

COMMONWEALTH OF DOMINICA

ARRANGEMENT OF SECTIONS

SECTIONS

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COMMONWEALTH OF DOMINICA

ACT NO. 4 OF 2014.

I assent



CHARLES A. SAVARIN
President

8th July, 2014

**AN ACT TO AMEND THE CONSTITUTION OF THE
COMMONWEALTH OF DOMINICA TO
FACILITATE THE ESTABLISHMENT OF THE
CARIBBEAN COURT OF JUSTICE AS THE
FINAL COURT OF APPEAL IN DOMINICA AND
TO PROVIDE FOR RELATED MATTERS.**

(Gazetted 8th July, 2014.)

BE IT ENACTED by the Parliament of the Commonwealth of
Dominica as follows:

1. (1) This Act may be cited as the -

Short title, construction
and commencement.

**CONSTITUTION OF DOMINICA (AMENDMENT)
ACT, 2014.**

(2) This Act shall be read as one with the Constitution of
the Commonwealth of Dominica.

(3) This Act shall come into operation on such day as the Minister may, by Order published in the *Gazette*, appoint.

Interpretation.

2. In this Act -

“Constitution” means the Constitution of the Commonwealth of Dominica 1978 the text of which is set out in Schedule 1 to the Constitution Order;

Chap. 1:01.

“Constitution Order” means the Commonwealth of Dominica Constitution Order 1978.

Amendment of section 16 of the Constitution.

3. Section 16 of the Constitution is amended in subsection (4) by deleting the words “Judicial Committee” wherever they occur and substituting the words “Caribbean Court of Justice”.

Amendment of section 17 of the Constitution.

4. Section 17 of the Constitution is amended in subsection (1) in respect of the definition of the term “court” by deleting the words “Judicial Committee” and substituting the words “Caribbean Court of Justice”.

Amendment of section 42 of the Constitution.

5. Section 42 of the Constitution is amended in subsection (4) by deleting paragraph (a) and substituting the following -

“(a) section 106 of the Constitution in order to give effect to any international agreement to which Dominica is a party concerning appeals from any Court having jurisdiction in Dominica to the Caribbean Court of Justice;”.

Amendment of Section 72 of the Constitution.

6. Section 72 of the Constitution is amended in subsection (5) by deleting the words “Judicial Committee” and substituting the words “Caribbean Court of Justice”.

Amendment of section 104 of the Constitution.

7. Section 104 of the Constitution is amended in subsection (2) by deleting the words “Judicial Committee” and substituting the words “Caribbean Court of Justice”.

8. Section 106 of the Constitution is repealed and replaced by the following -

Repeal and replacement of section 106 of the Constitution.

“Appeals to the Caribbean Court of Justice.

106. (1) An appeal shall lie as of right from decisions of the Court of Appeal to the Caribbean Court of Justice in the following cases -

- (a) final decisions in civil proceedings where-
 - (i) the matter in dispute on appeal to the Caribbean Court of Justice is of the prescribed value or upwards; or
 - (ii) the appeal involves directly or indirectly a claim to or a question respecting property or a right of the prescribed value or upwards;
- (b) final decisions in proceedings for dissolution or nullity of marriage;
- (c) final decisions in any civil or criminal proceedings which involve a question as to the interpretation of this Constitution;
- (d) final decisions given in the exercise of the jurisdiction conferred upon the High Court relating to redress for contravention of the provisions of this Constitution for the protection of fundamental rights;
- (e) final decisions given in the exercise of the jurisdiction conferred on the High Court relating to determination of any question for which a right of access to the High Court is expressly provided by this Constitution, and

(f) such other cases as may be prescribed by Parliament.

(2) An appeal shall lie from decisions of the Court of Appeal to the Caribbean Court of Justice with the leave of the Court of Appeal -

(a) in respect of decisions in any civil proceedings where in the opinion of the Court of Appeal, the question involved in the appeal is one that by reason of its great general or public importance or otherwise, ought to be submitted to the Caribbean Court of Justice; and

(b) such other cases as may be prescribed by Parliament.

(3) An appeal shall lie to the Caribbean Court of Justice with the special leave of the Caribbean Court of Justice from any decision of the Court of Appeal from any civil or criminal matter.

(4) References in this section to decisions of the Court of Appeal shall be construed as references to decisions of the Court of Appeal in exercise of the jurisdiction conferred by this Constitution or any other law for the time being in force in Dominica:

Provided that such references do not include references to decisions in exercise of the jurisdiction conferred by section 105(2) of the Constitution.

(5) In this section the “prescribed value” means the value of twenty-five thousand dollars or such other value as may be prescribed by Parliament.

(6) This section shall be subject to the provisions of sections 22(4) and 40(7) of this Constitution.”.

9. The Constitution is amended by inserting immediately after section 106 the following new section -

Insertion of new section 106A.

“Abolition of appeals to the Judicial Committee.

106A. No appeal shall be or shall be brought from or in respect of any decision of the Court of Appeal to the the Judicial Committee -

(a) as of right;

(b) by leave of any court;

(c) by special leave of the Judicial Committee or otherwise.”.

10. Section 121 of the Constitution is amended in subsection (1) by inserting the following definitions in the appropriate alphabetical order -

Amendment of Section 121 of the Constitution.

““Agreement Establishing the Caribbean Court of Justice” means the Agreement Establishing the Caribbean Court of Justice, signed at Port of Spain, Trinidad on the 15th day of February, 2003, as amended by the Protocol to the Agreement Establishing the Caribbean Court of Justice Relating to the Judicial Personality and Legal Capacity of the Court Signed at Montego Bay, Jamaica on the 4th day of July, 2003, and any further amendments, and includes any amendments thereto which may hereafter have force in relation to and become part of the law of Dominica;

“Caribbean Court of Justice” means the Caribbean Court of Justice established under the Agreement Establishing the Caribbean Court of Justice;”.

Amendment of Schedule 2 to the Constitution Order.

11. Schedule 2 of the Constitution Order is amended by deleting paragraphs 9 and 10.

Limitation on jurisdiction.

12. Nothing contained in this Act shall be construed as conferring jurisdiction on the Caribbean Court of Justice to hear and determine matters in relation to any decision of the Court of Appeal which at the date of commencement of this Act was, pursuant to the Constitution or any other law, declared to be final.

References to appeals to Judicial Committee.

13. Where in any other written law provision is made for an appeal to the Judicial Committee such provision shall, after the date of commencement of this Act, be construed as a reference to an appeal to the Caribbean Court of Justice.

Transitional.

14. (1) Subject to subsection (2), the provisions of this Act shall not affect any proceedings pending before the Judicial Committee immediately before the date of commencement of this Act.

(2) An appeal pending before the Judicial Committee at the date of commencement of this Act may be transferred to the Caribbean Court of Justice with the consent of all parties.

(3) Proceedings shall be deemed to be pending where -

(a) an appeal to the Judicial Committee has been instituted before the date of commencement of this Act; or

(b) leave to appeal or special leave to appeal to the Judicial Committee has been granted or applied for before the date of commencement of this Act.

(4) Any judgement of the Judicial Committee which at the commencement of this Act has been given but not satisfied may be enforced after the date of commencement of this Act as

if such judgement had been a judgement of the Caribbean Court of Justice.

Passed in this House of Assembly this 1st day of July, 2014.

DEIRDRE JULES (MRS.)
Clerk of the House of Assembly (Ag.)

