and
- (ii) 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 Chairman or other member of the Commission ought to be removed from office for inability or for misbehavior as set out in subsection (4).

(7) If the question of removing the Chairman or other member of the Commission has been referred to a tribunal under this section, the Governor-General may—

- (a) in his own deliberate judgment suspend the Chairman from the exercise of the functions of his office; and
- (b) acting in accordance with the advice of the Prime Minister in the case of a member appointed under subsection (1)(b), or in accordance with the advice of the Leader of the Opposition in the case of a member appointed under subsection (1)(c), suspend such member from the exercise of the functions of his office.

(8) Any suspension under subsection (7)—

- (a) may, in the case of the Chairman, be revoked by the Governor-General in his own deliberate judgment;
- (b) shall, in the case of other members, be revoked by the Governor-General acting in accordance with the advice of

the Prime Minister in the case of a member appointed under subsection (1)(b), or in accordance with the advice of the Leader of the Opposition in the case of a member appointed under subsection (1)(c); and

- (c) in any event, shall cease to have effect if the tribunal recommends to the Governor-General that the Chairman or other member should not be removed.

(9) The Commission may, with the consent of the Public Service Commission, confer powers and impose duties on any public officer or on any authority of the Government of Grenada for the purpose of the discharge of its functions.

(10) Three members of the Commission shall constitute a quorum.

(11) The Commission may regulate its own procedure by rules of procedure made by it or otherwise.

(12) The Commission may, subject to its rules of procedure, act notwithstanding any vacancy in its membership; and its proceedings shall not be invalidated by the presence or participation of any person not entitled to be present at or to participate in those proceedings—

Provided that any decision of the Commission shall require the concurrence of a majority of all its members.

(13) A member of the Commission shall not enter upon the duties of his office until he has taken and subscribed the oath of allegiance and the oath of office.”

Repeal and replacement of section 55 of the Constitution

6. Section 55 of the Constitution is repealed and substituted with the following—

“Functions of Elections and Boundaries Commission

55. (1) The functions of the Elections and Boundaries Commission are—

- (a) to exercise general supervision over the registration of voters in elections of members of the House of Representatives and over the conduct of elections; and
- (b) in accordance with the provisions of section 56 of this Constitution, to review the number and boundaries of the constituencies into which Grenada is divided and submit reports to the Governor-General.

(2) The Commission may, whenever it considers it necessary or expedient, submit a report on the exercise of its functions under this Constitution to the Minister for the time being responsible for matters relating to election of members of the House of Representatives; and that Minister shall lay such report before the House as soon as possible after the House first meets following his receipt of such report.

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

Insertion of section in the Constitution

7. The Constitution is altered by inserting after section 55 the following—

“Delimitation of Constituencies

Constituencies

55A. For the purposes of the election of members of the House of Representatives, Grenada shall be divided into such number of constituencies having such boundaries as may be provided for by an Order made by the Governor-General in accordance with the provisions of section 56 of this Constitution.”.

Alteration of section 56 of the Constitution

8. Section 56 of the Constitution is altered in subsection (1) by deleting the words “Constituency Boundaries Commission” where they appear and substituting the words “Elections and Boundaries Commission”.

Alteration of section 62 of the Constitution

9. Section 62 of the Constitution is altered in subsection (3) (c) by deleting the words “sections 55 (5)” where they appear and substituting the words “sections 54 (5)”.

Alteration of section 80 of the Constitution

10. Section 80 of the Constitution is altered in subsection (5) by inserting after the words “Governor-General,” where they appear the words “member of the Elections and Boundaries Commission,”.

Alteration of Schedule 1 to the Constitution

11. Paragraph (iii) of Part I of Schedule 1 to the Constitution is altered by inserting after the number “55” a comma and the number “55A”.

Alteration of Schedule 2 to the Constitution

12. Schedule 2 to the Constitution is altered by deleting the words “Constituency Boundaries Commission” where they appear and substituting the words “Elections and Boundaries Commission”.

Constituency Boundaries Commission ceases to exist

13. Notwithstanding the provisions of section 55 of the Constitution as they existed before the coming into operation of this Part, members of the Constituency Boundaries Commission shall vacate their office, and the Constituency Boundaries Commission shall cease to exist, upon the coming into operation of this Part.

**PART III
MISCELLANEOUS**

Parliament may provide for emoluments

14. Parliament may provide for the payment of emoluments to the members of the Commission.

Passed by the House of Representatives this 21st day of June, 2016.

WILLAN THOMPSON
Clerk to the House of Representatives

Passed by the Senate this 13th day of July, 2016.

WILLAN THOMPSON
Clerk to the Senate