

SCHEDULE TO THE ORDER

THE CONSTITUTION OF THE COMMONWEALTH OF THE BAHAMAS

CHAPTER VIII

THE PUBLIC SERVICE

PART I

The Public Service Commission

Establishment and composition of Public Service Commission

107.—(1) There shall be a Public Service Commission for The Bahamas which shall consist of a Chairman and not less than two nor more than four other members, who 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.

(2) No person shall be qualified to be appointed as a member of the Public Service Commission if he is a member of either House or a public officer.

(3) Subject to the provisions of Article 126 of this Constitution the office of a member of the Public Service Commission shall become vacant—

- (a) at the expiration of three years from the date of his appointment or such earlier time as may be specified in the instrument by which he was appointed;
- (b) if he becomes a member of either House or a public officer.

(4) If the office of Chairman of the Public Service Commission is vacant or the holder thereof is for any reason unable to perform the functions of his office then, until a person has been appointed to and has assumed the functions of that office or until the person holding that office has resumed those functions, as the case may be, they shall be performed by such one of the other members of the Commission as may for the time being be designated in that behalf by the Governor-General, acting on the recommendation of the Prime Minister after consultation with the Leader of the Opposition.

(5) If the office of a member of the Public Service Commission other than the Chairman is vacant or the holder thereof is for any reason unable to perform the functions of his office, the Governor-General, acting on the recommendation of the Prime Minister after consultation with the Leader of the Opposition, may appoint a person who is qualified for appointment as a member of the Commission to act in the office of that member; and any person so appointed shall, subject to the provisions of sub-paragraph (3)(b) of this Article and Article 126 of this Constitution, continue so to act until a person has been appointed to the office in which he is acting and has assumed the functions thereof or, as the case may be, the holder thereof resumes those functions or until his appointment so to act is revoked by the Governor-General, acting as aforesaid.

(6) A former member of the Public Service Commission shall not, within a period of five years commencing with the date on which he last held or acted in that office, be eligible for appointment to any office power to make appointments to which is vested by this Constitution in the Governor-General acting on the recommendation or in accordance with the advice of the Public Service Commission.

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PART 2

Appointments etc. of Public Officers

Appointments, etc. of public officers

108. Subject to the provisions of this Constitution power to make appointments to public offices and to remove and to exercise disciplinary control over persons holding or acting in such offices is hereby vested in the Governor-General, acting in accordance with the advice of the Public Service Commission.

Appointments of Permanent Secretaries and certain other public officers

109.—(1) Notwithstanding anything contained in the preceding Article of this Chapter—

- (a) power to make appointments to the office of Permanent Secretary or Head of a Department of Government (or to be the holder of any such other office of similar status as the Governor-General may, acting in accordance with the advice of the Prime Minister, specify by notice in the Gazette) is hereby vested in the Governor-General acting on the recommendation of the Public Service Commission after the Commission has consulted the Prime Minister;
- (b) power to make appointments to the office of Permanent Secretary on transfer from another such office carrying the same salary is hereby vested in the Governor-General acting on the advice of the Prime Minister.

(2) In this Article “Permanent Secretary” includes the Secretary of the Cabinet and the Financial Secretary.

Delegation of Governor-General's powers

110. The Governor-General acting in accordance with the advice of the Public Service Commission, may by directions given by instruments under the Public Seal delegate, to such extent and subject to such conditions as may be specified in those directions, the powers vested in him by Article 108 of this Constitution (other than powers to make appointments to the offices referred to in Article 109 of this Constitution and to remove or exercise disciplinary control over persons holding or acting in such offices) to such public officers as may be so specified.

Appointments, etc. of principal representatives of The Bahamas abroad

111.—(1) Power to appoint persons to hold or act in the offices to which this Article applies (including power to make appointments on promotion and transfer and to confirm appointments) and to remove persons so appointed from any such office shall vest in the Governor-General, acting in accordance with the advice of the Prime Minister.

(2) Before tendering any advice for the purposes of this Article in relation to any person who holds or acts in any public office other than an office to which this Article applies, the Prime Minister shall consult the Service Commission which is responsible for advising in respect of appointments to the office which the person concerned holds or in which he is acting.

(3) The offices to which this Article applies are the offices of Ambassador, High Commissioner or any other principal representative of The Bahamas in any other country or accredited to any international organisation.

Appointments on transfer in respect of certain offices

112.—(1) Power to make appointments on transfer to the offices to which this Article applies shall vest in the Prime Minister.

(2) The offices to which this Article applies are—

- (a) offices, the holders of which are required to reside outside The Bahamas for the proper discharge of their functions;
- (b) such offices in the Ministry responsible for the conduct of the external affairs of The Bahamas as may, from time to time, be designated by the Prime Minister.

Appointment of Secretary to the Cabinet

113.—(1) There shall be a Secretary to the Cabinet whose office shall be a public office.

(2) Power to appoint any person to the office of Secretary to the Cabinet and to remove such person from that office shall vest in the Governor-General acting in accordance with the advice of the Prime Minister.

(3) Before tendering advice for the purposes of this Article, the Prime Minister shall consult the Public Service Commission.

(4) The Secretary to the Cabinet shall have charge of the Cabinet Office and shall be responsible, in accordance with such instructions as may be given to him by the Prime Minister, for the supervision of any department of the Government for which the Prime Minister has responsibility.

PART 3

The Public Service Board of Appeal

Public Service Board of Appeal

114.—(1) There shall be a Public Service Board of Appeal for The Bahamas which shall consist of the following members, who shall be appointed by instrument under the Public Seal—

- (a) one member appointed by the Governor-General acting in accordance with the advice of the Chief Justice from among persons who hold or have held high judicial office or are qualified to hold high judicial office, who shall be Chairman;
- (b) one member appointed by the Governor-General acting in accordance with the advice of the Prime Minister; and
- (c) one member appointed by the Governor-General acting in accordance with the advice of the appropriate representative body.

(2) A person shall not be qualified for appointment as a member of the Board if he is a member of either House.

(3) Subject to the provisions of this Article and of Article 126 of this Constitution, the office of a member of the Board shall become vacant—

- (a) at the expiration of three years from the date of his appointment;
- (b) if he becomes a member of either House.

(4) If at any time any member of the Board is for any reason unable to exercise the functions of his office, the Governor-General may appoint a person who is qualified to be appointed as a member of the Board to act as a member, and any person so appointed shall, subject to the provisions of subparagraph (3)(b) of this Article and Article 126 of this Constitution, continue to act until the office in which he is acting has been filled or, as the case may be, until the holder thereof has resumed his functions or until his appointment to act has been revoked by the Governor-General.

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

(6) In this Article “the appropriate representative body” means such body representing the interests of public officers as the Governor-General may, by Order, designate.

Appeals in discipline cases

115.—(1) Subject to the provisions of this Article, an appeal shall lie to the Public Service Board of Appeal at the instance of the officer in respect of whom the decision is made from any decision of the Governor-General, acting in accordance with the advice of the Public Service Commission, that any public officer shall be removed from office or that any penalty should be imposed on him by way of disciplinary control.

(2) Upon an appeal under paragraph (1) of this Article the Board may affirm or set aside the decision appealed from or may make any other decision which the authority or person from whom the appeal lies could have made.

(3) Every decision of the Board shall require the concurrence of a majority of all its members.

(4) Subject to the provisions of paragraph (3) of this Article, the Board may by regulations make provisions for—

- (a) the procedure of the Board;
- (b) the procedure in appeals under this Article;
- (c) excepting from the provisions of paragraph (1) of this Article decisions in respect of public officers holding offices whose emoluments do not exceed such sum as may be prescribed or such decisions to exercise disciplinary control, other than decisions to remove from office, as may be prescribed.

(5) Regulations made under this Article may, with the consent of the Prime Minister, confer powers or impose duties on any public officer or any authority of the Government of The Bahamas for the purpose of the exercise of the functions of the Board.

(6) The Board may, subject to the provisions of this Article and to its rules of procedure, act notwithstanding any vacancy in its membership or the absence of any member.

PART 4

The Judicial and Legal Service Commission

Establishment and composition of the Judicial and Legal Service Commission

116.—(1) There shall be a Judicial and Legal Service Commission for The Bahamas.

(2) The members of the Judicial and Legal Service Commission shall be—

- (a) the Chief Justice, who shall be Chairman;
- (b) such other Justice of the Supreme Court or Justice of Appeal as may be designated by the Governor-General, acting on the recommendation of the Chief Justice, by instrument under the Public Seal;
- (c) the Chairman of the Public Service Commission; and
- (d) two persons appointed by the Governor-General by instrument under the Public Seal, acting on the recommendation of the Prime Minister after consultation with the Leader of the Opposition.

(3) Subject to the provisions of Article 126 of this Constitution, the office of a member of the Judicial and Legal Service Commission referred to in sub-paragraph (2)(d) of this Article shall become vacant—

(a) at the expiration of three years from the date of his appointment or such earlier time as may be specified in the instrument by which he was appointed;

(b) if he becomes a member of either House.

(4) A person shall not be qualified to be appointed as a member of the Commission under subparagraph (2)(d) of this Article unless he holds or is qualified to hold or has held high judicial office; and a person shall be disqualified for appointment as such if he is a member of either House.

(5) If the office of Chairman of the Judicial and Legal Service Commission is vacant or the holder thereof is for any reason unable to perform the functions of his office, then, until a person has been appointed to and has assumed the functions of that office or until the person holding that office has resumed those functions, as the case may be, they shall be performed by such one of the other members of the Commission as may for the time being be designated in that behalf by the Governor-General, acting on the recommendation of the Chief Justice, or, if he is for any reason incapacitated from making a recommendation, of the other Justice of the Supreme Court or Justice of Appeal who is a member of the Commission.

(6) If at any time one of the members of the Commission referred to in sub-paragraphs (2)(b), (c) or (d) of this Article is for any reason unable to exercise the functions of this office, the Governor-General, in the case of the Chairman of the Public Service Commission, may appoint another member of the Public Service Commission to act as a member, and in the case of a member referred to in sub-paragraphs (2)(b) or (d) of this Article may, acting on the same recommendation as for the appointment of that member, appoint a person who is qualified to be appointed as a member of the Commission to act as a member. Any person so appointed shall, subject to the provisions of sub-paragraphs (3)(b) of this Article and Article 126 of this Constitution, continue to act until the office in which he is acting has been filled or, as the case may be, until the holder thereof has resumed his functions or until his appointment to act has been revoked by the Governor-General, acting as aforesaid.

Appointments, etc. of judicial and legal officers

117.—(1) Subject to the provisions of this Constitution, power to make appointments to public offices to which this Article applies and to remove and to exercise disciplinary control over persons holding or acting in such offices is hereby vested in the Governor-General acting in accordance with the advice of the Judicial and Legal Service Commission.

(2) This Article applies to such public offices for appointment to which persons are required to possess legal qualifications as may be prescribed by Parliament.

PART 5

The Police Service Commission

Establishment and composition of the Police Service Commission

118.—(1) There shall be a Police Service Commission for the Bahamas which shall consist of a Chairman and two other members 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.

(2) No person shall be qualified to be appointed as a member of the Police Service Commission if he is a member of either House or a public officer.

(3) Subject to the provisions of Article 126 of this Constitution, the office of a member of the Police Service Commission shall become vacant—

(a) at the expiration of three years from the date of his appointment or at such earlier time as may be specified in the instrument by which he was appointed;

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(b) if he becomes a member of either House or a public officer.

(4) If the office of Chairman of the Police Service Commission is vacant or the holder thereof is for any reason unable to perform the functions of his office, then, until a person has been appointed to and has assumed the functions of that officer or until the person holding that office has resumed those functions, as the case may be, they shall be performed by such one of the other members of the Commission as may for the time being be designated in that behalf by the Governor-General, acting on the recommendation of the Prime Minister after consultation with the Leader of the Opposition.

(5) If the office of a member of the Police Service Commission other than the Chairman is vacant or the holder thereof is for any reason unable to perform the functions thereof, the Governor-General, acting on the recommendation of the Prime Minister after consultation with the Leader of the Opposition, may appoint a person who is qualified for appointment as a member of the Commission to act in the office of the member and any person so appointed shall, subject to the provisions of sub-paragraph (3)(b) of this Article and Article 126 of this Constitution, continue so to act until a person has been appointed to the office in which he is acting and has assumed the functions thereof or, as the case may be, the holder thereof resumes those functions or until his appointment so to act is revoked by the Governor-General, acting as aforesaid.

Appointment of Commissioner of Police and other officers of the Police Force

119.—(1) Power to make appointments to the officers of Commissioner of Police and Deputy Commissioner of Police shall be vested in the Governor-General acting on the recommendation of the Prime Minister after consultation with the Leader of the Opposition.

(2) Save as provided under paragraph (1) of this Article power to make appointments to offices in the Police Force of or above the rank of Assistant Commissioner of Police is vested in the Governor-General acting on the recommendation of the Prime Minister after consultation with the Police Service Commission.

(3) Save as provided in the preceding paragraphs of this Article, power to make appointments to offices in the Police Force of or above the rank of Inspector is vested in the Governor-General, acting on the advice of the Police Service Commission.

(4) There shall be in the Police Force such number of Police Promotion Boards, each consisting of officers in the Police Force above the rank of Inspector, as may be prescribed by regulations made under this paragraph.

(5) Power to make appointments to offices in the Police Force below the rank of Inspector shall be vested in the Commissioner of Police acting after consultation with a Police Promotion Board.

(6) Power to make postings and appointments on transfer within the Police Force of officers in that Force shall be vested in the Commissioner of Police.

Removal of the Commissioner and Deputy Commissioner of Police

120.—(1) The Commissioner of Police and Deputy Commissioner of Police may be removed from office by the Governor-General but shall not be removed except in accordance with the provisions of paragraph (2) of this Article.

(2) The Commissioner of Police or Deputy Commissioner of Police 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 (3) of this Article and the tribunal has recommended to the Governor-General that he ought to be removed from office.

(3) If the Prime Minister represents to the Governor-General that the question of removing the Commissioner of Police or Deputy Commissioner of Police from office ought to be investigated, then—

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- (a) the Governor-General acting in accordance with the advice of the Prime Minister shall suspend the Commissioner of Police or Deputy Commissioner of Police from performing the functions of his office, as the case may be;
 - (b) 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
 - (c) the tribunal shall enquire into the matter and report on the facts thereof to the Governor-General whether the Commissioner of Police or Deputy Commissioner of Police ought to be removed from office.
- (4) If the question of removing the Commissioner of Police or Deputy Commissioner of Police from office has been referred to a tribunal under paragraph (3) of this Article, the Governor-General shall revoke any such suspension if the tribunal recommends to the Governor-General that the Commissioner of Police or Deputy Commissioner of Police should not be removed from office.

Removal and discipline of members of the Force

121.—(1) Save as provided under Article 120 of this Constitution, power to remove and to exercise disciplinary control over persons holding or acting in the offices of or above the rank of Assistant Commissioner in the Police Force is vested in the Governor-General acting in accordance with the advice of the Police Service Commission after consultation with the Prime Minister.

(2) Save as provided in Article 120 of this Constitution and paragraphs (1) and (3) of this Article, power to remove and exercise disciplinary control over persons holding or acting in offices in the Police Force is vested in the Governor-General acting in accordance with the advice of the Police Service Commission.

(3) The following powers are vested in the Commissioner of Police—

- (a) in respect of officers of or above the rank of Assistant Superintendent, the power to administer reprimands;
- (b) in respect of Inspectors, the power to exercise disciplinary control other than removal or reduction in rank; and
- (c) in respect of officers below the rank of Inspector, the power to exercise disciplinary control including the power of removal.

(4) The Commissioner of Police may, by directions in writing, and subject to such conditions as he thinks fit, delegate to any officer of the Police Force of or above the rank of Inspector any of his powers under sub-paragraph (3)(c) of this Article other than the power of removal; but an appeal from any award of punishment by such officer shall lie to the Commissioner.

(5) Parliament may by law provide that an appeal shall lie to the Governor-General from a decision of the Commissioner of Police to remove or exercise disciplinary control over persons holding or acting in offices in the Police Force in such cases as may be prescribed by such law, and in determining any such appeal the Governor-General shall act in accordance with the advice of the Police Service Commission.

PART 6

Pensions

Protection of pension rights

122.—(1) Subject to the provisions of Articles 123 and 124 of this Constitution, the law applicable to the grant and payment to any officer, or to his widow, children, dependants or personal representatives, of any pension, compensation, gratuity or other like allowance (in this Article and

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Articles 123 and 124 of this Constitution referred to as an “award”) in respect of the service of that officer in a public office shall be that in force on the relevant date or any later law that is not less favourable to that person.

(2) In paragraph (1) of this Article “the relevant date” means —

- (a) in relation to an award granted before 10th July 1973, the date on which the award was granted;
- (b) in relation to an award granted or to be granted on or after 10th July 1973 to or in respect of any person who was a public officer before that date, 9th July 1973;
- (c) in relation to an award granted or to be granted to or in respect of any person who becomes a public officer on or after 10th July 1973, the date on which he becomes a public officer.

(3) Where a person is entitled to exercise an option as to which of two or more laws shall apply in his case, the law specified by him in exercising the option shall, for the purposes of this Article, be deemed to be more favourable to him than the other law or laws.

(4) Awards granted under any law in respect of service in a public office (not being awards that are a charge upon some other public fund of The Bahamas) are hereby charged on the Consolidated Fund.

(5) For the purposes of this Article and of Articles 123 and 124 of this Constitution, service as a Justice of the Supreme Court or Justice of Appeal shall be deemed to be service in the Public service.

Grant and withholding of pensions, etc

123.—(1) The power to grant any award under any pensions law for the time being in force in The Bahamas (other than an award to which, under that law, the person to whom it is payable is entitled as of right) and, in accordance with any provisions in that behalf contained in any such law, to withhold, reduce in amount or suspend any award payable under any such law is hereby vested in the Governor-General.

(2) The power vested in the Governor-General by paragraph (1) of this Article shall be exercised by him on the recommendation of the appropriate Service Commission.

(3) The appropriate Service Commission shall not recommend to the Governor-General that any award for which a person who holds or has held the office of a Justice of the Supreme Court or Justice of Appeal or Auditor-General is eligible shall not be granted, or that any award payable to him shall be withheld, reduced in amount or suspended, on the ground that he has been guilty of misbehaviour unless he has been removed from office by reason of such misbehaviour.

(4) In this Article and in Article 124 of this Constitution “the appropriate Service Commission” means —

- (a) in the case of an award that may be granted or is payable to a person who, having been a public officer, was immediately before the date on which he ceased to hold public office serving—
 - (i) as a Justice of the Supreme Court or Justice of Appeal;
 - (ii) in any public office to which the provisions of Article 117 of this Constitution applied on that date.

the Judicial and Legal Service Commission;

- (b) in the case of an award that may be granted or is payable to a person who, having been a public officer, was immediately before the date on which he ceased to hold public office, serving as a member of the Police Force, the Police Service Commission;

- (c) in any other case the Public Service Commission.

(5) In this Article “pension law” means any law relating to the grant to any person or to the widow, children, dependants or personal representatives of that person, of an award of any pension, compensation, gratuity or other like allowance in respect of the service of that person in a public office and includes any instrument made under any such law.

Appeals in respect of certain decisions affecting pensions benefits

124.—(1) The provisions of this Article shall have effect for the purpose of enabling an officer or his personal representatives to appeal against any of the following decisions, that is to say:—

- (a) a decision of the appropriate Service Commission embodying a recommendation in respect of an officer, under Article 123(2) of this Constitution, not to grant, or to withhold, reduce in amount or suspend, an award;
- (b) a decision of any authority to remove an officer from office if the consequence of the removal is that an award cannot be granted in respect of the officer's service in a public office; or
- (c) a decision of any authority to take some other disciplinary action in relation to such an officer if the consequence of the action is or in the opinion of the authority might be, to reduce the amount of any award that may be granted in respect of the officer's service in a public office.

(2) Where any such decision as is referred to in paragraph (1) of this Articles is taken by any Commission or authority, the Commission or authority shall cause to be delivered to the officer concerned, or to his personal representatives, a written notice of that decision stating the time, not being less than twenty-eight days from the date on which the notice is delivered, within which he, or his personal representatives, may apply to the Commission or authority for the case to be referred to the Public Service Board of Appeal.

(3) The Board shall inquire into the facts of the case, and for that purpose—

- (a) shall, if the applicant so requests in writing, hear the applicant either in person or by a legal representative of his choice, according to the terms of the request, and shall consider any representations that he wishes to make in writing;
- (b) may hear any other person who, in the opinion of the Board, is able to give the Board information on the case; and
- (c) shall have access to, and shall consider, all documents that were available to the Commission or authority concerned and shall also consider any further document relating to the case that may be produced by or on behalf of the applicant or the Commission or authority.

(4) When the Board has completed its consideration of the case, then—

- (a) if the decision that is the subject of reference to the Board is such a decision as is mentioned in sub-paragraph (1)(a) of this Article, the Board shall advise the appropriate Service Commission or authority whether the decision should be affirmed, reversed or modified and the Commission or authority shall act in accordance with that advice; and
- (b) if the decision that is the subject of the reference to the Board is such a decision as is referred to in sub-paragraph (1)(b) or (c) of this Article, the Board shall not have power to advise the Commission or authority concerned to affirm, reverse or modify the decision but—
 - (i) where the officer has been removed from office the Board may direct that there shall be granted all or any part of the award that, under any law, might have been granted in respect of his service in a public office if he had retired voluntarily at the date of his removal and may direct that any law with respect to awards shall in any other respect that the Board may specify have effect as if he had so retired; and

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- (ii) where some other disciplinary action has been taken in relation to the officer the Board may direct that, on the grant of any award under any law in respect of the officer's service in a public office, that award shall be increased by such amount or shall be calculated in such manner as the Board may specify in order to offset all or any part of the reduction in the amount of that award that, in the opinion of the Board, would or might otherwise be a consequence of the disciplinary action, and any direction given by the Board under this sub-paragraph shall be complied with notwithstanding the provisions of any other law.

(5) If the appeal relates to a case in which the officer exercises his right of appeal to the Board under Article 115(1) of this Constitution, the Board shall first consider his appeal under that Article and only if it decides to affirm the decision or to make some other decision the consequence of which would be to affect the officer's award, shall the Board proceed to consider the officer's appeal under this Article.

(6) For the purposes of this Article—

- (a) “legal representative” means a person entitled to practice in The Bahamas as a Counsel and Attorney of the Supreme Court; and
- (b) a notice shall be deemed to have been delivered to an officer one week after it has been posted if, in the case of an officer on pension and resident outside. The Bahamas whose residential address cannot be ascertained, it has been posted addressed to him at the address to which his pension is being paid.

PART 7

Miscellaneous

Procedure of Commissions

125.—(1) In relation to any Commission established by this Chapter, the Governor-General, acting in accordance with the advice of the Commission, may by regulation or otherwise regulate its procedure and, subject to the consent of the Prime Minister, confer powers and impose duties on any public officer or any authority of the Government for the purpose of the discharge of the functions of the Commission.

(2) At any meeting of any Commission established by this Chapter a quorum shall be constituted if a majority of the members are present; and, if a quorum is present, the Commission shall not be disqualified for the transaction of business by reason of any vacancy among its members or the absence of any member, and any proceedings of the Commission shall be valid notwithstanding that some person who was not entitled so to do took part therein.

(3) Any question proposed for decision at any meeting of any Commission established by this Chapter shall be determined by a majority of the votes of the members thereof present and voting, and if on any such question the votes are equally divided the member presiding shall have and exercise a casting vote.

(4) Any question whether—

- (a) any Commission established by this Chapter has validly performed any function vested in it by or under this Chapter;
- (b) any person has validly performed any function delegated to him; or
- (c) any member of such a Commission or any other person or authority has validly performed any other function in relation to the work of the Commission,

shall not be enquired into in any court.

Removal from office of certain persons

126.—(1) A member of a Commission established under this Chapter may be removed from office only for inability to exercise the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of this Article.

(2) A member of a 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 paragraph (3) 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.

(3) If the Governor-General, acting in accordance with the advice of the prescribed authority, considers that the question of removing a member of a Commission under this Article ought to be investigated, then—

- (a) the Governor-General, acting in accordance with the advice of the prescribed authority shall appoint a tribunal which shall consist of a chairman and not less than two other members, selected by the Chief Justice, or where the question concerns the Chairman of the Judicial and Legal Service Commission by the President of the Court of Appeal, from among persons who hold or have held or are qualified to hold office as a Justice of the Supreme Court; and
- (b) the tribunal shall enquire into the matter and report on the facts thereof to the Governor-General and recommend to him whether the member ought to be removed under this Article.

(4) If the question of removing a member of a Commission has been referred to a tribunal under this Article, the Governor-General, acting in accordance with the advice of the prescribed authority, may suspend that member from the exercise of the functions of his office and any such suspension may be at any time revoked by the Governor-General, and shall in any case cease to have effect if the tribunal recommends to the Governor-General that that member should not be removed.

(5) In this Article—

“Commission” includes the Public Service Board of Appeal;

“the prescribed authority” means—

- (a) in relation to the Public Service Commission or the Judicial and Legal Service Commission, the Prime Minister when the question concerns the Chairman of either of those Commissions, and the Chairman of the Commission concerned when the question concerns any other member of either of those Commissions; and
- (b) in relation to the Public Service Board of Appeal or the Police Service Commission, the Prime Minister.

Public Service

127. In this Constitution references to the public service shall not be construed as including service in—

- (a) the office of Governor-General, Prime Minister or other Minister, Parliamentary Secretary, Leader of the Opposition, President and Vice-President of the Senate, Senator, Speaker and Deputy Speaker of the House of Assembly, or member of the House of Assembly;
- (b) the office of a member of the Public Service Commission, the Public Service Board of Appeal, the Judicial and Legal Service Commission or the Police Service Commission;
- (c) the staff of the Department of Tourism or of any other department or agency of the Government established for special purposes by any law which specifies that offices therein shall not be public offices for the purposes of this Constitution;

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- (d) the office of a member of any board, committees or other similar body (whether incorporated or not) established by any law in force in The Bahamas; or
- (e) except as otherwise provided in this Constitution the office of a Justice of the Supreme Court, a Justice of Appeal or any office on the personal staff of the Governor-General.