

5th February, 2019 REV 2

OBJECTS AND REASONS

This Bill would amend the *Supreme Court of Judicature Act*, Cap. 117A to make provision

- (a) to increase the number of judges in the High Court;
- (b) for the establishment of a Judicial Appointments Committee;
- (c) for the establishment of a commercial division of the High Court; and
- (d) for related matters.

Arrangement of Sections

1. Short title
2. Amendment of section 4 of Cap. 117A
3. Amendment of section 15 of Cap. 117A
4. Amendment of section 16 of Cap. 117A
5. Insertion of section 93A into Cap. 117A
6. Amendment of the *First Schedule* to Cap. 117A
7. Insertion of a *Fourth Schedule* into Cap. 117A

FIRST SCHEDULE

SECOND SCHEDULE

BARBADOS

A Bill entitled

An Act to amend the *Supreme Court of Judicature Act* to

- (a) increase the number of judges in the High Court;
- (b) establish a Judicial Appointments Committee;
- (c) establish a commercial division of the High Court; and
- (d) make provision for related matters.

ENACTED by the Parliament of Barbados as follows:

Short title

1. This Act may be cited as the *Supreme Court of Judicature (Amendment) Act, 2019*.

Amendment of section 4 of Cap. 117A

2. *Section 4 of the Supreme Court of Judicature Act, Cap. 117A, in this Act referred to as the principal Act, is amended by deleting subsection (1) and substituting the following:*

“(1) The High Court consists of

- (a) the Chief Justice, *ex officio*; and
- (b) not more than 13 judges to be styled “Judges of the High Court”. ”.

Amendment of section 15 of Cap. 117A

3. *Section 15 of the principal Act is amended by deleting subsection (1) and substituting the following :*

“Divisions of the High Court

15.(1) There shall be four divisions of the High Court, namely

- (a) a Civil Division;
- (b) a Criminal Division;
- (c) a Commercial Division; and
- (d) a Family Division.”.

Amendment of section 16 of Cap. 117A

- 4.** *Section 16 of the principal Act is amended by deleting subsection (1) and substituting the following :*

“Jurisdiction of the Commercial and Family Division

16.(1) All causes and matters involving the exercise of the High Court’s jurisdiction in proceedings specified in the *First Schedule* are assigned where specified therein to the Family Division or the Commercial Division, as the case may be. ”.

Insertion of section 93A into Cap. 117A

- 5.** *The principal Act is amended by inserting the following new section immediately after section 93:*

“Judicial Appointments Committee

93A.(1) There is hereby established a Judicial Appointments Committee which shall be responsible for making recommendations to the Prime Minister, in respect of the persons to be appointed to any vacancy to the Supreme Court of Judicature, for the purposes of section 81 of the *Constitution* .

(2) The *Fourth Schedule* applies with respect to the appointment and constitution of the Judicial Appointments Committee and otherwise in relation thereto.

(3) Subject to the provisions of the *Fourth Schedule*, the Judicial Appointments Committee shall meet as often as the business of that Committee requires.

- (4) The Judicial Appointments Committee shall
 - (a) prepare a report on all matters relating to the business of that Committee during the tenure of the Committee, as well as any problems connected therewith; and
 - (b) submit that report to the Prime Minister no later than the 31st March of the year following the calendar year in respect of which the report is prepared.
- (5) The Prime Minister shall forthwith table the report of the Judicial Appointments Committee in Parliament. ”.

Amendment of the *First Schedule* to Cap. 117A

6. *The principal Act is amended by deleting the First Schedule and substituting therefor the First Schedule, as set out in the First Schedule to this Act.*

Insertion of a *Fourth Schedule* into Cap. 117A

7. *The principal Act is amended by inserting immediately after the Third Schedule the Fourth Schedule, as set out in the Second Schedule to this Act.*

FIRST SCHEDULE*(Section 6)***“FIRST SCHEDULE***(Section 16)*

PART I

BUSINESS ASSIGNED TO THE FAMILY DIVISION

1. Proceedings connected with any matrimonial cause or matter in respect of which the High Court exercises jurisdiction.
 2. Proceedings for a declaration in respect of
 - (a) the validity of a marriage or of the dissolution or annulment of a marriage by decree, and related matters;
 - (b) the paternity of a child.
 3. Proceedings in relation to the wardship of minors.
 4. Proceedings under the *Minors Act*, Cap. 215, and otherwise in relation to the guardianship of minors, except proceedings for appointment of a guardian of a minor's estate alone.
 5. Proceedings under section 26(3) of the *Marriage Act*, Cap. 218A.
 6. Proceedings in which a parent or guardian of a minor applies for a writ of *habeas corpus ad subjiciendum* relative to the custody, care or control of the minor.
 7. Proceedings relating to the adoption of minors.
 8. Proceedings relating to
 - (a) the enforcement of maintenance orders made overseas for periodical payments to a spouse or dependant;
 - (b) persons under disability.
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PART II

BUSINESS ASSIGNED TO THE COMMERCIAL DIVISION

1. Proceedings connected to business documents or contracts.
 2. Proceedings connected to the export or import of goods.
 3. Proceedings connected to the carriage of goods by land, sea, air or pipeline.
 4. Proceedings connected to the exploration of oil, gas reserves or other natural resources.
 5. Proceedings connected to insurance or re-insurance.
 6. Proceedings connected to banking or financial services.
 7. Proceedings connected to the operation of financial markets or stock exchanges.
 8. Proceedings connected to the purchase or sale of commodities.
 9. Proceedings connected to admiralty.
 10. Proceedings connected to business agency.
 11. Proceedings connected to arbitration.
 12. Proceedings connected to bankruptcy and insolvency.
 13. Proceedings connected to intellectual property.
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SECOND SCHEDULE

(Section 7)

“FOURTH SCHEDULE

(Section 93A(2))

CONSTITUTION AND APPOINTMENT OF THE JUDICIAL APPOINTMENTS COMMITTEE AND RELATED MATTERS

Composition and membership of the Judicial Appointments Committee

1. The Judicial Appointments Committee shall consist of
 - (a) The Chief Justice, *ex officio*;
 - (b) at least one person who is a former Justice of a court referred to in section 79C (a) of the *Constitution*;
 - (c) at least one person who is a former Chief Justice or a former Justice of Appeal;
 - (d) a former Judge of the High Court;
 - (e) a member of civil society;
 - (f) an attorney -at- law with at least 10 years standing, who is member of the Barbados Bar Association, as established pursuant to the *Barbados Bar Association*, Cap. 363.

Functioning of the Judicial Appointments Committee

2. The Judicial Appointments Committee shall only be required where the Prime Minister determines that a vacancy, which shall be filled, has occurred in the Supreme Court of Judicature.

Appointment of the Judicial Appointments Committee

3.(1) In any circumstance where a vacancy occurs in the Supreme Court of Judicature, the Prime Minister shall by an instrument in writing appoint members to the Judicial Appointments Committee, other than the person specified in paragraph 1(a).

(2) The Prime Minister shall also appoint a member to be chairman.

(3) The Prime Minister shall

(a) notify the members of the Judicial Appointments Committee of the details of the vacancy to be filled; and

(b) advise the Judicial Appointments Committee of the period of time assigned to that Committee to advertise the vacancy, review the applicants, interview applicants and make recommendations for the purposes of section 81 of the *Constitution*.

(4) A notice of the appointment of a member to the Judicial Appointments Committee shall be published in the *Official Gazette*.

Tenure of office

4. Subject to the right to resign his office and to that of the Prime Minister to revoke his appointment at any time, a person appointed under paragraph 3 shall hold office for the period of time specified in the instrument of appointment.

Chairman

5. In the case of the absence of the chairman, or his inability to act as such, the senior judge shall exercise the functions of the chairman.

Secretary

6. The Judicial Appointments Committee shall elect a secretary for that Committee from among its members.

Powers of the Judicial Appointments Committee

7.(1) For the purposes of making recommendations as required by section 93A, the Judicial Appointments Committee shall advertise the vacancy to be filled in the Supreme Court of Judicature

- (a) in the *Official Gazette*;
- (b) in at least one newspaper in circulation in Barbados on two occasions, at an interval which is at least 1 week apart;
- (c) by an instrument in writing to the Barbados Bar Association; and
- (d) by such other electronic means as the Committee determines, which will ensure wide circulation to suitable applicants across the Commonwealth.

(2) The Judicial Appointments Committee shall interview suitable applicants and make such recommendations for the purposes of section 93A, as the Judicial Appointments Committee considers suitable.

(3) The Judicial Appointments Committee shall notify each applicant of the result of the interview by an instrument in writing.

Procedure, meetings and decisions

8.(1) During the tenure of the Judicial Appointments Committee, the chairman

- (a) may at any time call a special meeting of the Judicial Appointments Committee; or

- (b) shall call a meeting of the Judicial Appointments Committee if required so to do by the Prime Minister.
 - (2) The chairman and 3 other members of the Judicial Appointments Committee shall form a quorum.
 - (3) A decision of the Judicial Appointments Committee shall be decided by a majority vote.
 - (4) In the case where the voting is equal, the chairman shall have a second or casting vote.
 - (5) Subject to this *Schedule*, the Judicial Appointments Committee may regulate its own procedure.
- 9.** The Prime Minister shall determine the remuneration and allowances to be paid to the members of Judicial Appointments Committee.”.

Read three times and passed the House of Assembly this
day of _____, 2019.

Speaker

Read three times and passed the Senate this _____ day of
, 2019.

President

SUPREME COURT OF JUDICATURE (AMENDMENT) BILL, 2019

EXPLANATORY MEMORANDUM

The *Supreme Court of Judicature (Amendment) Bill, 2019* amends the *Supreme Court of Judicature Act* to increase the number of Judges in the High Court, and to make provision for the establishment of a Judicial Appointments Committee. This will add to the previous procedure for selecting judges, in that vacancies will now be advertised, so that all interested parties can apply and have the opportunity to be selected for an interview and the possibility of being recommended for the vacancy. This amendment will also provide for the creation of a Commercial Division.

- Clause 1:** provides the short title for the citation of the amending Act.
- Clause 2:** amends section 4 to increase number of Judges of the High Court from eight to thirteen, to better enable the High Court to perform its functions in the administration of justice.
- Clause 3:** amends section 15 to provide for a Commercial Division.
- Clause 4:** amends section 16 to provide for the causes and matters which will be the purview of the Commercial Division.
- Clause 5:** inserts section 93A into the Act. This section establishes the Judicial Appointments Committee. This Committee will be called into action by the Prime Minister where it is determined that there is vacancy in the Supreme Court of Judicature which must be filled. The Committee will be given a period of tenure during which it will advertise the vacancy, interview applicants and make recommendations of applicants who may be considered for the vacancy.
- Clause 6:** amends the *First Schedule* in the Act to provide details of the matters assigned to the Commercial Division.

Clause 7: inserts a *Fourth Schedule* into the Act that provides details for the appointments and composition to the Judicial Appointments Committee, and makes provision for the operation of the Committee.