

# THE DRAFT CONSTITUTION OF THE COMMONWEALTH OF GRENADA

## PREAMBLE

We the People of Grenada, Carriacou and Petite Martinique, with the assurance of God's Blessings, and in this solemn exercise of our Sovereign Constituent Power, do hereby re-enact and ordain this Basic Law as the Constitution of the Commonwealth of Grenada, in order to secure for ourselves and our Posterity, the Rights, Liberties and Freedoms that are constitutive of the moral ideal of Human Dignity; to provide for and to promote good democratic governance of our Tri-Island State; and to provide for the Common Good and for the General Welfare of all our People.

## CHAPTER 1

### REPUBLIC

#### THE COMMONWEALTH OF GRENADA

Declaration of  
Republic

**1.** Grenada is a sovereign, democratic, republican State which shall be known as *The Commonwealth of Grenada*.

National territory

**2.** (1) The territory of the Commonwealth of Grenada shall consist of –

- (a) the islands of Grenada, Carriacou and Petite Martinique and such islets and other areas historically known to be part of Grenada or as may be declared by law to be part of the territory of Grenada;
- (b) the territorial waters and historic waters of Grenada and the seabed and subsoil underlying those waters; and
- (c) the airspace above those islands and those waters.

(2) Notwithstanding subsection (1), a law may proclaim complete or partial jurisdiction of the Commonwealth over other area of land, water or airspace.

(3) An Act shall declare the limit of the territorial waters and historic waters of Grenada and may prescribe the limit of the airspace referred to in subsection (1) (c).

National symbols

**3.** There shall be a Public Seal, a National Flag, a National Anthem, a National Emblem and a National Motto, each of which shall be prescribed by an Act.

National language

Constitution is  
supreme law

4. The national language of Grenada shall be English.

5. This Constitution is the supreme law of Grenada and any other law found to be inconsistent with this Constitution is, to the extent of the inconsistency, void.

## **CHAPTER 11 FUNDAMENTAL RIGHTS AND FREEDOMS**

### **PART 1**

Declaratory statement  
concerning the  
fundamental rights  
and freedoms

6.(1) This Constitution acknowledges the moral equality of all persons and, in virtue thereof, every citizen of Grenada is entitled to the equal protection and equal benefit of all fundamental rights and freedoms herein declared, without regard to age, colour, creed, ethnicity, gender, sexual orientation, place of origin, religious or political belief. Therefore, the fundamental rights and freedoms set out herein are subject only to such limitations as may be prescribed by law and which can reasonably be justified as being eminently required in a free and democratic society for the protection of the fundamental rights, freedoms and interests of others or for the welfare of the society or for the protection, safety and security of the State from imminent danger. It is thus hereby decreed that every citizen of Grenada is entitled to, among others, and consonant with all rights and privileges of equal citizenship:

- (a) the right to life, liberty and security of the person;
- (b) the right to privacy;
- (c) freedom from arbitrary arrest and from arbitrary search of person and property, and from arbitrary entry upon premises;

- (d) freedom in the use and enjoyment of property, and protection from deprivation of property without compensation;
- (e) the right to the due process and equal protection of the law;
- (f) freedom of conscience and of religion, of thought and of expression, of assembly and of movement;
- (g) freedom from discrimination;
- (h) the right to vote and to stand for public office;
- (i) the right not to be tortured or to suffer cruel, inhuman or degrading punishment or treatment.

The right to life

**7. (1)** Every person has the right to life.

(2) A person is not to be regarded as having been deprived of his or her right to life in contravention of this fundamental right if he or she is executed pursuant to the sentence of a court in respect of a criminal offence for which he or she has been convicted and lawfully sentenced to death.

(3) A person is not to be regarded as having been deprived of his or her right to life in contravention of this section if he or she dies as the result of the use of such force as is reasonably justifiable, and in such circumstances as are permitted by law,

- (a) in order to prevent him or her committing a criminal offence;
- (b) in the defence of any person from violence or in the defence of property;
- (c) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained; or
- (d) for the purpose of suppressing a riot, insurrection or mutiny; or if he or she dies as the result of a lawful act of war.

The right to personal liberty

**8.(1)** Every person has the right to personal liberty.

(2) A person is not to be regarded as having been deprived of his or her personal liberty in contravention of this section if such deprivation is consequent on the authority of law and:

- (a) upon reasonable suspicion that he or she has committed, or is about to commit, a criminal offence;
- (b) in consequence of his or her unfitness to plead to a criminal charge or in execution of the sentence or order of a court, whether established for Grenada or some other country, in respect of a criminal offence of which he or she has been convicted;
- (c) in execution of an order of the High Court or the Court of Appeal, or such other court as may be prescribed by Parliament, punishing

him or her for contempt of any such court or of another court or tribunal;

- (d) in execution of the order of a court made to secure the fulfilment of an obligation imposed on him or her by law;
- (e) for the purpose of bringing him or her before the court in execution of the order of a court;
- (f) in the case of a person who is less than eighteen years of age, under the order of a court or with the consent of that person's parent or guardian for the purpose of his or her education or welfare;
- (g) for the purpose of preventing the spread of an infectious or contagious disease;
- (h) in the case of a person who is, or is reasonably suspected to be, of unsound mind or addicted to drugs or alcohol, for the purpose of his or her care or treatment or for the protection of the community;
- (i) for the purpose of preventing his or her unlawful entry into Grenada, or for the purpose of effecting his or her expulsion, extradition or other lawful removal from Grenada, or for the purpose of restricting him or her while he or she is being conveyed through Grenada in the course of extradition or removal as a convicted prisoner from one country to another;
- (j) to such extent as may be
  - (i) necessary in the execution of a lawful order requiring him or her to remain within a specified area within Grenada or prohibiting him or her from being within such an area;
  - (ii) reasonably justifiable for the taking of proceedings against him or her with a view to the making of such an order or relating to such an order after it has been made; or
  - (iii) reasonably justifiable for restraining him or her during any visit that he or she is permitted to make to any part of Grenada in which, in consequence of such an order, his or her presence would otherwise be unlawful.

(3) Notwithstanding anything in subsection (2), a person shall not be deprived of his or her liberty for failure to pay a debt unless a court is satisfied that the failure was due to

- (a) his or her wilful refusal to pay; or

(b) a culpable omission by him or her to make reasonable provision for paying the debt.

(4) A person is not to be regarded as having been deprived of his or her personal liberty in contravention of this section if, when arrested or detained, he or she is

(a) informed as soon as is reasonably practicable, in a language that he or she understands, of the reasons for the arrest or detention;

(b) permitted, at his or her own expense, to retain and instruct without delay an attorney-at-law of his or her choice;

(c) permitted to hold private communication with that attorney-at-law; and

(d) in the case of a person who is less than eighteen years of age afforded a reasonable opportunity for communication with his or her parent or guardian.

(5) A person who is

(a) arrested or detained

(i) for the purpose of being brought before a court in execution of the order of a court; or

(ii) upon reasonable suspicion that he or she has committed, or is about to commit, a criminal offence; and

(iii) is not released, shall be brought before a court as soon as is reasonably practicable.

(6) If a person arrested or detained upon reasonable suspicion of having committed, or being about to commit, a criminal offence is not tried within a reasonable time, then, without prejudice to any further proceedings that may be brought against him or her, he or she shall be released, either unconditionally or upon reasonable conditions, including in particular such conditions as are reasonably necessary to ensure that he or she appears at a later date for trial or for proceedings preliminary to trial.

(7) A person who is unlawfully arrested or detained by another person is entitled to compensation from that other person for the unlawful arrest or detention. But a person is not liable for any act done in the performance of a judicial function for which he or she would not be liable apart from this subsection.

The right to a fair trial

**9.(1)** Every person charged with a criminal offence has the right, unless the charge is withdrawn, to be informed, as soon as is reasonably practicable, of the nature and cause of the accusation; and to be afforded a fair trial, without undue delay, by an independent and impartial court established by law.

(2) Every person charged with a criminal offence shall be

- (a) presumed to be innocent until he or she is proved to be or has pleaded guilty;
- (b) informed, as soon as is reasonably practicable in a language that he or she understands and in detail, of the nature of the offence charged;
- (c) allowed the assistance of Counsel of his or her choice and adequate time for the preparation of his or her defence;
- (d) provided with Counsel if, to the satisfaction of the court, he or she is unable to retain private counsel;
- (e) confronted with the witnesses for the prosecution;
- (f) afforded compulsory process for obtaining witnesses for his or her defence; and shall not be compelled to be a witness for or against the defence; and
- (g) permitted to have without payment the assistance of an interpreter if he or she cannot understand the language used at the trial of the charge.

(3) Except with his or her consent, a person's trial shall not take place in his or her absence unless he or she so conducts himself or herself in such a manner as to render proceedings in his or her presence impracticable and the court has ordered the trial to proceed in his or her absence.

(4) When a person is tried for a criminal offence, the accused person or a person authorised by him or her shall, if the accused person so requires and subject to payment of such reasonable fee as may be prescribed by law, be given within a reasonable time after judgment for his or her use a copy of any record of the proceedings made by or on behalf of the court.

(5) A person shall not be held to be guilty of a criminal offence on account of any act or omission that did not, at the time the act or omission took place, constitute such an offence; and a penalty shall not be imposed for any criminal offence that is more severe in degree or nature than the most severe penalty that might have been imposed for that offence at the time when the offence was committed.

(6) A person who shows that he or she has been tried by a competent court for a criminal offence and was either convicted or acquitted shall not again be tried for that offence or for any other criminal offence of which he or she could have been convicted at the trial for that offence, except upon the order of a superior court in the course of appeal proceedings relating to the conviction or acquittal.

(7) A person shall not be tried for a criminal offence if he or she shows that he or she has been granted a pardon for the offence with which he or she has been charged.

(8) A person who is tried for a criminal offence shall not be compelled to give evidence at the trial.

(9) Any court or other tribunal prescribed by law for the determination of the existence or extent of any civil right or obligation shall be established by law and shall be independent and impartial; and, where proceedings for such a determination are instituted by any person before such a court or tribunal, the case shall be given a fair hearing within a reasonable time.

(10) All proceedings of every court and all proceedings for the determination of the existence or extent of any civil right or obligation before any other tribunal, including the announcement of the decision of the court or tribunal, shall be held in public unless the parties agree otherwise.

(11) Subsection (10) does not prevent a court or other tribunal from excluding from the proceedings persons other than the parties and their attorneys-at-law to such extent as the court or tribunal may by law

- (a) be empowered to do so and may consider necessary or expedient in circumstances where publicity would prejudice the interests of justice, or in interlocutory proceedings, or in the interests of decency, public morality, the welfare of persons under the age of eighteen years or the protection of the private lives of persons concerned in the proceedings; or
- (b) be empowered or required to do so in the interests of defence, public safety or public order.

(12) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of

- (a) subsection (2)(a), to the extent that the law in question imposes upon any person charged with a criminal offence the burden of proving particular facts;
- (b) subsection (2)(e), to the extent that the law in question imposes conditions that must be satisfied if witnesses called to testify on behalf of an accused person are to be paid their expenses out of public funds;
- (c) subsection (5), to the extent that the law in question authorises a court to try a member of a disciplined force for a criminal offence notwithstanding any trial and conviction or acquittal of that member under the disciplinary law of that force; but any court that so tries such a member shall, in awarding any punishment, take into account any punishment awarded him or her under that disciplinary law.

(13) Subsection (2)(d) does not entitle a person to legal representation at public expense.

The right not to be subjected to slavery or forced labour

**10.(1)** Every person has the right not to be held in slavery or servitude.

(2) Every person has the right not to be compelled to perform forced or compulsory labour.

(3) The expression “forced or compulsory labour” in subsection (2) does not include labour

- (a) required in consequence of the sentence or order of a court;
- (b) required of a person while lawfully detained that, though not required in consequence of the sentence or order of a court, is reasonably necessary in the interest of hygiene or for the maintenance of the place at which he or she is detained;
- (c) required of a member of a disciplined force in pursuance of his or her duties as such or, in the case of a person who has conscientious objections to service as a member of a naval, military or air force, any labour that he or she is required by law to perform in place of such service; or
- (d) prescribed by Parliament as being part of reasonable and normal communal or other civic obligations and necessary in the interest of the public well-being.

The right not to be tortured  
The right to privacy and the right against arbitrary search and seizure

**11.(1)** Every person has the right not to be subjected to torture, or to inhuman or degrading punishment or other treatment.

**12.(1)** The right of every person to the enjoyment of his or her privacy and to be secure in his or her home, papers and effects, free from arbitrary entry upon his or her premises and from arbitrary searches and/or seizures of his or her person, property and things is inviolable.

(2) The entry upon a person’s premises and searches and/or seizures of his or her person, property and things may only be made pursuant to the issuing of a warrant by a Judge, upon the showing of a probable cause, supported by oath or affirmation, and particularly describing the person or the place to be searched, and the persons or things to be seized.

(3) Entry upon a person’s premises and searches and/or seizures of a person’s property may be made without a warrant where, in the circumstances, such actions are imminently required

- (a) for the purpose of preventing or detecting criminal offences;
- (b) for the purpose of averting a common danger or a mortal danger to individuals;

- (c) for the purpose of preventing imminent danger to public safety and order;
- (d) for the purpose of combatting the danger of epidemics;
- (e) for the purpose of protecting endangered minors;
- (f) for the purpose of enforcing the judgment or order of a court in any proceedings;
- (g) for the purpose of protecting the rights of other persons; or
- (h) for the purpose of authorising an officer or agent of the Government, or of a local government authority or of a body corporate established directly by law for public purposes, to enter on the premises of any person in order to
  - (i) inspect those premises or anything on those premises for the purposes of any tax, duty, rate, cess or impost, or for the purpose of determining whether any law has been complied with; or
  - (j) carry out work connected with any property that is lawfully on those premises and that belongs to the Government or that authority or body corporate, as the case may be.

The right to the use and enjoyment of property

**13.(1)** Every person has the right to the use and enjoyment of his or her property.

(2) A person's property shall not be compulsorily acquired except only in the public interest or for an express public purpose, and under the authority of a written law which

- (a) describes the nature and extent of the property to be taken;
- (b) states the principles on which and the manner in which compensation for the taking is to be determined and given; and
- (c) gives to any person claiming such compensation a right of access, either directly or by way of appeal, to a court of competent jurisdiction for the determination of his or her interest in the property and the amount of his or her compensation.

(3) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision for

- (a) the taking of any property
  - (i) in satisfaction of any tax, duty, rate, cess or other impost;

- (ii) by way of penalty for breach of the law or forfeiture in consequence of a breach of the law;
  - (iii) as an incident of a lease, tenancy, mortgage, charge, bill of sale, pledge, contract, grant, permission or licence;
  - (iv) in the execution of a judgment or order of a court in proceedings for the determination of a civil right or obligation;
  - (v) in circumstances where it is reasonably necessary to do so because the property is in a dangerous state or is injurious to the health of human beings, animals or plants or to the natural environment;
  - (vi) in consequence of any law with respect to the limitation of actions; or
  - (vii) for so long only as may be necessary for the purposes of any examination, investigation, trial or inquiry or, in the case of land, for the purpose of carrying out on the land work for the conservation of the soil or other natural resources or work of agricultural development or improvement;
- (b) the taking of
- (i) enemy property;
  - (ii) property of a deceased person, a person suffering from mental disorder or a person under the age of eighteen years, for the purpose of its administration for the benefit of the persons entitled to the beneficial interest in the property;
  - (iii) property of a person adjudged insolvent or a body corporate in liquidation, for the purpose of its administration for the benefit of the creditors and, subject to that, for the benefit of other persons entitled to the beneficial interest in the property; or
  - (iv) property subject to a trust, for the purpose of vesting the property in persons appointed as trustees under the instrument creating the trust, or by a court, or by order of a court, for

the purpose of giving effect to the trust;

- (c) the orderly marketing or production or growth or extraction of any agricultural product or mineral or any article or thing prepared for market or manufactured for market, or for the reasonable restriction of the use of any property in the interest of safeguarding the rights or interests of others; or
- (d) the compulsory taking in the public interest of any property, where the property is held by a body corporate which has been established directly by law for public purposes and in which no moneys have been invested other than moneys provided by Parliament or by a former Legislature of Grenada.

- (4) In this section, “property” includes property of every description, and rights and interests in property of every description; and “take” includes take possession.

The right to freedom of conscience and religion

**14.(1)** Every person has the right to the freedom of conscience, of thought and of religion, and to manifest and propagate his or her religion or belief in worship, teaching, practice and observance. Therefore, Parliament shall not make provision for the establishment of any religion, or for the imposition of any religious observance, or to prohibit anyone in the free and lawful exercise of his or her religious beliefs, through worship and praise or otherwise, in public or in private, alone or in community with others.

(2) Every person attending a place of education has the right, except with his or her own consent (or, if he or she is under the age of eighteen years, the consent of his or her guardian), not to be required to receive religious instruction or to take part in or attend any religious ceremony or observance if that instruction, ceremony or observance relates to a religion which is not his or her own.

(3) Every person has the right not to be compelled to take any oath which is contrary to his or her religion or belief, or to take any oath in a manner which is contrary to his or her religion or belief.

(4) Every religious community is entitled at its own expense to establish and maintain places of education, and to manage any place of education which that community wholly maintains.

(5) Every religious community is entitled to provide religious instruction for persons of that community in the course of

any education provided by that community, whether or not that community is in receipt of any government subsidy, grant or other form of financial assistance designed to meet, in whole or in part, the cost of that education.

(6) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision

(a) which is reasonably required in a democratic society

(i) in the interests of defence, public safety, public order, public morality or public health; or

(ii) for the purpose of protecting the rights and freedoms of other persons, including the right to observe and practise any religion without the unsolicited intervention of members of any other religion; or

(b) with respect to standards or qualifications to be observed or met required in relation to places of education including any instruction (not being religious instruction) given at such places.

(7) References in this section to a religion include references to a religious denomination, and cognate expressions having corresponding meanings.

The right to freedom of thought and expression

**15.(1)** Every person has the right to the freedom of thought and of expression; to form and hold his or her own opinions; to share those opinions with others and to receive ideas and information and hear the opinions of others, in private or through the Press and other forms of the public media; and, generally, to participate in whatever way in the public discourse which is essential to good democratic governance.

(2) Parliament shall therefore make no law abridging or limiting the free exercise of the right of thought and of expression and of the Press, except where that law

(a) is reasonably required in the interests of defence, public safety, public order, public morality or public health;

(b) is reasonably required for the purpose of

(i) protecting the reputations and rights of other persons or the private lives of persons concerned in legal proceedings;

(ii) preventing the disclosure of information received in confidence;

(iii) maintaining the authority and independence of the courts;

- (iv) regulating the administration or technical operation of telephony, telegraphy, posts, broadcasting, television or other means of telecommunication; or
- (v) regulating public exhibitions or public entertainments; or
- (c) that imposes restrictions upon public officers or members of a disciplined force.

(3) It shall be a criminal offence for any individual, political party, or any other association of persons to advocate or seek the violent overthrow of the constitutionally elected Government of Grenada.

The right to freedom of assembly and association

**16.(1)** Every person has the right, in association with others, peaceably to assemble or to form political parties, trade unions or other associations for the protection and advancement of his or her interests, and not be compelled to belong to any association.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision

- (a) that is reasonably required in the interests of defence, public safety, public order, public morality or public health;
- (b) that is reasonably required for the purpose of protecting the rights or freedoms of other persons; or
- (c) that imposes restrictions upon public officers or members of a disciplined force.

The right to freedom of movement

**17.(1)** Every person has the right to freedom of movement; and for the purposes of this section that right includes the following:

- (a) the right to move freely throughout Grenada;
- (b) the right to reside in any part of Grenada;
- (c) the right to enter Grenada;
- (d) the right to leave Grenada; and
- (e) immunity from expulsion from Grenada.

(2) Any restriction on a person's freedom of movement that is to effect in his or her lawful detention shall not be held to be inconsistent with or in contravention of this section.

(3) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision for

- (a) the imposition of restrictions on the movement or residence within Grenada of any person, or on any person's right to leave Grenada, that are reasonably required in the

- interests of defence, public safety or public order;
- (b) the imposition of restrictions on the movement or residence within Grenada or on the right to leave Grenada of persons generally or any class of persons, being restrictions that are reasonably required in the interests of defence, public safety, public order, public morality or public health;
  - (c) the imposition of restrictions on the movement or residence within Grenada, or the exclusion or expulsion from Grenada, of any person, not being
    - (i) a Citizen; or
    - (ii) where any law, in fulfilment of an international obligation of Grenada, entitles a person who is not a Citizen to be in Grenada;
  - (d) the imposition of restrictions on the acquisition or use of land or other property in Grenada;
  - (e) the imposition of restrictions, by order of a court, on the movement or residence within Grenada of any person or on any person's right to leave Grenada, either
    - (i) in consequence of his or her having been found guilty of a criminal offence under the law of Grenada; or
    - (ii) for the purpose of ensuring that he or she appears before a court at a later date for trial for such a criminal offence, or for proceedings preliminary to trial or for proceedings relating to his or her extradition or lawful removal from Grenada;
  - (f) the imposition of restrictions upon the movement or residence within Grenada, or on the right to leave Grenada, of public officers or members of a disciplined force;
  - (g) the removal of a person from Grenada
    - (i) to be tried or punished in some other country for a criminal offence under the law of that country;
    - (ii) to undergo imprisonment in some other country in execution of the sentence of a court in respect of a criminal offence under the law of Grenada of which that person has been convicted;

- (iii) to be detained in an institution in some other country for the purpose of giving effect to the order of a court made in pursuance of a law of Grenada relating to the treatment of offenders under a specified age;
- (iv) to be detained for care or treatment in a hospital or other institution in pursuance of a law of Grenada relating to persons suffering from mental disorder; or
- (v) whose entry into, or presence in Grenada is prohibited by or under a law relating to immigration; or
- (h) the imposition of restrictions on the right of any person to leave Grenada that are reasonably required in order to secure the fulfilment of any obligations imposed on him or her by law.

(4) Where a person's freedom of movement is restricted by virtue of such a provision as is referred to in subsection (3)(a), the following rules apply:

- (a) he or she shall, as soon as reasonably practicable and in any case not more than five days after the commencement of the restrictions, be furnished with a statement in writing, in a language that he or she understands, of the grounds on which the restrictions have been imposed;
- (b) not more than fourteen days after the commencement of the restrictions, a notice shall be published in the *Gazette* stating that this freedom of movement has been restricted and giving particulars of the provision of the law under which the restrictions are authorised;
- (c) he or she may from time to time request that his or her case be reviewed under paragraph (d) but, where such a request has been made, no subsequent request shall be made before the expiration of three months from the making of the previous request;
- (d) where a request is made under paragraph (c), the case shall, within one month of the making of the request, be reviewed by an independent and impartial tribunal established by law and presided over by a person appointed by the Chief Justice from among persons entitled to practise in Grenada as attorneys-at-law;

- (e) he or she shall be afforded reasonable facilities to consult and instruct an attorney-at-law at his or her own expense; and he or she and that attorney-at-law shall be permitted to make written or oral representations or both to the tribunal appointed for the review of the case.

(5) On review by a tribunal pursuant to subsection (4) of the case of a person whose freedom of movement has been restricted, the tribunal may make to the authority by whom the restrictions were ordered recommendations concerning the necessity or expediency of continuing restrictions; but, unless it is otherwise provided by law, that authority is not obliged to act in accordance with those recommendations.

The right not to be discriminated against

**18.(1)** Subject to the provisions in this section,

- (a) no law shall make any provision that is discriminatory either of itself or in its effect; and
- (b) no person shall be treated in a discriminatory manner by any person acting by virtue of any written law or in the performance of the functions of any public office or any public authority.

(2) In this section, the expression “discriminatory” means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, place of origin, political opinion, colour, creed or sex, whereby persons of one such description

- (a) are subject to disabilities not made subject; or
- (b) are accorded privileges or advantages which are not afforded to persons of another such description.

(3) Subsection (1)(a) does not apply to any law so far as that law makes provision

- (a) with respect to persons who are not Citizens;
- (b) with respect to adoption, marriage, divorce, burial, devolution of property on death or other matters of personal law;
- (c) whereby persons of any such description as is mentioned in subsection (2) may be subjected to any disability or restriction or may be accorded any privilege or advantage which, having regard to its nature and to special circumstances pertaining to those persons or to persons of any other such description, is reasonably justifiable in a democratic society;

- (d) for the transfer between Grenada and other countries, in accordance with international arrangements entered into by Grenada, of persons detained in prisons, hospitals or other institutions by virtue of orders made in the course of the exercise by courts or tribunals of their criminal jurisdiction; or
- (e) for the imposition of taxation or appropriation of revenue by the Government or by any local government authority for local purposes.

(4) Nothing contained in any law shall be held to be inconsistent with or in contravention of subsection (1)(a) to the extent that it makes provision with respect to standards or qualifications (not being standards or qualifications specifically relating to race, place of origin, political opinion, colour, creed or sex) to be observed or met by any person who is appointed to any office in the public service, any office in a disciplined force or any office in the service of a local government authority or of a body corporate established for public purposes.

(5) Subsection (1)(b) does not apply to anything which is expressly or by necessary implication authorised to be done by any such provision of law as is referred to in subsection (3) or (4).

(6) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question imposes a restriction on the rights of persons of a particular description with respect to freedom from arbitrary search or entry, or freedom of conscience, or freedom of expression, or freedom of assembly and association, or freedom of movement, if the restriction is reasonably required

- (a) in the interests of defence, public safety, public order, public morality or public health; or
- (b) for the protection of the rights or freedoms of other persons, unless the law is shown not to be reasonably justifiable in a democratic society.

(7) Subsection (1)(b) does not affect any discretion that is vested in any person by this *Constitution* or any law in relation to the institution, conduct or discontinuance of civil or criminal proceedings in any court.

(8) Parliament shall enact and maintain legislation forbidding any person other than the State to discriminate unfairly against another person, whether directly or indirectly.

- (9) For the purposes of subsection (8),
  - (a) to treat a person in a manner that is discriminatory is to discriminate against him or her;

- (b) to discriminate against a person is unfair unless it is proved, or a law provides, that the discrimination is justifiable.

The right to vote and to stand for public office

**19.(1)** Every Citizen of Grenada eighteen years of age or over has the right

- (a) to take part in the public affairs of the State either directly or through freely chosen representatives;
- (b) to be registered as a voter for the purpose of and to vote by secret ballot at public elections, which shall be by universal and equal suffrage, for the government of his or her choice; or
- (c) to stand for, and, if elected, to hold elective public office.

(2) Nothing contained in or done under the authority of a law shall be held to be inconsistent with or in contravention of subsection (1) to the extent that the law in question authorises limitations on the right described in that subsection that are reasonably justifiable in a democratic society.

## **PART II**

### **Emergency Provisions**

Public emergency

**20.(1)** The President may at any time by proclamation (a “proclamation of emergency”) declare that a period of public emergency exists.

(2) A proclamation of emergency does not have effect unless it states that the President is satisfied that a public emergency has arisen

- (a) as a result of a state of war, or the imminence of a state of war, between Grenada and a foreign State;
- (b) as a result of the occurrence of an earthquake, hurricane, flood or fire, or the outbreak of pestilence or infectious disease, or some other calamity whether similar to the foregoing or not; or
- (c) by reason that action has been taken, or is immediately threatened, by some person or persons, of such a nature and on so extensive a scale as to be likely to
  - (i) endanger the public safety; or
  - (ii) deprive the community or a substantial portion of the community of supplies or services essential to life.

(3) Within three days of the making of a proclamation of emergency, the President shall deliver to the Speaker for presentation to the National Assembly a statement setting out the specific grounds on which the decision to declare the existence of a period of public emergency had been taken; and the Speaker shall fix a date for a debate on that statement as soon as is practicable but in any event not later than fifteen days from the date of the proclamation.

- (4) A proclamation of emergency shall
- (a) be dated with the date of the proclamation; and
  - (b) also [state that date as] the date on which the period of public emergency commenced.

(5) In performing any function conferred upon him or her by this section, the President shall act in accordance with the advice of the Prime Minister unless the President, acting in his or her discretion, determines that, owing to a breakdown of government, the Prime Minister is unable to proffer him or her the required advice.

Emergency regulations

**21.(1)** Where a proclamation of emergency has been made and published under this Part, the President, subject to this Part, may make regulations for the purpose of dealing with any situation that in his or her judgment has arisen or is likely to arise during the period of public emergency mentioned in the proclamation.

(2) Regulations made under subsection (1) (“emergency regulations”) may make provision for the making of rules, directions, orders, notices and any other instruments that the President thinks fit.

(3) Without prejudice to the generality of subsection (1), emergency regulations may, subject to this Part, make provision for the detention of persons.

Duration of public emergency

**22.(1)** A proclamation of emergency, unless previously revoked, and the period of public emergency referred to in the proclamation (“the emergency period”) shall remain in force for one month, or such longer time not exceeding six months, beginning on the date of the proclamation as the National Assembly may determine by a majority resolution.

(2) A proclamation of emergency and the emergency period may be further extended from time to time by a majority resolution for a period not exceeding six months on each occasion.

(3) A resolution under subsection (1) or (2) may be revoked at any time by a majority resolution.

(4) In this section, the expression “a majority resolution” means a resolution passed by the National Assembly of a majority of all the members of that House.

Publication of emergency

**23.(1)** Subject to subsection (2), a proclamation of emergency and any emergency regulations, and any rules,

directions, notices, orders or other instruments made under any emergency regulations, shall be published in the *Gazette*.

(2) Where at any time the President deems it impracticable or inexpedient to publish in the *Gazette* a proclamation of emergency or any emergency regulations, or any rules, directions, notices, orders or other instruments made under any emergency regulations, he or she may cause the proclamation or the instrument in question to be published

- (a) by notice affixed to one or more public buildings or distributed amongst the public; or
- (b) by public announcements made orally by him or by persons authorised by him.

(3) Upon the publication of a proclamation of emergency, all such emergency regulations, rules, directions, notices, orders and instruments as abovementioned may be made, issued or given, and may be executed upon any person or authority even if publication in the *Gazette* of any such emergency regulations, rules, directions, notices, orders or instruments has not yet been made under subsection (1).

Detention of  
persons

**24.(1)** Where a person is detained by virtue of emergency regulations, the following rules apply:

- (a) there shall as soon as is practicable, and in any case not later than ten days after the commencement of the detention, be furnished to him or her a statement in writing, in a language that he or she understands, of the grounds upon which he or she is detained;
- (b) not later than twenty-eight days after the commencement of the detention, a notice shall be published in the *Gazette* stating that he or she has been detained and giving particulars of the provision of the law which authorised the detention;
- (c) he or she may from time to time request that his or her case be reviewed under paragraph (d) but, where such a request has been made, and then such request shall not be made before the expiration of three months from the making of the previous request;
- (d) where a request is made under paragraph (c), the case shall within one month of the making of the request be reviewed by a review tribunal;
- (e) the detained person shall be afforded reasonable facilities to consult and instruct, at his or her own expense, an attorney-at-law of his own choice, and along with his or her

attorney-at-law shall be permitted to make written or oral representations or both to the review tribunal.

(2) A review tribunal for the purposes of this section shall be an independent and impartial tribunal established by law consisting of

- (a) a chairman, who shall be an attorney-at-law of not less than seven years standing appointed by the President acting in accordance with the advice of the Chief Justice; and
- (b) two other members appointed by the President acting in the President's discretion.

(3) At least one review tribunal shall be appointed within seventy-two hours of the beginning of the period of a public emergency.

(4) On any review by a review tribunal of the case of a detained person pursuant to subsection (1), the tribunal may make to the authority by whom the detention was ordered recommendations concerning the necessity or expediency of continuing the detention; but, unless otherwise provided by law, that authority is not obliged to act in accordance with those recommendations.

(5) The provisions of the *Third Schedule* apply to tribunals appointed under this section.

(6) Where a person is detained by virtue of emergency regulations, the Prime Minister or a Minister authorised by the Prime Minister shall, not more than thirty days

- (a) after the first detention; and
- (b) after each report made under this subsection thereafter,

cause a report to be made to the National Assembly stating the number of persons so detained and the number of cases in which the authority that ordered the detention has not acted in accordance with the recommendations of a tribunal appointed under this section.

(7) In reckoning any period of thirty days for the purposes of subsection (6), account shall not be taken of any period during which Parliament stands prorogued or dissolved.

### **PART III**

#### *Exceptions*

**25.(1)** Nothing contained in or done under the authority of emergency regulations shall be held to be inconsistent with or in contravention of any provision of sections 12 to 25 to the extent that the regulations authorise the taking during a period of public emergency of measures that are reasonably justifiable in a democratic society for the purpose of dealing with the situation obtaining during that period of public emergency.

Exception:  
emergency  
regulations

Exception:  
certain Acts

**26.(1)** An act to which this section applies may expressly declare that it shall have effect even though inconsistent with any provisions of sections 7 to 20; and, if an Act does so declare, it shall have effect accordingly unless the Act is shown not to be reasonably justifiable in a democratic society.

- (2) An Act to which this section applies is one the Bill for which
- (a) has been passed by the National Assembly; and
  - (b) at the final vote on the Bill in the House has been supported by the votes of all the members of that House.

#### **PART IV**

##### *Interpretation*

Interpretation of  
this Chapter

**27.(1)** In this Chapter, unless the context otherwise requires—

“contravention”, in relation to a provision conferring a right or in relation to any requirement, includes a failure to give effect to the right or to comply with that requirement;

“court” means any court other than a court established by a disciplinary law;

“disciplinary law” means a law regulating the discipline of any disciplined force;

“disciplined force” means

- (a) a naval, military or air force;
- (b) a police force;
- (c) a prison service; or
- (d) a fire service;

“emergency regulations” means regulations made under section 8;

“legal representative” means a person entitled to be in or enter Grenada and entitled to practise as a barrister in Grenada or, except in relation to proceedings before a court in which a solicitor has no right of audience, entitled to practise as a solicitor in Grenada;

“member”, in relation to a disciplined force, includes any person who is subject to the disciplinary law applying to that force;

“period of public emergency” means the emergency period referred to in the Emergency Provisions of this Constitution; and

“proclamation of emergency” has the meaning given to that expression in the Emergency Provisions of this Constitution.

(2) References in sections 13, 14, 18 and 23 to a criminal offence shall be construed as including references to an offence against a disciplinary law, and such references in subsections (2) to (8) and (12)(a) of section 15 shall, in relation to proceedings before a court established by a disciplinary law, be similarly construed.

(3) In relation to a person who is a member of a disciplined force raised under the law of a country other than Grenada and lawfully present in Grenada, nothing contained in or done under the authority of the disciplinary law applying to that force shall be held to be inconsistent with or in contravention of any provision of sections 12 to 25.

## **PART V THE GENERAL WELFARE CLAUSE**

Moral and political obligations of the State

**28.** In addition to the fundamental rights and freedoms declared above, and which are judicially enforceable in favour of the citizen, this Constitution acknowledges that there are certain social and economic rights that are universally recognised as essentials of human dignity and well-being and are equally indispensable to the full enjoyment of citizenship in a democratic society, notwithstanding that they are not listed among the constitutionally protected rights. Therefore, in order to accord constitutional sanction to these rights, it is hereby decreed that it shall be the moral and political obligation of the Government of Grenada to pursue and direct the policies of the State towards the judicious use and management of the resources of Grenada in the production, management and distribution of wealth for the good of all our people and, in particular, to ensure that every citizen of Grenada is provided with, among other things,

- (a) an adequate minimum level of food for proper sustenance;
- (b) adequate and decent shelter conducive to health and well-being;
- (c) adequate health care for physical and mental health;
- (d) adequate compulsory education for such minimum period of not less than twelve years, and equal access to educational opportunities and facilities beyond the period of compulsory education;
- (e) adequate employment opportunities and the just and favourable conditions of work;
- (f) adequate social security so that no one is left unprovided for by reason of incapacity to work or involuntary unemployment; and
- (g) a clean, healthy and ecologically balanced environment.

## **PART VI FUNDAMENTAL DUTIES**

Fundamental duties of the citizen

- 29.** It shall be the duty of every citizen of Grenada—
- (a) to uphold and defend this Constitution and the law;
  - (b) to respect the National Anthem, the National Flag, the National Pledge, and all National Emblems;
  - (c) to cooperate with the respective agencies of the State in the maintenance of law and order;
  - (d) to participate to the fullest extent of one's ability in the economic, political and social life of the State in such manner as to further the national interest and to foster national unity;
  - (e) to protect, preserve and improve the environment; and
  - (f) generally, to strive towards the fulfilment of the aspirations contained in the Preamble of this Constitution.

**CHAPTER III**  
**HEAD OF STATE – THE PRESIDENT**

Office of President  
and Head of State

**30.** The Office of Head of State shall vest in a President who shall also be Head of the Police Force, the Prison and Fire Services, and of any armed forces or other military or para-military units that may be established by Parliament; and who shall receive his or her appointment for a period of ten (10) years, at the hand of the Prime Minister, after the Prime Minister has had the approval of Parliament for the appointment.

Qualifications

**31.(1)** A person is qualified to be appointed President of the Commonwealth of Grenada if he or she

- (a) is a Citizen by birth or descent; and
- (b) on the date of appointment
  - (i) is fifty years of age or older; and
  - (ii) has been resident in Grenada throughout the period of five years immediately preceding that date.

(2) Residence outside of Grenada by a person who holds an office in the service of Grenada or of an international organization of which Grenada is a member, where residence outside of Grenada is necessary for the performance of that office, is to be taken to be residence in Grenada for the purposes of this Chapter.

Disqualifications

**32.** A person is not qualified to be appointed President if he or she

- (a) has previously held that office substantively; or
- (b) is disqualified to be elected as a member of the National Assembly under this Constitution.

Determination of  
certain questions

**33.(1)** The Court of Appeal shall have exclusive jurisdiction to hear and determine any question whether a person is qualified to be appointed as President of Grenada.

(2) An application to the Court of Appeal for the determination of such a question may be made by the Attorney-General or by any member of the National Assembly, and, if the application is not made by the Attorney-General, the Attorney-General may intervene and may then appear or be represented in the proceedings.

(3) A certificate by the Speaker stating that a person has received the requisite approval from the National Assembly to be appointed President under this Chapter shall be conclusive evidence of the facts stated in the certificate and shall not be questioned by any court.

Exercise of  
President's  
functions

**34.(1)** In the exercise of the functions of the Office under this Constitution or any other law, the President shall act in accordance with the advice of Cabinet or a Minister acting under the general authority of the Cabinet, except in cases where other provision is made by the Constitution or such other law, and, without prejudice to the generality of this exception, in cases where by this Constitution or such other law he or she is required to act –

- (a) in his or her discretion;
- (b) after consultation with any person or authority other than the Cabinet; or
- (c) in accordance with the advice of any person or authority other than the Cabinet.

(2) Where by this Constitution the President is required to act in accordance with the advice of, or after consultation with, any person or authority, the question whether he or she has in any case so acted shall not be enquired into in any court.

Removal of President from office

**35.** The President may be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors, or for inability to perform the functions of President due to physical incapacity or mental disability.

Resignation of President

**36.** The President may, by writing addressed to the Prime Minister, resign from the Office of President.

Vacancy in the Office of President

**37.** Whenever there is a vacancy in the Office of President, the Prime Minister and the Leader of the Opposition shall, within a period of three months, jointly appoint a Commission to study and evaluate the qualifications of such persons who may rightly assume the Office of Head of State, and the Commission shall, in due course, make its recommendations to the Prime Minister and the Leader of the Opposition. The name of the person chosen shall then be submitted to Parliament for approval; and, whereupon, the Prime Minister shall so inform the person of the appointment.

Removal of President for crimes and misdemeanors

**38.(1)** Where, pursuant to Section 35 of this Chapter, by notice in writing signed by not less than half the number of the members of the National Assembly of a motion alleging that the President has committed a crime or misdemeanor and specifying the particulars of the allegation and proposing that the Court of Appeal investigates the allegation is given to the Prime Minister, the Prime Minister shall –

- (a) if the National Assembly is then sitting or has been summoned to meet within five days, cause the motion to be considered by the Assembly within seven days of the notice; or
- (b) if the National Assembly is not sitting, summon the Assembly to meet on a date

within fourteen days of the notice and cause the motion to be considered at that meeting.

(2) Where a motion under subsection (1) is proposed for consideration by the National Assembly, the Assembly shall not debate the motion but the Speaker shall forthwith cause a vote to be taken on the motion and, if the motion is supported by the votes of not less than two-thirds of the number of its members, shall declare the motion to be passed.

(3) Where a motion is declared to be passed under subsection (2) –

- (a) the Speaker shall deliver a copy of the motion to the President and the Chief Justice;
- (b) the Chief Justice shall place the matter before the Court of Appeal;
- (c) the Court of Appeal shall investigate the matter and report to the Speaker whether it finds that the particulars of the allegation specified in the motion constitute a *prima facie* case for the removal of the President; and
- (d) the Court of Appeal in investigating the matter under paragraph (c) may summon and examine any witnesses or otherwise exercise all the powers of the Supreme Court.

(4) The President shall have the right to appear and be represented before the Court of Appeal during its investigation of the allegation.

(5) Where the Court of Appeal reports to the Speaker that the Court finds that the particulars of an allegation against the President specified in the motion do not constitute a *prima facie* case for the removal of the President, no further proceedings shall be taken under this section in respect of that allegation.

(6) Where the Court of Appeal reports to the Speaker that the Court finds that the particulars of an allegation against the President specified in the motion constitute a *prima facie* case for the removal of the President, the Speaker shall, within ten days after a report is made to the Speaker pursuant to subsection (3)(c) –

- (a) where the National Assembly is sitting or has been summoned to meet within five days, cause the findings of the Court to be considered, as soon as is practicable, by the Assembly; or
- (b) where the National Assembly is not sitting, immediately summon the National Assembly and cause the findings of the Court to be considered by the Assembly.

(7) Where the National Assembly when it meets pursuant to subsection (6) resolves by the votes of not less than two-thirds of the number of its members that the finding of the

Court of Appeal be adopted, the President shall cease to hold office on the passing of the resolution.

Removal of President  
for mental or  
physical incapacity

**39.**(1) Where, pursuant to Section 35 of this Chapter, the Cabinet resolves, upon a motion supported by the votes of a majority of all the members of the Cabinet that the question of the mental or physical capacity of the President to discharge the functions of the Office of President ought to be investigated, the Cabinet shall so inform the Chief Justice.

(2) Where notice in writing signed by not less than half of the number of members of the National Assembly of a motion requesting that the question of the mental or physical capacity of the President to discharge the functions of the Office of President ought to be investigated is given to the Speaker, the Speaker shall –

- (a) where the National Assembly is sitting or has been summoned to meet within five days, cause the motion to be considered by the Assembly as soon as is practicable within seven days of the notice;
- (b) where the National Assembly is not then sitting, summon the Assembly to meet on a date within fourteen days of the notice and cause the motion to be considered at that meeting.

(3) Where a motion under subsection (2) is proposed for consideration by the National Assembly, the Assembly shall not debate the motion but the Speaker shall forthwith cause a vote to be taken on the motion and, if the motion is supported by the votes of not less than two-thirds of the number of its members, shall declare the motion to be passed and shall deliver a copy of the motion to the President and the Chief Justice.

(4) Where the Chief Justice is informed under subsection (1) or receives a copy of a motion under subsection (3), the Chief Justice shall appoint a medical board consisting of not less than three persons selected by the Chief Justice from among persons who are qualified as medical practitioners under a law, and the medical board shall inquire into the matter and shall make a report to the Chief Justice stating the opinion of the board as to whether or not the President is, by reason of any infirmity of body or mind, incapable of discharging the functions of the Office of President.

(5) Where under subsection (4) the medical board reports that the President is capable of discharging the functions of the Office of President, the Chief Justice shall inform accordingly –

- (a) where the investigation was carried out at the instance of the Cabinet; or
- (b) where the investigation was carried out at the instance of the National Assembly, the Speaker,

and, as soon as is practicable, thereafter the Cabinet shall inform the President accordingly or the Speaker shall inform the President and the National Assembly accordingly, as the case may be.

(6) Where under subsection (4) the medical board reports that the President is incapable of discharging the functions of the Office of President, the Chief Justice shall certify in writing accordingly and –

- (a) where the investigation was carried out at the instance of the Cabinet, submit the findings to the Cabinet, and the Cabinet shall inform the President of the findings and submit the findings to the Speaker; or
- (b) where the investigation was carried out at the instance of the National Assembly, submit the findings to the Speaker and the Speaker shall inform the President of the findings.

(7) Where the Speaker receives a report under subsection (6), the Speaker shall–

- (a) where the National Assembly is sitting or has been summoned to meet within five days, cause the findings of the medical board to be considered by the Assembly as soon as is practicable; or
- (b) where the National Assembly is not sitting, immediately summon the Assembly to meet and cause the findings of the medical board to be considered at that meeting.

(8) Where the National Assembly, when it meets pursuant to subsection (7), resolves by votes of not less than two-thirds of the number of its members that the findings of the medical board be adopted, the President shall cease to hold office on the passing of the resolution.

Speaker to act as President during President's temporary incapacity

**40.** During the absence of the President from the Commonwealth, the President is temporarily incapacitated or is unable to perform the functions of President, the Speaker of the National Assembly shall act as President, pending the return of the President to office.

Oath of Allegiance and Oath of Office

**41.** A person appointed to hold the Office of President shall, before assuming the duties thereof, take and subscribe the Oath of Allegiance and the Oath of Office, to be administered by the Chief Justice of the Supreme Court.

Emoluments of President

**42.** The President shall, at the stated times, receive for his or her services, a compensation which shall not be diminished during his or her tenure in office.

Duty of Prime Minister to keep President informed

**43.** The Prime Minister shall keep the President fully informed about the general conduct of government and furnish him or her with such particular information as he or she may request.

Powers of Office of President in the event of a coup d'état

**44.(1)** If, at any time, the duly elected constitutional government of the Commonwealth is displaced by unconstitutional means, is incapacitated or otherwise unable to perform its functions, and the life of the Nation is put in clear and present danger, the President may declare a state of emergency, and assume all legislative and executive authority, or do whatever the President considers necessary to preserve and protect the Nation, pending the reconstitution of a duly elected government.

(2) The President shall, as circumstances permit, publish in the Commonwealth Gazette any such Proclamation of Emergency.

The prerogative of mercy

**45.(1)** The President, as Head of State, in the exercise of the Prerogative of Mercy, may

- (a) grant a pardon, either free or subject to lawful conditions to a person convicted of an offence;
- (b) grant to a person a respite, either indefinite or for a specific period, from the execution of a punishment imposed on that person for an offence;
- (c) substitute a less severe form of punishment for a punishment imposed on a person for an offence; or
- (d) remit the whole or a part of a punishment imposed on a person for any offence, or a penalty or forfeiture otherwise due to the State on account of an offence.

(2) The powers of the President under subsection (1) shall be exercised in accordance with the advice of an Advisory Committee as may for that purpose be designated by the President, acting in consultation with the Prime Minister and the Leader of the Opposition.

(3) When any person has been sentenced to death for an offence, the Chairman of the Advisory Committee for the time being designated by the President shall cause a written report of the case from the trial judge (or, if a report cannot be obtained from that judge, a report of the case from the Chief Justice), together with such other information derived from the record of the case or elsewhere as he or she may require, to be taken into consideration at a meeting of the Advisory Committee on the Prerogative of Mercy; and, after obtaining the advice of the Committee, the President shall decide in his or her deliberate judgment whether to accept the advice of the Committee and exercise the powers of office under this Section of this Constitution. The Advisory Committee on the Prerogative of Mercy shall consist of:

- (a) a retired jurist who shall be chairman;
- (b) the Chief Medical Officer of the Commonwealth of Grenada; and
- (c) three other members appointed by the President by instrument in writing under his or her hand.

(4) A member of the Committee appointed under this Section shall hold his or her seat thereon for such period as may be specified in the instrument by which he or she was appointed.

Immunities of  
President

**46.(1)** Subject to Section 38, the President is not answerable to any court for the performance of the functions of the Office of President, or for any act done in the performance of those functions.

(2) While a person holds the Office of President, or is acting as President,

- (a) criminal proceedings shall not be instituted or continued against him or her in respect of anything he or she has done, or has failed to do, in his or her official or private capacity; and
- (b) civil proceedings, seeking relief, shall not be instituted or continued against him or her in respect of anything he or she has done, or has failed to do, in his or her official or private capacity.

(3) Where provision is made by law limiting the time within which proceedings of any description may be brought against a person, the period during which that person held office or acted as President shall not be taken into account in calculating the time limited by that law within which any such proceedings may be brought against him or her.

## CHAPTER IV THE EXECUTIVE

The Cabinet

**47.(1)** The executive authority of the Commonwealth of Grenada shall vest in a Cabinet consisting of a Prime Minister and such other Ministers as may be reasonably required for the good governance of the society and shall be exercised in accordance with this Constitution and the laws of Grenada.

(2) The Prime Minister shall be a person directly elected to the National Assembly in a general election and shall be the leader of the political party with the majority of seats in the National Assembly, or the person, also directly elected in a general election, who, in the judgment of the President, commands the support of the largest number of the members of the National Assembly.

(3) The Prime Minister may appoint a Deputy Prime Minister who shall serve as Prime Minister during the absence of the Prime Minister from the Commonwealth, or in the event of the Prime Minister's death or illness.

(4) If, however, in the event of the Prime Minister's incapacity the Deputy is also unable to assume the Office of Prime Minister, the President shall, with or without any consultation, name a Minister to act as Prime Minister.

(5) The Cabinet shall be responsible for the maintenance of peace, order, good government, the security of the Commonwealth, the execution and maintenance of this Constitution and the laws of Grenada and of all social services, and such other functions as are necessary for the promotion of the common good and the general welfare of all the People of the Commonwealth of Grenada.

Swearing in of Prime Minister and Ministers

**48.** The Prime Minister and all Ministers of Government shall be sworn into office by the President of the Commonwealth of Grenada; where upon, they shall each take and subscribe the Oath of Allegiance and the Oath of Office.

Tenure of office of Prime Minister

**49.(1)** The Prime Minister and the Cabinet shall hold office for a term of five years at the end of which term, the National Assembly shall be dissolved by the President.

(2) If, however, prior to the expiration of the five-year term, a resolution of no confidence in the Government is passed by a majority of all the members of the National Assembly and the Prime Minister does not within three days tender the resignation of the Government from office or advise the President to dissolve the Parliament, the President shall, with or without any consultation, dissolve the Parliament.

(3) The office of a Minister, other than the Prime Minister, shall become vacant, prior to the expiration of the five-year term,

- (a) if the President, acting in accordance with the advice of the Prime Minister, so directs; or
- (b) if the Prime Minister resigns from office within three days after a resolution of no confidence is passed by the majority of all the members of the National Assembly.

Duty of Prime Minister to keep President informed

**50.** The Prime Minister shall keep the President fully informed about the general conduct of the Government and furnish such information with respect to any particular matter relating to the Government as the President may request.

Appointment of Deputy Ministers

**51.(1)** The President, acting in accordance with the advice of the Prime Minister, shall appoint Deputy Ministers from among the members of the National Assembly to assist Ministers in the performance of their duties.

(2) The office of a Deputy Minister shall become vacant

- (a) if the President, acting in accordance with the advice of the Prime Minister, so directs; or
- (b) if the Prime Minister resigns from office within three days after a resolution of no confidence in the Government or is removed from office by a dissolution of the National Assembly under Section (32)(2) of this Chapter; or
- (c) if the holder of the office ceases to be a member of the National Assembly other than by reason of a dissolution of that House.

(3) A Deputy Minister shall, before entering upon the duties of that office, take and subscribe the Oaths of Allegiance and of Office.

The office of Leader of the Opposition

**52.(1)** There shall be a Leader of the Opposition who shall be a directly elected member of the National Assembly, and the leader of the political party with the second highest number of seats in the National Assembly, or the person, also a directly elected member of the National Assembly, who, in the judgment of the President, commands the support of the largest number of the members of the National Assembly in opposition to the Government.

(2) A person appointed to the Office of Leader of the Opposition shall vacate the office –

- (a) if the person ceases to be a member of the National Assembly;
- (b) if the person is elected to the Office of Speaker or Deputy Speaker;
- (c) if the person resigns by notice in writing addressed to the President;

- (d) where the members of the National Assembly pass a resolution requiring the person to vacate the office; or
- (e) where that person is otherwise disqualified from being a member of the National Assembly in accordance with the Standing Orders established by the Assembly for disciplining the behaviour of its members.

The office of  
Permanent Secretary

**53.(1)** A department of government, subject to the general direction and control of the Minister charged with the responsibility therefor, shall be under the supervision of a public officer to be known as a Permanent Secretary.

(2) Two or more government departments may be placed under the supervision of one Permanent Secretary.

The office of  
Cabinet Secretary

**54.(1)** There shall be a Secretary to the Cabinet whose office shall be a public office.

(2) The Cabinet Secretary shall have charge of the Cabinet Office, and shall be responsible, in accordance with instructions given by the Prime Minister,

- (a) for arranging the business for meetings and keeping the minutes of the meetings of the Cabinet;
  - (b) for conveying the decisions of the Cabinet to the appropriate persons or authority;
- and shall have such other functions as the Prime Minister may direct.

The office of  
Attorney-General

**55.(1)** There shall be an Attorney-General whose office shall be a public office.

(2) The Attorney-General shall be appointed by the President, acting on the advice of the Prime Minister.

(3) The Attorney-General shall be the principal legal adviser to the Government and may

- (a) institute or undertake criminal proceedings against any person before any court, other than a court-martial, in respect of any offence alleged to have been committed by that person;
- (b) take over and continue any such criminal proceedings that have been instituted or undertaken by any person or authority; and
- (c) discontinue at any stage before judgment is delivered any such criminal proceedings instituted or undertaken by himself or herself or any other person or authority.

(4) The powers of the Attorney-General under subsection (3) of this section may be exercised in person or through

other persons acting under and in accordance with the general or special instructions of the Attorney-General.

(5) For the purpose of this section, an appeal from a judgment in criminal proceedings before any court or any case stated or question of law reserved for the purpose of any other court, shall be deemed to be part of the court proceedings.

(6) The authority conferred on the Attorney-General under this section shall not be exercised in relation to an appeal by a person convicted in any criminal proceedings or to any case stated or question of law reserved at the instance of that person.

**CHAPTER V**  
**THE LEGISLATURE**

Parliament – the  
National Assembly

**56.** The legislative authority of the Commonwealth of Grenada shall vest in a Parliament, which shall be known as the National Assembly, and which shall consist of such number of Members directly elected in accordance with this Constitution every fifth year by the People of the several constituencies, and of such other number of Members as may be determined by law, and who shall be selected by the leaders of the respective political parties contesting a general election on the basis of the proportion of the popular votes each political party receives at that election.

Tenure of National  
Assembly

**57.** The National Assembly shall continue for five years from the date of its first sitting and shall then stand dissolved until its first sitting after a general election.

Qualifications for  
membership of  
National Assembly

**58.(1)** A person shall not be qualified to be elected to serve as a member of the National Assembly, whether directly or on the proportion of the popular vote his or her political party has received at a general election, unless that person

- (a) is a citizen of Grenada, or has been a citizen of Grenada for not less than five years immediately preceding the date of election;
- (b) has attained the age of eighteen years; and
- (c) has been resident in Grenada for not less than five years immediately preceding the date of election.

(2) A person shall not be qualified to serve as a member of the National Assembly if that person

- (a) owes voluntary allegiance, obedience, or adherence to a foreign power or state; save and except where that foreign power or state to which a citizen of Grenada owes voluntary allegiance is a constitutional democracy, with which Grenada shares diplomatic relations and an unsurpassing commitment to democratic governance and the rule of law and respect for the basic human rights and dignity of the individual person, and that citizen has been resident in Grenada for not less than five years immediately preceding the date of election;
- (b) is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in Grenada or in any other country;
- (c) is certified to be insane or otherwise adjudged to be of unsound mind under any law in force in Grenada or any other country;

- (d) is under a sentence of death imposed by a court of law or is serving a sentence of imprisonment (by whatever name called) exceeding twelve months imposed by that court or substituted by competent authority for some sentence imposed by that court; or
- (e) is under a sentence of imprisonment the execution of which has been suspended.

(3) A person shall not be qualified to be a member of the National Assembly if that person holds or is acting in an office the functions of which involve responsibility for, or in connection with, the conduct of an election to the National Assembly or the compilation of a register of voters for the purposes of such an election.

(4) A person shall not serve as a member of the National Assembly unless that person has taken the Oath of Allegiance.

Election of constituency representatives

**59.**(1) Each Constituency established on the authority of this Constitution shall return one person to the National Assembly, and who shall be the Representative for that Constituency.

(2) A Representative shall be directly elected in such manner as may, subject to the provisions of this Constitution, be prescribed by, or under, a law passed by the National Assembly.

(3) An additional number of persons shall be chosen to serve as members of the National Assembly on the basis of the percentage of the popular vote each political party has received in an election as may be determined by law passed by the National Assembly.

Qualifications to vote for members of the National Assembly

**60.**(1) A person born or naturalized in Grenada and subject to the jurisdiction thereof, is a citizen of the Commonwealth of Grenada.

(2) Only citizens of Grenada of not less than eighteen years of age and who possess such qualifications relating to residence or domicile in the Commonwealth of Grenada, as the National Assembly may prescribe, shall be qualified to be registered to vote.

Conditions under which a person ceases to be a member of the National Assembly

**61.**(1) A person ceases to be a member of the National Assembly and the seat occupied by that person in the Assembly shall become vacant –

- (a) on the dissolution of the Assembly;
- (b) if that person by notice in writing to the Speaker resigns;
- (c) if that person ceases to be a citizen of Grenada; or
- (d) if that person is otherwise disqualified from being a member of the National Assembly in accordance with the Standing Orders

established by the Assembly for disciplining the behaviour of its members.

(2) Where a person ceases to be a directly elected member of the National Assembly either by resignation, illness or death, as the case may be, or is otherwise disqualified from being a member in accordance with the Standing Orders established by the National Assembly for disciplining the behaviour of its members, a by-election shall be held within thirty days of that person ceasing to be a member of the Assembly unless the cessation occurred within three months before the beginning of the period within which a general election is required to be held under Section (1) of this Chapter.

(3) Subject to Section (50), a directly elected member of the National Assembly shall be directly elected by secret ballot by persons entitled to vote under this Constitution.

(4) Where a person who is not a directly elected member of the National Assembly ceases to be a member of the Assembly either by resignation, illness or death, as the case may be, or is otherwise disqualified from being a member in accordance with the Standing Orders established by the National Assembly for disciplining the behaviour of its members, the Leader of the political party in the Assembly, of which that proportionately elected member was a member at the time of election, shall advise the President of the name of the person chosen to be the new member of the Assembly.

(5) Where the seat of a directly elected member of the National Assembly becomes vacant under this section, the Speaker shall, as soon as is practicable within seven days after the vacancy occurs, notify the Supervisor of Elections of this fact.

(6) A certificate under the hand of the Speaker certifying that a person has ceased to be a member of the National Assembly shall be conclusive evidence of this fact and of the fact that the seat held by that person is vacant unless –

- (a) the person makes an application to the High Court within thirty days of the date of the certificate seeking a declaration that he or she is still a member of the National Assembly; and
- (b) the High Court determines that the person is still a member of the National Assembly and that the person still occupies the seat.

(7) Until the final determination of an application referred to in subsection (6)(a) the person who made the application shall continue to be a member of the National Assembly in respect of the seat for which the person was elected.

(8) (1) The High Court shall have jurisdiction to hear and determine whether –

- (a) a person has been validly elected as a member of the National Assembly;
- or

- (b) the seat of a member of the National Assembly has become vacant.
- (2) An application under subsection (1)(a) may, in the case of –
  - (a) a directly elected member, be made by any person entitled to vote at an election in the electoral area for which the member was returned, any person who was a candidate at the election in the electoral area or the Attorney-General; or
  - (b) a proportionately elected member, be made by any member or the Attorney-General.
- (3) An application under subsection (1)(b) may, in the case of –
  - (a) a directly elected member, be made by any member, any person entitled to vote at an election in the electoral area for which the member was returned or the Attorney-General;
  - (b) a proportionately elected member, be made by any member, or the political party of which the proportionately elected member was a member at the time of election or the Attorney-General.
- (4) Where a person, other than the Attorney-General, makes an application under this Section, the Attorney-General may intervene and may appear or be represented in the proceedings.
- (5) An Act may provide for –
  - (a) the circumstances and manner in which and the imposition of conditions upon which an application may be made to the High Court for the determination of a question under subsection (1); and
  - (b) the powers, practice and procedure of the High Court in relation to the application.

Election of Speaker  
and Deputy Speaker

**62.(1)** When the National Assembly first meets after a general election and before it proceeds to the dispatch of any other business, it shall elect the Speaker of the National Assembly and the Deputy Speaker.

(2) The Speaker may be elected from among the members who are not Ministers, or from among persons who are not members of the National Assembly.

(3) A person who is not a member of the National Assembly, but who is elected as Speaker shall, by virtue of holding the office of Speaker, become a member of the National Assembly.

(4) The Deputy Speaker shall be elected from among the members of the National Assembly who are not Ministers or Deputy Ministers.

(5) A person holding the office of Speaker or Deputy Speaker shall vacate that office –

- (a) when the National Assembly first meets after the holding of a general election;
- (b) where the person ceases to be a member of the National Assembly;
- (c) where the National Assembly passes a resolution supported by the votes of not less than two-thirds of the number of members of the Assembly requiring the person to vacate the office of Speaker or Deputy Speaker, as the case may be; or
- (d) where that person is otherwise disqualified in accordance with the Standing Orders established by the National Assembly for disciplining the behaviour of the members of the Assembly.

(6) A person holding the office of Speaker or Deputy Speaker may, by notice in writing addressed to the National Assembly, resign from office and the office shall become vacant when the Clerk to the Assembly receives the notice.

(7) Where the office of Speaker or Deputy Speaker becomes vacant, the National Assembly shall, unless it is sooner dissolved, elect another member of the Assembly to fill the vacancy or as soon as is practicable thereafter.

(8) The Speaker and Deputy Speaker shall, before assuming the functions of their office, take and subscribe the Oath of Allegiance and such other oath as may be prescribed by law.

Powers of the  
National Assembly

**63.(1)** Subject to the provisions of this Constitution, the National Assembly shall have the power to make laws

- (a) for the peace, order, security and good government of the Commonwealth of Grenada;
- (b) for the levying and collection of taxes, duties, imposts and excises, and for the payment of the debts of the Commonwealth of Grenada;
- (c) for the common defence and the general welfare of the citizens;
- (d) for regulating commerce with foreign nations;
- (e) for the coining of money, and the regulation of the value thereof; and

(f) for determining the standards of weights and measures.

(2) The power of the National Assembly to make laws shall be exercised by Bills passed by a majority of the members of that House, which Bills shall become law upon being assented to by the President and published in the Gazette of the Commonwealth of Grenada.

(3) Where the President withholds assent to a Bill, the Bill shall be returned with the stated objections to the National Assembly.

(4) If after reconsideration, the National Assembly passes the Bill by the votes of not less than two-thirds of the members present and voting, the Bill shall be resubmitted to the President for assent, and shall become law and be so published in the Gazette of the Commonwealth of Grenada, whether or not the President assents thereto.

Parliamentary control  
of Consolidated Fund

**64.(1)** All revenues or other moneys raised or received by the Commonwealth of Grenada shall be paid into a common fund to be known as the Consolidated Fund.

(2) No moneys shall be drawn from the Consolidated Fund but in consequence of Appropriations passed by the National Assembly.

(3) A regular statement and account of the receipts and expenditures of all public moneys shall be published from time to time in the Gazette of the Commonwealth of Grenada.

Amending the  
Constitution

**65.(1)** The National Assembly may, by the votes of not less than two-thirds of all the Members, propose an amendment to the Constitution.

(2) A proposed amendment shall be submitted, in the form of a Bill to amend the Constitution, to a national referendum.

(3) The Constitution stands amended if the Bill to amend the Constitution is approved at the national referendum by not less than two-thirds of all the votes validly cast in that referendum and the Bill is assented to by the President upon being certified by the Speaker that the pertinent provisions of this Constitution have been complied with.

(4) The conduct of a national referendum shall be under the supervision of the Supervisor of Elections.

(5) A person who is registered to vote at a public election in a Constituency of the Commonwealth of Grenada may vote in a referendum.

(6) A national referendum held for the purposes of this section shall be in accordance with such procedures as may be prescribed by law passed by the National Assembly.

A public emergency

**66.(1)** Where the Prime Minister is satisfied

(a) that a public emergency has arisen

(i) as a result of the imminence of war

- or civil unrest or
- (ii) as a result of some national calamity,  
or
- (b) that some action of such a nature and on so  
extreme a scale has been taken or is  
immediately threatened by any person or  
persons,
  - (i) as to put the public safety in clear  
and present danger, or
  - (ii) as to deprive the community or a  
substantial portion thereof of  
supplies or services essential to life,

the Prime Minister shall request the President to issue a Proclamation to be published in the Gazette of the Commonwealth of Grenada that such a state of emergency exists.

(2) Within three days of issuing the Proclamation, the President shall submit to the National Assembly a statement outlining the reasons for the declaration of a state of emergency.

(3) Unless sooner revoked by the President, acting on the advice of the Prime Minister, a Proclamation declaring that a state of emergency exists shall remain in force for thirty days.

(4) The National Assembly may, by a resolution supported by votes of not less than two-thirds of the Members present and voting, extend the period of the Proclamation for a period or periods each of which shall not be more than six months in duration.

The Oath of Allegiance

**67.** A member shall not take part in the proceedings of the National Assembly, other than the proceedings for the purpose of taking the Oath of Allegiance, until the member has taken and subscribed before the Assembly the Oath of Allegiance.

Standing Orders of the National Assembly

**68.** Subject to this Constitution, the National Assembly may make Standing Orders for the regulation and orderly conduct of its proceedings and the discharge of business at sittings of the Assembly and for related purposes.

Freedom of speech for members of the National Assembly

**69.** There shall be freedom of speech and debate in the National Assembly and a member shall not be subject to the jurisdiction of any court or to any proceedings whatsoever, other than in proceedings in the Assembly, when exercising those freedoms or performing the functions of a member in the Assembly.

Appointment of standing committees of the National Assembly

**70.(1)** The National Assembly shall, as soon as is practicable after the beginning of each session of the Assembly, appoint from among its members standing committees and other committees necessary for the efficient discharge of its functions and, without prejudice to the foregoing, the National Assembly shall appoint the following standing committees—

- (a) a Finance and Public Accounts Committee; and
- (b) a Standing Order Committee.

(2) The composition of a standing or other committee shall, as far as is practicable, reflect the strength of the political parties and independent members in the Assembly but shall otherwise be regulated by the Standing Orders.

(3) For the purposes of effectively performing its functions a standing or other committee may summon any person the committee believes may assist the committee in the performance of its functions and the committee shall have the powers, rights and privileges of the Supreme Court for –

- (a) enforcing the attendance of witnesses and examining them on oath, affirmation or otherwise;
- (b) compelling the production of documents; and
- (c) issuing a commission or request to examine a witness abroad.

President to appoint time and venue for sessions of the National Assembly

**71.**(1) Each session of the National Assembly shall be held at such place and shall commence at such time as the President may by Proclamation appoint.

(2) The time appointed for the commencement of any session of the National Assembly shall be such that a period of six months does not intervene between the end of one session and the first sitting of the Assembly in the next session.

Prorogation and dissolution of Parliament

**72.**(1) The President, acting in accordance with the advice of the Prime Minister, may by Proclamation at any time prorogue Parliament.

(2) Subject to subsection (3) of this section, the President, acting in accordance with the advice of the Prime Minister, may at any time dissolve Parliament.

(3) If the Office of Prime Minister is vacant, and the President, acting in his or her discretion, considers that there is no prospect of appointing to that Office within a reasonable time a person who can command the confidence of a majority of the members of the National Assembly, the President, acting in his or her discretion, shall by Proclamation dissolve Parliament.

(4) Subject to subsection (5) of this section, Parliament, unless sooner dissolved, shall continue for five years from the date of its first sitting after any dissolution, and shall then stand dissolved.

(5) At any time when Grenada is at war, Parliament may extend the period of five years specified in subsection (4) for not more than twelve months at a time; but the life of Parliament shall not be extended under this subsection for more than five years.

(6) If, between a dissolution of Parliament and the next ensuing general election of members of the National Assembly, an emergency arises of such a nature that, in the opinion of the Prime Minister, it is necessary for the National Assembly to be summoned before the general election can be held, the President, acting in accordance with the advice of the Prime Minister, may summon the National Assembly of the preceding Parliament; and that Parliament is thereupon to be taken (except for the purposes of section 65) not to have been dissolved but is to be taken (except for those purposes) to be dissolved on the date on which the polls are held in the next ensuing general election.

Issuance of writs  
by President upon  
dissolution of  
Parliament

**73.**(1) After every dissolution of Parliament the President shall issue writs, returnable within ninety days from that dissolution, for a general election of members of the National Assembly.

(2) As soon as may be after every general election, the leaders of the respective political parties contesting that election shall advise the President of the names of those persons chosen to sit as members of the National Assembly, in accordance with the proportion of the popular vote each political party has received at that election.

**CHAPTER VI**  
**THE ELECTORAL AND BOUNDARIES COMMISSION**

The Electoral  
and Boundaries  
Commission

74.(1) There shall be an Electoral and Boundaries Commission (in this Chapter called “the Commission”) consisting of

- (a) a Chairman;
- (b) a Deputy Chairman; and
- (c) three other members.

(2) The Chairman and two other members of the Commission shall be appointed by instrument under the Public Seal by the President, acting on the recommendation of the Prime Minister after consultation with the Leader of the Opposition; and the Deputy Chairman and one other member shall be appointed by instrument under the Public Seal by the President, acting on the recommendation of the Leader of the Opposition after consultation with the Prime Minister.

(3) A person is not qualified to hold office as a member of the Commission if he or she is

- (a) a Minister or a Parliamentary Secretary;
- (b) a member of, or a candidate for election to, the National Assembly; or
- (c) a public officer.

(4) Subject to this section, the office of a member of the Commission becomes vacant

- (a) at the expiration of five years beginning on the day of his or her appointment or at such earlier time as may be specified in his or her instrument of appointment;
- (b) where any circumstances arise that, if he or she were not a member of the Commission, would disqualify him or her for appointment as a member; or
- (c) if he or she resigns his or her office by instrument in writing addressed to the President.

(5) Whenever the office of a member other than the Chairman is vacant or such a member is for any reason unable to perform the functions of his or her office, the President may, in accordance with the procedure prescribed by subsection (2), appoint a person to act in the office of that member.

(6) If the office of Chairman is vacant or the Chairman is for any reason unable to perform the functions of his or her office, the Deputy Chairman shall perform the functions of that office.

(7) The provisions of any section of this Constitution relating to removal from office shall apply to the office of a member of the Commission; and the prescribed authority for the purposes of advising the President to remove an officer from office

under that section is the Prime Minister, acting after consultation with the Leader of the Opposition.

(8) At any meeting of the Commission, a quorum is constituted if three members are present; and, if a quorum is constituted, the Commission is not disqualified for the transaction of business by reason of any vacancy among the Commission's members or the absence of any member.

(9) The fact that some person took part in proceedings of the Commission who was not entitled to do so does not invalidate those proceedings.

(10) Any question proposed for decision at a meeting of the Commission is determined by a majority of the votes of the members of the Commission present and voting, and if on any such question the votes are equally divided, the member presiding has and shall exercise a casting vote.

(11) Subject to the provisions of this section, the Commission may regulate its own procedure.

Staff of the  
Commission, etc.

**75.**(1) The Commission shall be provided with an office, and with staff and administrative facilities, appropriate to the Commission's responsibilities.

(2) The salaries and allowances of the staff of the Commission are charged on and shall be paid out of the Consolidated Fund.

(3) Notwithstanding subsections (1) and (2), the President, acting in accordance with the advice of the Commission but subject to the consent of the Prime Minister, may confer powers and impose duties on any public officer or any authority of the Government for the purpose of the discharge of any of the Commission's functions.

Functions of  
the Commission

**76.**(1) The registration of voters and the conduct of elections of members of the National Assembly in every constituency, and any matters that appear to the Commission to be incidental to or consequential upon either of those functions, are subject to the direction and supervision of the Commission.

(2) The law providing for the election of members of the National Assembly shall in particular contain provisions

- (a) for the division of Grenada into constituencies pursuant to reviews made by the Commission under section 69;
- (b) for the conduct of such elections, and for ensuring that as far as practicable any person qualified to vote at such an election has a reasonable opportunity of voting;
- (c) relating to the identification of electors, and for ensuring that as far as practicable a person shall not vote at such an election
  - (i) who is not entitled to vote;
  - (ii) when he or she is not entitled to vote;

Procedure for review  
of constituency  
boundaries

- (iii) where he or she is not entitled to vote; and
- (d) permitting or restricting political broadcasts and the allocation of broadcasting time to political parties.

77.(1) The Commission shall, from time to time in accordance with this section, review the number and boundaries of the constituencies into which Grenada is divided and submit to the Minister responsible for Electoral Matters (in this section called “the Minister”) for presentation to the National Assembly in accordance with this section reports either

- (a) showing the constituencies into which it recommends that Grenada should be divided in order to give effect to the rules set out in the *Second Schedule*; or
- (b) stating that in the opinion of the Commission no alteration is required to the existing number of boundaries of constituencies in order to give effect to those rules.

(2) Reports under subsection (1) shall be submitted by the Commission as follows:

- (a) in the case of its first report, not less than one nor more than five years from the date of appointment of the members of the Commission;
- (b) in the case of any subsequent report, not less than two nor more than five years from the date of the submission of the Commission’s last report.

(3) Not later than two months after the Commission has submitted a report under subsection (1)(a), the Minister shall lay before the National Assembly for its approval the draft of an order by the President for giving effect to the recommendations contained in the report.

(4) Where the motion for the approval of any draft made under this section is rejected by the National Assembly, or is withdrawn by leave of that House, the Minister shall amend the draft and lay the amended draft before the House not later than two months after the day of its rejection or withdrawal, as the case may be.

(5) Where a draft made under this section is approved by resolution of the National Assembly, the Minister shall submit it to the President, who shall make the order in terms of the draft; and that order shall come into force on the next dissolution of Parliament and, until revoked by a further order made by the President in accordance with this section, shall thereafter have the force of law.

(6) Nothing in subsection (5) is to be construed as preventing the publication of an electoral register or the carrying

out of any other requirement connected with the registration of electors in accordance with an order made before that dissolution by the President pursuant to that subsection.

(7) The validity of any order by the President purporting to be made under this section and reciting that a draft of the order has been approved by a resolution of the National Assembly shall not be inquired into in any court.

Autonomy of  
Commission and  
protection from  
legal proceedings

**78.**(1) The question whether

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

shall not be inquired into in any court.

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

(3) Nothing in subsection (1) or (2) is to be construed as preventing

- (a) the election of a member of the National Assembly from being called into question on the ground that the conduct of that election was inconsistent with the law providing for the election of Members of the National Assembly; or
- (b) the conduct of any member of the Commission or any other person or authority from being called into question on the ground that that conduct constitutes an offence under any law providing for election officers or for the election of Members of the National Assembly.

**CHAPTER VII  
THE JUDICIARY  
PART I**

*The Caribbean Court of Justice, the Supreme Court and the  
Magistrates' Courts*

The judicial power  
of Grenada

**79.** The judicial power of the Commonwealth of Grenada shall vest in a regional system of Courts, comprising a Final Appellate Tribunal, a Court of Appeal and a High Court, duly established by such regional bodies of which the Commonwealth of Grenada is a constituent member; and in a system of Magistrates' Courts and such other subordinate courts or tribunals that Parliament may from time to time establish.

Establishment of  
the Judiciary

**80.** The Courts comprising the Judiciary of the Commonwealth of Grenada are:

- (a) The Caribbean Court of Justice as the Highest Appellate Tribunal, established by Agreement of the Member States of CARICOM;
- (b) The Eastern Caribbean Supreme Court, comprising the High Court and the Court of Appeal, established by Agreement of the Member States and Territories of the Organization of Eastern Caribbean States, and the Supreme Court Order, S.I. 1967 No. 233 (U.K.), as amended; and
- (c) The Magistracy, comprising the Magistrates' Courts, and any other national tribunals that may be established by the Parliament of the Commonwealth of Grenada.

Independence of the  
Judiciary

**81.** The Judiciary shall be independent and be subject only to this Constitution and the other laws of the Commonwealth of Grenada, when adjudicating any matter arising under this Constitution and these laws; except where by Agreement establishing the Caribbean Court of Justice, the Judiciary shall also be subject to the Revised Treaty of Chaguaramas establishing the Caribbean Community, including the CARICOM Single Market and Economy.

The Caribbean  
Court of Justice

**82.(1)** The Caribbean Court of Justice shall be the court of final appeal for the Commonwealth of Grenada and, therefore, shall have final appellate jurisdiction in the determination of all cases in law and equity arising under this Constitution and the laws of Grenada, coming from the Court of Appeal.

- (2) The Caribbean Court of Justice
  - (a) shall have exclusive and compulsory jurisdiction in

- (i) disputes between the Contracting Parties to the Agreement;
  - (ii) disputes between any Contracting Parties to the Agreement and the Community;
  - (iii) referrals from national courts or tribunals of Contracting Parties to the Agreement;
  - (iv) applications by persons in accordance with the *Caribbean Court of Justice Act*, concerning the interpretation and application of the Treaty;
- (b) shall have exclusive jurisdiction
- (i) to deliver advisory opinions concerning the interpretation and application of the Treaty upon the request of the Contracting Parties or the Community; and
  - (ii) to decide whether the Court has jurisdiction in a matter before it, where there is a dispute as to whether the Court has such jurisdiction.

(3) Where a court or tribunal is seised of an issue whose resolution involves a question concerning the interpretation or application of the Treaty, that court or tribunal shall, if it considers that a decision on the question is necessary to enable it to deliver judgment, before delivering judgment refer the question to the Court for determination.

(4) The Court shall be a superior court of record and, save as otherwise provided by Parliament, shall have all the powers of such a court.

(5) A decision of the Court concerning Grenada shall be enforced in Grenada in like manner as if it were a decision of the High Court or Court of Appeal.

Constitution of the Caribbean Court of Justice

- 83.
- (i) The Judges of the Court shall be the President and not more than 9 other Judges of whom at least 3 shall possess expertise in international law, including international trade law.
  - (ii) The determination of any matter before the Court shall be the concurrence of the decisions of a majority of the Judges hearing the case.
  - (iii) The Court may sit in such divisions as the President directs, and a Judge may sit in every division.

Appointment of Judges

**84.** (i) The President of the Court shall be appointed by the [qualified majority] vote of three-quarters of the Contracting Parties to the Agreement on the recommendation of the Regional Judicial and Legal Services Commission.

(ii) A Judge of the Court other than the President shall be appointed by the majority vote of all the members of the Regional Judicial and Legal Services Commission.

(iii) The qualification for appointment of the President and a Judge shall be prescribed by law.

(iv) A Judge of the Court shall not enter upon the duties of his or her office until he or she has taken and subscribed the judicial oath in the form set out in the *First Schedule*.

Tenure of office of the President and Judges of the Court

**85.** (a) The President of the Court shall hold office for

(i) a term of 7 years; or

(ii) until he or she attains the age of 72 years or sooner resigns or retires, whichever is the earlier.

(b) A Judge of the Court shall hold office until he or she attains the age of 72 years or sooner resigns or retires.

(c) Notwithstanding that

(i) he or she has attained the age at which he or she is required by the provisions of this section to vacate his or her office; or

(ii) he or she has retired or resigned before reaching such age, the President or other Judge of the Court may sit as a Judge for the purpose of delivering judgment or discharging any other duties in relation to proceedings which were commenced before him or her before he or she has attained that age or, as the case may be, has retired or resigned.

## **PART II THE SUPREME COURT**

Establishment of the Supreme Court

**86.** There shall be a Supreme Court for the Commonwealth of Grenada which shall be styled the Eastern Caribbean Supreme Court and shall be a superior court of record.

Constitution of the Supreme Court

**87.(1)** The Supreme Court shall consist of a Court of Appeal and a High Court of Justice, and shall have such

jurisdiction, powers and authority as may be conferred upon those courts respectively by this Constitution or any other law.

(2) Subject to the provisions of subsection (4) of this section, judges of the Court of Appeal shall be the Chief Justice, who shall be President of the Court, and 3 Justices of Appeal.

(3) Subject to the provisions of subsection (4) of this section, the judges of the High Court shall be the Chief Justice and not more than 13 Puisne Judges.

(4) The number of Justices of Appeal and of Puisne Judges of the High Court may be varied by order of the Chief Justice made with the concurrence of the Prime Ministers and the Premiers of all the States and Territories:

Provided that no office of Justice of Appeal or Puisne Judge shall be abolished while there is a substantive holder thereof without the consent of the holder thereof.

(5) The Court of Appeal and the High Court shall be deemed to be duly constituted notwithstanding a vacancy in the office of any judge of the Court.

(6) The Court of Appeal and the High Court shall each have and use a seal bearing the style of the court and a device approved by the Chief Justice.

Appointment of  
Judges

**88.(1)** The Chief Justice shall be appointed by Her Majesty by Letters Patent and the Justices of Appeal and the Puisne Judges shall be appointed on behalf of Her Majesty by the Judicial and Legal Services Commission.

(2) A person shall not be qualified to be appointed—

(a) as Chief Justice or a Justice of Appeal unless—

(i) he or she has been for a period or periods amounting in the aggregate to not less than 5 years a judge of a court of unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth of Nations or a court having jurisdiction in appeals from such a court; or

(ii) he or she is qualified to practise as an advocate in such a court, and has so practised, for a period of, or periods amounting in the aggregate to, not less than 15 years;

(b) as a Puisne Judge unless—

(i) he or she is or has been a judge of a court of unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth of Nations or a court having jurisdiction in appeals from such a court; or

- (ii) he or she is qualified to practise as an advocate in such a court, and has so practised, for a period of or periods amounting in the aggregate to not less than 10 years.

(3) For the purposes of subsection (2) of this section references in that subsection to a period or periods during which a person has practised as an advocate in any such court as is mentioned in that subsection shall be construed as including a period or periods during which a person—

- (a) has been serving in the office of judge of any such court; or
- (b) after having become qualified to practise as an advocate in any such court, has been serving in a public office in some part of the Commonwealth of Nations the functions of which include appearing as an advocate in any such a court or in the office of magistrate, or registrar of a court, in some part of the Commonwealth of Nations.

#### Acting Judges

**89.(1)** The Judicial and Legal Services Commission may designate generally or for a specific occasion one of the Justices of Appeal to act as Chief Justice in the event that the office of the Chief Justice is vacant or that the Chief Justice is for any reason unable to perform the functions of his or her office.

(2) If one of the Justices of Appeal is acting as Chief Justice or if the office of a Justice of Appeal or a Puisne Judge is vacant or if a Justice of Appeal or a Puisne Judge is for any reason unable to perform the functions of his or her office, the Judicial and Legal Services Commission may appoint a person qualified for appointment as a Justice of Appeal or Puisne Judge to act as a Justice of Appeal or Puisne Judge, as the case may be.

(3) A person appointed under this section to act as Chief Justice, a Justice of Appeal or a Puisne Judge shall (unless he or she earlier resigns his or her appointment or is removed therefrom in pursuance of the provisions of section 8 of the Supreme Court Order) continue to act in that office for the period, if any, for which he or she was appointed or until a person has been appointed to and assumed, or has resumed, the functions of that office, as the case may be.

(4) Any person appointed to the office of, or to act as, Chief Justice, Justice of Appeal or Puisne Judge may, notwithstanding the vacation of his or her office or the termination of his or her appointment otherwise than in pursuance of the provisions of section 8 of the Supreme Court Order, sit as a judge for the purpose of giving judgment or otherwise in relation to any proceeding heard by him or her while he or she was holding office of judge.

#### Oaths

**90.** Every person appointed to be a judge of the Court of Appeal or the High Court shall, before entering upon the duties of office, take the oaths set out in schedule 1 of the Supreme Court Order.

**91.(1)** Subject to the following provisions of this section, a judge of the Court of Appeal shall hold office until he or she attains the age of 65 years and a Puisne Judge shall hold office until he or she attains the age of 62 years:

Provided that the Judicial and Legal Services Commission, acting with the concurrence of the Prime Ministers and Premiers of all the States and Territories, may permit a judge to continue in his or her office after attaining the age prescribed in this subsection for a period or periods not exceeding in the aggregate 3 years.

(2) The provisions of subsection (1) of this section shall not apply to a person appointed to act as a judge of the Court of Appeal or the High Court in respect of his or her acting appointment.

(3) A judge may be removed from office only for inability to discharge the functions of his or her 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 following provisions of this section.

(4) The Chief Justice may be removed from office by order of Her Majesty and other judges of the Supreme Court shall be removed from office by order of the Judicial and Legal Services Commission if the question of the removal from office has, in pursuance of the next following subsection, been referred to the Judicial Committee of Her Majesty's Privy Council under any enactment enabling Her Majesty in that behalf and the Judicial Committee has advised Her Majesty that the Chief Justice or the judge, as the case may be, ought to be removed from office for inability as aforesaid or misbehaviour.

(5) If, in the case of the Chief Justice, the Prime Minister or Premier of one of the States or Territories to which the Supreme Court Order applies represents to the Lord High Chancellor of Great Britain or if, in the case of any other judge of the Supreme Court, the Judicial and Legal Services Commission represents to the Chief Justice that the question of removing the Chief Justice or other judge, as the case may be, for inability as aforesaid or for misbehaviour ought to be investigated then—

- (a) the Lord Chancellor or the Chief Justice, as the case may be, shall appoint a tribunal which shall consist of a Chairman and not less than 2 other members selected by the Lord Chancellor or the Chief Justice, as the case may be, from among persons who hold or have held office as a judge of a court of unlimited jurisdiction in criminal and civil matters in some part of the Commonwealth

of Nations or as a judge of a court having jurisdiction in appeals from any such court; and

- (b) that tribunal shall enquire into the matter and report on the facts thereof to the Lord Chancellor or the Chief Justice, as the case may be, and recommend whether the question of the removal of the Chief Justice or other judge, as the case may be, should be referred by Her Majesty to the Judicial Committee.

(6) The provisions set out in schedule 2 to the Supreme Court Order shall apply in relation to tribunals appointed under the last foregoing subsection or to the members thereof.

(7) If the question of removing the Chief Justice or other judge of the Supreme Court has been referred to a tribunal under subsection (5) of this section the Lord Chancellor, in the case of the Chief Justice, or the Judicial and Legal Services Commission, in the case of any other judge of the court, may suspend the Chief Justice or other judge, as the case may be, from performing the functions of his or her office.

(8) Any such suspension may at any time be revoked by the Lord Chancellor or the Judicial and Legal Services Commission, as the case may be, and shall in any case cease to have effect—

- (a) if the tribunal recommends that the question of the removal of the judge from office should not be referred by Her Majesty to the Judicial Committee; or
- (b) if the Judicial Committee advises that the judge ought not to be removed from office.

(9) Any expenses, in connection with proceedings under this section, authorised by the Lord Chancellor or the Chief Justice, as the case may be, shall be regarded as part of the expenses of the Supreme Court.

Jurisdiction of the High Court and Court of Appeal in the Member States

**92.**(1) The High Court shall have, in relation to the Commonwealth of Grenada, such jurisdiction and powers as may be conferred on it by this Constitution or any other law of Grenada.

(2) The Court of Appeal shall have, in relation to the Commonwealth of Grenada, such jurisdiction to hear and determine appeals from the High Court and to exercise such powers as may be conferred upon it by this Constitution or any other law of Grenada.

(3) The process of the Supreme Court shall run throughout the States and Territories of the Organization of Eastern Caribbean States and any judgment of the Court shall have full force and effect and may be executed and enforced in any of those Member States and Territories.

(4) The provisions of subsection (3) of this section shall be without prejudice to the provisions of this Constitution relating to the fundamental rights and freedoms of the citizens of Grenada.

### **PART III APPEALS**

Referral of constitutional questions from Magistrates' Courts

- 93.** (i) Where any question as to the interpretation of this Constitution arises in a Magistrate's Court or in any other court of law established for Grenada, but of lesser jurisdiction than that of the High Court or Court of Appeal, and the Magistrate's Court or that other court is of the opinion that the question involves a substantial question of law, the Magistrate's Court or that other court shall refer the question to the High Court.
- (ii) Where any question is referred to the High Court in pursuance of this section, the High Court shall give its decision upon the question and the Magistrate's Court or that other court in which the question arose shall dispose of the case in accordance with that decision or, if the decision is the subject of appeal to the Court of Appeal or to the Caribbean Court of Justice, in accordance with the decision of the Court of Appeal or, as the case may be, the Caribbean Court of Justice.

Appeal from High Court to the Court of Appeal

- 94.** (i) Subject to any provisions of this Constitution to the contrary, an appeal shall lie from decisions of the High Court to the Court of Appeal as of right in the following cases –
- (a) final decisions in any civil or criminal proceedings on questions as to the interpretation of this Constitution;
- (b) final decisions given in exercise of the jurisdiction conferred on the High Court by that section of this Constitution which relates to the enforcement of the fundamental rights and freedoms.

Appeal from Court of Appeal to Caribbean Court of Justice

- 95.** Subject to the relevant provisions of this Constitution regarding the appellate jurisdiction of the Caribbean

Court of Justice, an appeal shall lie from decisions of the Court of Appeal to the Caribbean Court of Justice in any matter involving the interpretation of this Constitution or laws of the Commonwealth of Grenada.

Authority of Chief Justice to prescribe rules for the practices and procedures of the Judiciary

**96.** The Chief Justice of the Eastern Caribbean Supreme Court may make Rules with respect to the practices and procedures of the High Court, Court of Appeal, and of the Magistrates' Courts established under this Constitution, in relation to jurisdiction and powers conferred upon them by or under this Section or any other law.

#### **PART IV REMUNERATION, ETC. OF JUDGES**

Remuneration, etc. of Judges

**97.(1)** The Chief Justice, the Justices of Appeal and the Pusine Judges shall be paid the salaries specified in schedule 3 of the Supreme Court Order, and shall be entitled to such allowances and shall have such terms and conditions of office as may from time to time be determined by the Judicial and Legal Services Commission with the concurrence of the Prime Ministers and Premiers of all the Member States and Territories of the Organization of Eastern Caribbean States:

Provided that—

- (a) the salaries specified in schedule 3 to the Supreme Court Order may be altered by order made by the Judicial and Legal Services Commission with the concurrence of the Prime Ministers and Premiers of all the States and Territories;
- (b) the salary and allowances (other than allowances which are not taken into account in the computation of pensions) of a judge shall not be reduced and the terms and conditions of office applicable to a judge upon his or her appointment shall not be made less favourable to him or her during the currency of that appointment.

(2) Where a judge is entitled to exercise an option in relation to his or her salary or the other matters referred to in proviso (b) to subsection (1) of this section, the option as exercised by him or her shall be deemed for the purposes of that proviso to be in his or her favour.

Chief Registrar and other officers

**98.(1)** There shall be, for all the Member States and Territories an office of Chief Registrar and such other offices of the Supreme Court as the Chief Justice may from time to time prescribe by order made with the concurrence of the Prime Ministers and Premiers of all the Member States and Territories; and the holders of such offices shall be paid such salaries and

allowances and shall have such terms and conditions of office as may from time to time be determined by the Chief Justice with the concurrence of the Prime Ministers and Premiers of all the Member States and Territories.

(2) Power to make appointments to the office of Chief Registrar and to the other offices prescribed under this section and to exercise disciplinary control over persons holding or acting in such offices shall vest in the Judicial and Legal Services Commission.

(3) Power to make appointments to offices conferred by the provisions of this section shall be construed as including power to appoint a person to perform the functions of any such office during any period during which it is vacant or the holder thereof is unable for any reason to perform those functions.

(4) The power to constitute offices and make appointments thereto conferred by this section shall be in addition to any power conferred by this Constitution to constitute the offices of and appoint for the Commonwealth of Grenada a registrar and other officers of the High Court.

Pensions of Judges,  
Chief Registrar and  
other officers

**99.**(1) For the purposes of any laws, regulations and other instruments relating to the grant of pensions, gratuities and other like benefits the judges, Chief Registrar and the holders of the other offices of the Supreme Court referred to in section 12(1) of the Supreme Court Order shall be in the service of Grenada as the Chief Justice may, in each case, from time to time direct; and any such direction given by the Chief Justice shall take effect as from such date as may be specified by the Chief Justice and shall have effect as an appointment to a pensionable office in that service.

(2) Where by virtue of this section any payment is made out of the funds of the Commonwealth of Grenada the Governments of the other Member States and Territories shall pay to the Government of Grenada the proportions of that payment specified by or under section 15 of the Supreme Court Order; and the sums that are required by virtue of this subsection to be paid by the Government of any Member State or Territory are hereby charged on the Consolidated Fund of that State or Territory.

Resignations

**100.**(1) Any person who is appointed to any office established by or under the Supreme Court Order may resign from that office by writing under his or her hand addressed, in the case of the Chief Justice, to the Lord Chancellor and, in any other case, to the Chairman of the Judicial and Legal Service Commission.

(2) The resignation of any person from any such office shall take effect when the writing signifying the resignation is received by the Lord Chancellor or the Chairman, as the case may be.

Expenses of the  
Court

**101.** The expenses of the Supreme Court (including the remuneration and allowances referred to in section 11 of the

Supreme Court Order but less any sums that may be paid towards the expenses by the Governments of Anguilla, Montserrat and the Virgin Islands) shall, except as otherwise provided by agreement between the Governments of all the Member States and Territories, be borne by the Governments of the Member States and Territories in equal proportions; and the sums that are required by virtue of this section or any such agreement to be paid by the Government of any Member State or Territory are hereby charged on the Consolidated Fund of that State or Territory.

Posting of a Judge  
to Grenada

**102.** The Chief Justice shall assign a Puisne Judge to Grenada who shall reside in the State.

Rules of Court

**103.**(1) Subject to the provisions of the Supreme Court Order and any other law in force in Grenada, the Chief Justice and any other 2 judges of the Supreme Court selected by him or her may make rules of court for regulating the practice and procedure of the Court of Appeal and the High Court in relation to their respective jurisdiction and powers in respect of the Commonwealth of Grenada.

(2) Without prejudice to the generality of the foregoing subsection such rules may be made for any of the following purposes—

- (a) for regulating the sittings of the Court of Appeal and the High Court, and the selection of judges for any purpose;
- (b) for prescribing forms and fees in respect of proceedings in the Supreme Court and relating to costs of and incidental to any such proceedings;
- (c) for prescribing the times in which any requirement of the rules is to be complied with;
- (d) for prescribing and regulating the powers and duties of the Chief Registrar, registrars and officers of court;
- (e) for providing for summary determination of any appeal which appears to the court to be frivolous or vexatious or to be brought for the purposes of delay;
- (f) for prescribing cases in which, and conditions upon which, an appellant in a criminal appeal shall be entitled to be present at the hearing of the appeal;
- (g) for providing for a reference from a decision of a single judge of the Court of Appeal to the Court of Appeal;
- (h) for regulating the right of practising before the Supreme Court and the representation of

persons concerned in any proceedings therein.

(3) Rules made under this section may fix the number of judges of the Court of Appeal who may sit for any purpose;

Provided that—

- (a) an uneven number of judges shall sit, which for the purposes of any final determination by the court other than the summary dismissal of an appeal, shall not be less than three; and
- (b) any determination by the court on any matter (whether final or otherwise) shall, where more than one judge sits, be according to the opinion of the majority of the judges who sit for the purpose of determining that matter.

(4) Rules made under this section may provide for and regulate the execution and enforcement in the Commonwealth of Grenada of the process of the Court of Appeal or the High Court in exercise of any powers and jurisdiction conferred upon it in pursuance of section 9 or 10 of the Supreme Court Order.

(5) No rule of court which may involve an increase in the expenses of the Supreme Court shall be made except with the concurrence of the Prime Ministers and Premiers of all the Member States and Territories; but the validity of a rule of court shall not in any proceedings in any court be called in question on the ground only that it was a rule to which the concurrence of the Prime Ministers and Premiers was necessary and that they did not concur or are not expressed to have concurred in the making thereof.

## **PART V JUDICIAL AND LEGAL SERVICES COMMISSION**

Establishment of the  
Judicial and Legal  
Services Commission

**104.**(1) There shall be a Judicial and Legal Services Commission (hereinafter referred to as the “Commission”) for the Member States and Territories of the Organization of Eastern Caribbean States and which shall consist of the following persons, that is to say—

- (a) the Chief Justice, who shall be the Chairman;
- (b) such Justice of Appeal or Puisne Judge as may from time to time be designated in that behalf by the Chief Justice;
- (c) a person, appointed by the Chief Justice with the concurrence of the Premiers of not less than 4 of the Member States and Territories, who has been a judge of a court of unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such

court, not being a person who is practising as an advocate before the Supreme Court; and

- (d) two members selected in accordance with the provisions of subsection (2) of this section.

(2) The persons for the time discharging the functions of Chairman of the Public Service Commissions of 2 Member States, being States for the time being designated in that behalf by the Chief Justice, shall be *ex-officio* members of the Commission:

Provided that—

- (a) except as otherwise provided in any agreement between the Governments of all the Member States and Territories, the Chief Justice shall designate States and Territories in such manner that the Chairman of the Public Service Commissions of the States and Territories sit as members of the Commission in rotation for periods of 3 years, the order of rotation among the States and Territories to be as follows—

- (i) Antigua and Dominica
- (ii) Grenada and Saint Christopher, Nevis and Anguilla,
- (iii) Saint Lucia and Saint Vincent; and

- (b) where the Chairman of the Public Service Commission of any designated State or Territory is in practice as an advocate before the Supreme Court, that Public Service Commission shall nominate another of its members, not being a person so in practice, to sit on the Commission in his or her stead.

(3) The office of the appointed member of the Commission shall become vacant—

- (a) at the expiration of 3 years from the date of his or her appointment;
- (b) if he or she practises as an advocate before the Supreme Court; or
- (c) if the question of his or her ceasing to be a member of the Commission has been referred by the Chief Justice, acting on the recommendation of the Prime Ministers and Premiers of not less than four of the States and Territories, to a tribunal consisting of a Chairman and 2 other persons appointed by the Chief Justice, and that tribunal has recommended that such person should cease to be a member of the Commission.

(4) The Commission shall not be disqualified for the transaction of business by reason of any vacancy amongst its members.

Functions and procedure of Commission

**105.**(1)The Commission shall perform such functions as are conferred on it by the Supreme Court Order or any other law for the time being in force in Grenada.

(2) The Commission may by regulation or otherwise regulate its own procedure and confer powers and impose duties on any officer or authority of the Government of Grenada for the purposes of the exercise of its functions:

Provided that, except in the case of an officer of the High Court, no such powers or duties shall be conferred upon any officer in the public service of Grenada without the consent of the Prime Minister of Grenada.

Staff

**106.** The Commission may employ such officers as are necessary for the purpose of the exercise of its functions as the Chairman with the concurrence of the Prime Ministers and Premiers of all the States and Territories may appoint.

Expenses

**107.** The members of the Commission, other than the Chief Justice and the Justice of Appeal or Puisne Judge, shall be paid such remuneration as the Chief Justice may, with the concurrence of the Prime Ministers and the Premiers of all the Member States and Territories, prescribe; and the Governments of the Member States and Territories shall, except as otherwise provided by agreement amongst themselves, contribute in equal proportions to the expenses of the Commission; and the sums that are required by virtue of this section to be paid by the Government of Grenada are hereby charged on the Consolidated Fund of the State.

## **PART VI THE MAGISTRACY**

Establishment of the Magistracy

**108.**(1)There shall be a Magistracy of the Commonwealth of Grenada which shall be a system of Magistrates' Courts established by Parliament, and which shall have such jurisdiction, powers and authority as may be conferred on it by this Constitution and any other law of Grenada.

(2) The Magistracy shall be presided over by a Chief Magistrate and such other number of Magistrates as Parliament, acting on the advice of the Chief Justice and the Judicial and Legal Services Commission, may make provision for their appointment.

Appointment of the Chief Magistrate and other Magistrates

**109.**(1)The Chief Magistrate and the Magistrates shall be appointed by the President, acting on the advice of the Judicial and Legal Services Commission.

(2) A person shall not be qualified to be appointed Chief Magistrate unless—

(a) he or she has been for a period or periods amounting in the aggregate to not less than 5

years a magistrate or judge of a court of such jurisdiction in civil and criminal matters in some part of the Commonwealth Caribbean or of the Commonwealth of Nations; and

- (b) he or she is qualified to practise as an advocate in such a court or in a court of unlimited jurisdiction, and has so practised, for a period of, or periods amounting in the aggregate to, not less than 10 years.

(3) A person shall not be qualified to be appointed as a Magistrate unless he or she is qualified to practise as an advocate in such a court, or in a court of unlimited jurisdiction, and has so practised, for a period of, or periods amounting in the aggregate to, not less than 5 years.

Independence of  
the Magistracy

**110.**(1) The Magistracy shall be independent and be subject only to this Constitution and the other laws of the Commonwealth of Grenada, when adjudicating any matter arising under this Constitution and these laws.

(2) The Magistracy shall have such jurisdiction in civil and criminal matters as may be determined by law.

(3) (i) Where any question as to the interpretation of this Constitution arises in a Magistrate's Court and that Court is of the opinion that the question involves a substantial question of law, the Magistrate's Court shall refer the question to the High Court.

(ii) Where any question is referred to the High Court in pursuance of this subsection, the High Court shall give its decision upon the question and the Magistrate's Court in which the question arose shall dispose of the case in accordance with that decision, or if the decision is the subject of appeal to the Court of Appeal or to the Caribbean Court of Justice, in accordance with the decision of the Court of Appeal or, as the case may be, the Caribbean Court of Justice.

Removal of Chief  
Magistrate and other  
Magistrates

**111.**(1) The Chief Magistrate or any other Magistrate shall hold office during good behaviour and for such period as may be specified in the instrument by which he or she is appointed.

(2) The Chief Magistrate or any other Magistrate may be removed from office only for inability to perform the functions of the office, whether arising from illness or any other cause or for misbehaviour, and shall not be removed except in accordance with the following provisions of this section.

(3) The Chief Magistrate or a Magistrate may be removed from office if the Prime Minister represents to the Chief Justice and the Judicial and Legal Services Commission that the

question of removing the Chief Magistrate or a Magistrate, as the case may be, for inability as aforesaid or for misbehaviour ought to be investigated; and the Chief Justice, acting on the advice of the Judicial and Legal Services Commission, appoints a tribunal to investigate the matter; and the tribunal, upon its investigation of the matter, recommends that the Chief Magistrate or that Magistrate, as the case may be, ought to be removed from office, and that recommendation is accepted by the Judicial and Legal Services Commission.

(4) The tribunal appointed by the Chief Justice shall consist of a Chairman and not less than 2 other members selected from among persons who hold or have held office as a judge of a court of unlimited jurisdiction in criminal and civil matters in some part of the Commonwealth Caribbean or in the Commonwealth of Nations.

(5) The tribunal so appointed shall enquire into the matter and report on the facts thereof to the Chief Justice and recommend whether the question of the removal of the Chief Magistrate or a Magistrate, as the case may be, should be referred to the Judicial and Legal Services Commission.

(6) If the question of removing the Chief Magistrate or a Magistrate, as the case may be, has been referred to a tribunal under subsection (3) of this section, the Judicial and Legal Services Commission may suspend the Chief Justice or that Magistrate, as the case may be, from performing the functions of his or her office, pending the report of the tribunal.

(7) Any such suspension may at any time be revoked by the Judicial and Legal Services Commission and shall in any case cease to have effect—

- (a) if the tribunal recommends that the question of the removal of the Chief Magistrate or a Magistrate, as the case may be, should not be referred to the Judicial and Legal Services Commission; or
- (b) if the Judicial and Legal Services Commission decides that the Chief Magistrate or that Magistrate, as the case may be, ought not to be removed from office.

Resignation or retirement of the Chief Magistrate or a Magistrate

**112.** The resignation or retirement of the Chief Magistrate or a Magistrate shall be in accordance with such provisions as prescribed by law.

Emoluments of Chief Magistrate and other Magistrates

**113.** The emoluments of the Chief Magistrate and Magistrates shall not be diminished during their continuance in office.

Oath of Allegiance and Oath of Office

**114.** The Chief Magistrate and Magistrates shall not enter upon the duties of their office unless they take and subscribe the

Oath of Allegiance and the Oath of Office before the President of the Commonwealth of Grenada.

Interpretation

- 115.**(1) For the purposes of this Chapter,
- “Agreement” means the Agreement establishing the Caribbean Court of Justice, to which Grenada is a party, and which was signed at Bridgetown, Barbados on 14<sup>th</sup> February, 2002;
  - “Court” means the Caribbean Court Justice;
  - “Regional Judicial and Legal Services Commission” means the Commission established by Article V of the Agreement;
  - “Treaty” means the Revised Treaty of Chaguaramas establishing the Caribbean Community, including the CARICOM Single Market and Economy,
    - (a) which was signed in the Bahamas on the 5<sup>th</sup> day of July, 2001; and
    - (b) to which Grenada is a party;
- (2) “Agreement” respecting the establishment of the Eastern Caribbean Supreme Court refers to the Supreme Court established by the Supreme Court Order, S.I. 1967 No. 233 (U.K.), as amended, and which was adopted by the Member States and Territories of the Organization of Eastern Caribbean States and incorporated by reference into the former Constitution of Grenada.
- “Judicial and Legal Services Commission” refers to the Commission of the Organization of Eastern Caribbean States, of which Grenada is a constituent member.
- (3) “Premier” refers to the Premiers or Chief Ministers, as the case may be, of those territories that are part of the Eastern Caribbean Supreme Court.
- (4) “Prime Minister” refers to the Prime Ministers of those States of the Eastern Caribbean Supreme Court that are independent.

## CHAPTER VIII FINANCE

- The Consolidated Fund
- 116.** There shall be a Consolidated Fund into which shall be paid all revenues or other moneys raised or received for the purposes or on behalf of the Commonwealth of Grenada, and not being revenues or other moneys that are payable by or under an Act for some specific purpose or into some other fund established under an Act for a specific purpose.
- Moneys charged upon the Consolidated Fund
- 117.** Where any moneys are charged by this Constitution or by any law enacted by Parliament upon the Consolidated Fund or any other public fund, they shall be paid out of that fund by the Government of Grenada to the person or authority to whom payment is due.
- Authorization under Act of Parliament
- 118.** No moneys shall be withdrawn from any public fund other than the Consolidated Fund unless the issue of those moneys had been authorized by or under an Act of Parliament.
- Parliament to prescribe manner of withdrawals
- 119.** Parliament may prescribe the manner in which withdrawals may be made from the Consolidated Fund or any other public fund.
- Estimates
- 120.**(1) The Minister of Finance shall, not later than the thirtieth day after the beginning of each financial year, cause to be prepared and laid before the National Assembly the estimates of revenue and expenditure of the Government for the financial year.
- (2) The Minister of Finance shall, before presenting the estimates under clause (1), obtain the approval of the Cabinet in respect of the estimates.
- (3) The estimates of expenditure shall show separately
- - (a) the sums of money required to meet expenditures charged on the Consolidated Fund; and
  - (b) the sums of money required to meet other expenditures, during the financial year.
- Appropriation Bill
- 121.**(1) At the earliest convenient moment before the commencement of each financial year, but not later than the thirtieth day after the beginning of each financial year, the Minister of Finance shall introduce in the National Assembly an Appropriation Bill containing, under appropriate heads of the several services required, the estimated aggregate sums which are proposed to be expended (otherwise than by way of statutory expenditure) during that financial year.
- (2) Subject to the relevant provisions of this Constitution, the sums voted on the estimates of expenditure by the

National Assembly in respect of a financial year represent the limit and extent of the public expenditure for that financial year.

(3) Where, at the end of a financial year, there is an unexpended balance of a sum of money voted on the estimates by the National Assembly in respect of that financial year, that balance lapses.

(4) Parliament may make provision whereby, if the Appropriation Act in respect of any financial year has not come into operation by the beginning of that financial year, the Minister of Finance may authorise the withdrawals of moneys from the Consolidated Fund for the purpose of meeting expenditure necessary to carry on the services of the Government until the expiration of thirty days from the beginning of that financial year or the coming into operation of the Appropriation Act, whichever is the earlier.

Insufficiency of appropriations

- 122.** Where, in respect of any financial year, it is found
- (a) that the amount appropriated by the Appropriation Act for any purpose is insufficient or that a need has arisen for expenditure for a purpose for which no amount has been appropriated by that Act; or
  - (b) that any moneys have been expended for any purpose in excess of the amount appropriated for that purpose by the Act or for a purpose for which no amount has been appropriated by that Act, a supplementary estimate, showing the sum of money required or spent, shall be laid before the National Assembly.

Supplementary estimates

**123.(1)** The Minister of Finance may, in case of necessity, from time to time cause to be prepared supplementary estimates of expenditure, which shall be laid before and voted on by the National Assembly.

(2) Where, in respect of any financial year, a supplementary estimate of expenditure laid before the National Assembly has been approved pursuant to subsection (1), the Minister of Finance

- (a) may, at any time before the end of the financial year, introduce a Supplementary Appropriation Bill containing, under appropriate heads, the aggregate sums so voted; and
- (b) shall, as soon as possible after the end of the financial year, introduce in that House a final Appropriation Bill containing any such sums which have not yet been included in an Appropriation Bill.

Statutory  
expenditure

**124.** Any part of an estimate of expenditure (including a supplementary estimate of expenditure) laid before the National Assembly under the provisions of this Chapter, being a part that shows statutory expenditure, shall not be voted on by the House; but the expenditure to which that part relates shall, without Parliament's further authority, be paid out of the Consolidated Fund.

Warrant issued by  
Minster

**125.** A sum shall not be paid out of the Consolidated Fund except upon authority of a warrant under the hand of the Minister or a person authorised by him or her in writing; and any sum so paid out shall

- (a) be applied to meeting expenditure authorised by section 100(1); or
- (b) in the case of statutory expenditure, be used for the purposes appointed by the relevant law.

The public debt and  
interest etc. charged  
on Consolidated Fund

**126.** The public debt of the Commonwealth of Grenada, as well as

- (a) the interest on that debt;
- (b) sinking fund payments and redemption moneys in respect of that debt; and
- (c) the costs, charges and expenses incidental to the management of that debt, and any other public funds established by or under this Constitution shall be a charge on the Consolidated Fund.

Payment of salaries  
of officers

**127.**(1) There shall be paid to the holders of the offices to which this section applies such salaries as may be prescribed by Parliament.

(2) The salaries payable to the holders of the offices to which this section applies are charged on the Consolidated Fund.

(3) The salary and allowances payable to, and the other terms of service of, a person holding an office to which this section applies shall not be altered to his or her disadvantage after his or her appointment; and, for the purposes of this subsection, in so far as the terms of service of a person depend upon the option of that person, the terms for which he or she opts are to be taken to be more advantageous to him than any other terms for which he might have opted.

(4) This section applies to the following offices:

- (a) the President;
- (b) a Judge;
- (c) the Director of Public Prosecutions;
- (d) the Director of Audit;
- (e) a member of the Electoral and Boundaries Commission;

- (f) a member of the Public Service Commission or the Protective Services Commission;
- (g) an appointed member of the Judicial and Legal Services Commission.

Salaries of certain offices not to be altered

**128.** Except as may be allowed by any law relating to discipline, the salaries and allowances payable to the holders of offices established under the Civil Establishment Act and the Defence Act shall not be altered to their disadvantage.

Interpretation

**129.** For the purposes of this Chapter,  
“Minister” means the Minister responsible for finance;  
“financial year” means any period of twelve months beginning in any year on 1<sup>st</sup> April or on any other date as may be prescribed by Parliament;  
“statutory expenditure” means expenditure charged on the Consolidated Fund, or on the general revenues and assets of the Commonwealth of Grenada, by a relevant law.

**CHAPTER IX**  
**THE PUBLIC SERVICE**  
**PART 1**  
**The Public Service Commission**

The Public Service  
Commission

**130.** There shall be a Public Service Commission for Grenada consisting of a Chairman and four other members, all of whom shall be appointed by the President by instrument under the Public Seal, after consultation with the Prime Minister and the Leader of the Opposition, and with the appropriate representative bodies.

Qualifications for  
appointment to the  
Commission

**131.** A person shall not be qualified to be appointed as a member of the Commission if –

- (a) he or she is a member of the National Assembly; or
- (b) he or she is a public officer or judge of the High Court or Court of Appeal.

Tenure of members  
of Commission

**132.** Subject to the provisions of this section, the office of a member of the Commission shall become vacant –

- (a) at the expiration of three years from the date of his or her appointment; or
- (b) if any circumstances were to arise, that if he or she were not a member of the Commission, he or she would be disqualified from being appointed a member under subsection (2) of this section.

Removal of a member  
from office

**133.** A member of the Commission may be removed from office only for inability to perform the functions of his or her 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 section.

Recommendation  
by Prime Minister  
that a member be  
investigated

**134.** A member of the Commission may be removed from this office by the President if the Prime Minister represents to the satisfaction of the President that there are credible grounds for his or her removal, and the President, acting on the recommendation of the Prime Minister, appoints a tribunal to conduct an investigation of that member and, upon the conclusion of the investigation, the tribunal recommends to the President that the member in question be removed from the Commission.

Appointment of  
tribunal to  
investigate member

**135.** A tribunal appointed under this section for the purpose of investigating whether a member of the Commission may be removed from office shall consist of a Chairman and not less than two other members, recommended to the President by 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 Caribbean or a court having jurisdiction in appeals from such a court.

Vacancy in the office of Chairman

**136.** If the office of Chairman of the Commission is vacant or if the person holding that office is for any reason unable to exercise the duties of office, then, until a person has been appointed to and has assumed the duties of that office or until the person holding that office has resumed those duties, as the case may be, the President may name one of the members of the Commission to act as Chairman for the time being until a Chairman has been appointed.

Appointment of person to act as a member of the Commission

**137.** If at any time any member of the Commission is acting as Chairman or is for any reason unable to exercise the functions of his or her office, the President, in consultation with the Prime Minister and Leader of the Opposition, may appoint a person who is qualified to be appointed as a member of the Commission to act as a member, and any person so appointed shall, subject to the provisions of subsection (4) of this section, continue to act until the office in which he or she is acting has been filled or, as the case may be, until the holder thereof has resumed the duties of the office or until his or her appointment to act has been revoked by the President.

Oath of Allegiance and Oath of Office

**138.** A member of the Commission shall not enter upon the duties of his or her office until he or she has taken and subscribed the Oath of Allegiance and the Oath of Office.

Independence of the Commission

**139.** The Commission, in the exercise of its functions under this Constitution, shall not be subject to the direction or control of any other person or authority.

Regulations governing procedure of Commission

**140.** The Commission may by regulations or otherwise regulate its own procedure and, with the consent of the Prime Minister, may confer powers or impose duties on any public officer or on any authority of the Government of Grenada for the purpose of the exercise of its functions.

Commission may act notwithstanding vacancy

**141.** The Commission may, subject to its rules of procedures, act notwithstanding any vacancy in its membership or the absence of any member and its proceedings shall not be intimidated by the presence or participation of any person not entitled to be present or to participate in those proceedings; provided that any decision of the Commission shall require the concurrence of a majority of all its members.

Representative bodies

**142.** For purposes of this section “the appropriate representative bodies” means the Grenada Civil Service Association and the Grenada Union of Teachers.

Power of Commission to appoint persons to the public service

**143.**(1)The Public Service Commission shall have the power to appoint persons to hold or act in offices in the public service (including the power to confirm appointments), the power to exercise disciplinary control over persons holding or acting in such offices, including the power to remove such persons from office, and the power to grant leave.

(2) The Public Service Commission may, by written directions and subject to such conditions as it thinks fit, delegate any of its powers under subsection (1) of this section to any one or more members of the Commission or, with the consent of the Prime Minister, to any public officer.

(3) The provisions of this section shall not apply in relation to the following offices, such as -

- (a) the offices of Secretary to the Cabinet, permanent secretary, head of a department of government and deputy head of a department of government;
- (b) the office of Director of Public Prosecutions;
- (c) the offices of Registrar of the High Court and any public office in the department of the Attorney General (including the public office of Attorney-General) or the department of the Director of Public Prosecutions.

(4) No persons shall be appointed under this section to or act in any office of the President's personal staff except with the concurrence of the President.

(5) Before any of the powers conferred by this section are exercised by the Public Service Commission or any other person or authority in relation to the Clerk of the National Assembly or a member of the staff of that House, the Commission or that person or that authority shall consult with the Speaker of the National Assembly.

(6) Before the Public Service Commission or any other person or authority exercises its power under this section to appoint to or to act in any public office any person who holds or is acting in any office, the power to make appointments to which is vested by this Constitution in the Judicial and Legal Services Commission, the Public Service Commission or that person or authority shall consult with the Judicial and Legal Services Commission.

(7) A public officer shall not be removed from office or subjected to any other punishment under this section on the grounds of any act done or omitted by him or her in the exercise of a judicial function conferred on him or her unless the Judicial and Legal Services Commission concurs therein.

(8) Every officer who is required to retire on the abolition of his or her office or for the purpose of reorganization of his or her Ministry or Department shall be entitled to pension and retirement benefits as if he or she had attained the compulsory retirement age.

## PART II

Cabinet Secretary,  
permanent secretary,  
head and deputy  
head of department  
of government

**144.**(1) This section applies to the offices of Secretary to the Cabinet, permanent secretary, head of a department of government and deputy head of a department of government.

(2) Subject to the relevant provisions of this Constitution, the power to appoint persons to hold or to act in offices to which this section applies (including the power to confirm appointments), the power to exercise disciplinary control over persons holding or acting in such offices and the power to remove such persons from office shall vest in the President, acting in accordance with the advice of the Public Service Commission:

Provided that –

(a) the power to appoint a person to hold or act in an office of permanent secretary on transfer from another such office carrying the same salary shall vest in the President acting in accordance with the advice of the Prime Minister;

(b) before the Public Service Commission tenders advice to the President with respect to the appointment of any person to hold an office to which this section applies (other than an appointment to an office of permanent secretary on transfer from another such office carrying the same salary) it shall consult with the Prime Minister and if the Prime Minister signifies his or her objection to the appointment of any such person to the office, the Commission shall not advise the President to appoint that person.

(3) References in this section to a department of government do not include references to the department of the Attorney-General, the department of the Director of Public Prosecutions, the department of the Director of Audit or the Police Force.

## PART III

### PUBLIC SERVICE APPEAL BOARD

The Public Service  
Appeal Board

**145.**(1) There shall be a Public Service Appeal Board which shall perform the functions conferred upon it by this Constitution and any other law.

(2) Subject to this Constitution, the Public Service Appeal Board shall not, in the performance of its functions, be subjected to the direction or control of any person or authority.

Membership of  
Public Service  
Appeal Board

**146.**(1) The Public Service Appeal Board shall consist of -

- (a) one member appointed by the President, acting in his or her own deliberate judgment, who shall be Chairman;
  - (b) one member appointed by the President, acting in accordance with the advice of the Prime Minister; and
  - (c) one member appointed by the President, acting in accordance with the advice of the appropriate representative bodies.
- (2) A person shall not be qualified for appointment as a member of the Board if he or she is a member of the National Assembly.

#### **PART IV PENSIONS**

Pensions

**147.**(1) The law applicable to the grant and payment to any officer, or to any officer's widow, children, dependents or personal representatives, of any pension, compensation, gratuity or other like allowance in respect of the service of that officer in a public office shall be the law that was in force at the date on which those benefits were granted or any law in force at a later date that is no less favourable to the person concerned.

(2) The law applicable with respect to any pension benefits (not being benefits to which subsection (1) of this section applies) shall—

- (a) in so far as those benefits are wholly in respect of a period of service as judge or public officer that commenced before the date upon which this section comes into operation, be the law that was in force on the date upon which this section comes into operation; and
- (b) in so far as those benefits are wholly or partly in respect of a period of service as a judge or public officer that commenced after this section comes into operation, be the law in force on the date on which that period of service commenced,

or any law in force at a later date that is not less favourable to the person concerned.

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

(4) All pension benefits shall (except to the extent that they are charged upon and duly paid out of some other fund) be a charge on the Consolidated Fund.

(5) In this section “pension benefits” means any pensions, compensation, gratuities or other like allowances for persons in respect of their service as judges or public officers or for the widows, children, dependants or personal representatives of such persons in respect of such service.

(6) In this section references to service as a judge are references to service as a judge of the Court of Appeal, a judge of the High Court or a judge of the Supreme Court established by the Windward Islands and Leeward Islands (Courts) Order in Council 1959, and references to service as a public officer include service in an office established under section 12 of the Courts Order.

(7) References in this section to the law with respect to pension benefits include (without prejudice to their generality) references to the law regulating the circumstances in which such benefits may be granted or in which the grant of such benefits may be refused, the law regulating the circumstances in which such benefits that have been granted may be withheld, reduced in amount or suspended, and the law regulating the amount of any such benefits.

Discretion to  
grant pension  
benefits

**148.**(1) Where, under any law any person or authority has a discretion -

- (a) to decide whether or not any pension benefits shall be granted; or
- (b) to withhold, reduce in amount or suspend any such benefits that have been granted,

those benefits shall be granted and may not be withheld, reduced in amount or suspended unless the Public Service Commission concurs in the refusal to grant the benefits or, as the case may be, in the decision to withhold them, reduce them in amount or suspend them.

(2) Where the amount of any pension benefits that may be granted to any person is not fixed by law, the amount of the benefits to be granted to him or her shall be the greatest amount for which he or she is eligible unless the Public Service Commission concurs in his or her being granted benefits of a smaller amount.

(3) The Public Service Commission shall not concur under subsection (1) or subsection (2) of this section in any action taken on the ground that any person who holds or has held the office of judge of the Court of Appeal, judge of the High Court, Director of Public Prosecutions, or Director of Audit has been guilty of misbehaviour in that office unless that person has been removed from the office by reason of such misbehaviour.

(4) Before the Public Service Commission concurs under subsection (1) or subsection (2) of this section in any action taken on the ground that any person who holds or has held any office to which, at the time of such action, the section of this Constitution pertaining to the Director of Audit applies has been

guilty of misbehaviour in that office, the Public Service Commission shall consult the Judicial and Legal Services Commission.

(5) Any person who is entitled to the payment of any pension benefits and who is ordinarily resident outside of Grenada may, within a reasonable time after he or she has received that payment, remit the whole of it (free from any deduction, charge or tax made or levied in respect of its remission) to any country of his or her choice outside Grenada:

Provided that nothing in this subsection shall be construed as preventing –

- (a) the attachment, by order of a court, of any payment or part of any payment to which a person is entitled in satisfaction of the judgment of a court or pending the determination of any civil proceedings to which he or she is a party to the extent to which such attachment is permitted by the law with respect to pension benefits that applies in the case of that person; or
- (b) the imposition of reasonable restrictions as to the manner in which any payment is to be remitted.

(6) In this section “pension benefits” means any pensions, compensation, gratuities or other like allowances for persons in respect of their service as judges or public officers or for the widows, children, dependants or personal representatives of such persons in respect of such service.

(7) In this section references to service as a judge are references to service as a judge of the Court of Appeal, a judge of the High Court or a judge of the Supreme Court established by the Windward Islands and Leeward Islands (Courts) Order in Council 1959 and references to service as a public officer include service in an office established under section 12 of the Courts Order.

**CHAPTER X**  
**DIRECTOR OF AUDIT**

Director of Audit	<p><b>149.</b> There shall be a Director of Audit who shall be appointed by the President by instrument under the Public Seal, acting in accordance with the advice of the Public Service Commission, after consultation with the Prime Minister and Leader of the Opposition.</p>
Duty of Director of Audit	<p><b>150.</b> It shall be the duty of the Director of Audit to audit and report on the public accounts of all officers and authorities of the Government of Grenada, the accounts of all courts in Grenada (including any accounts of the High Court and Court of Appeal maintained in Grenada), the accounts of every Commission established under the authority of this Constitution, and the accounts of the Clerk to the National Assembly.</p>
Access of Director to all books etc.	<p><b>151.</b> The Director of Audit and any officer authorized by him or her shall have access to all books, records, returns, reports and other documents which in his or her opinion relate to any of the accounts referred to in this section.</p>
Requirement of Director to submit to submit report	<p><b>152.</b> The Director of Audit shall submit every report made by him or her in pursuance of this section to the Minister for the time being responsible for finance, and who shall, not later than seven days after the National Assembly first meets after he or she has received the report, lay it before the House.</p>
Other functions of Director	<p><b>153.</b> The Director of Audit shall exercise such other functions in relation to the accounts of the Government of Grenada or the accounts of other authorities or bodies established by law for public purposes as may be prescribed by or under any law enacted by Parliament.</p>
Independence of Director of Audit	<p><b>154.</b> The Director of Audit shall not be subject to the direction or control of any person or authority in the performance of his or her duties under this section.</p>
Vacancy in office of Director	<p><b>155.</b> If the Office of Director of Audit is vacant or he or she is for any reason unable to perform the duties of the office, the President, acting in accordance with the advice of the Public Service Commission, may appoint a person to act as Director of Audit.</p>
Person appointed to act	<p><b>156.</b> A person appointed to act in the office of Director of Audit shall so cease to act –</p> <ul style="list-style-type: none"><li>(a) when a person is appointed to hold that office and has assumed the duties thereof or, as the case may be, when the person in</li></ul>

whose place he or she is acting resumes the duties of that office; or

- (b) at such earlier time as may be prescribed by the terms of his or her appointment.

Retirement of Director

**157.** The Director of Audit shall vacate the office when he or she attains the prescribed retirement age.

Removal of Director from office

**158.** A person holding the Office of Director of Audit may be removed from office only for inability to perform the duties of the office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour compromising the integrity of the office, and shall be so removed except in accordance with the provisions of this section.

Removal of Director referred to tribunal

**159.** The Director of Audit shall be removed from office by the President if the question of his or her removal from office has been referred to a tribunal appointed under subsection (12) of this section and the tribunal has recommended to the President that he or she ought to be removed for inability as aforesaid or for misbehaviour.

Appointment of tribunal

**160.** If the Prime Minister or the Chairman of the Public Service Commission represents to the satisfaction of the President that there are credible grounds for the removal of the Director of Audit under this section, and that the matter be investigated –

- (a) the President shall appoint a tribunal which shall consist of a Chairman and not less than two other members, selected by 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 Caribbean or a court having a jurisdiction in appeals from such a court; and
- (b) the tribunal shall enquire into the matter and report on the facts thereof to the President and recommend to the President whether the Director of Audit ought to be removed from office under this section.

Suspension of Director pending report of tribunal

**161.** If the question of removing the Director of Audit from office has been referred to a tribunal under this section, the President, acting in accordance with the advice of the Public Service Commission, may suspend the Director of Audit from the performance of the duties of the office and any such suspension may at any time be revoked by the President, acting in accordance with such advice as aforesaid, and shall in any case cease to have effect if the tribunal recommends to the President that the Director of Audit should not be removed from office.

**CHAPTER XI**  
**THE DIRECTOR OF PUBLIC PROSECUTIONS**

Director of Public Prosecutions	<p><b>162.</b> There shall be an Office of Director of Public Prosecutions, which shall be a public office.</p>
Appointment of Director	<p><b>163.</b> The Director of Public Prosecutions shall be appointed by the President by instrument under the Public Seal, acting on the recommendation of the Judicial and Legal Services Commission.</p>
Qualifications for appointment as Director	<p><b>164.</b> A person shall not be qualified to be appointed to hold or to act in the Office of Director of Prosecutions unless—</p> <ul style="list-style-type: none"><li>(a) he or she is qualified to practise as an advocate in a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth Caribbean; and</li><li>(b) he or she has qualified for not less than five years to practise as an advocate or solicitor in such a court.</li></ul>
Vacancy in office of Director	<p><b>165.</b> If the Office of Director of Public Prosecutions is vacant or if the Director of Public Prosecutions is for any reason unable to perform the functions of that office, the President, acting on the recommendation of the Judicial and Legal Services Commission, may appoint a person to act as Director of Public Prosecutions; and a person so appointed shall continue to act until</p> <ul style="list-style-type: none"><li>(a) the Director resumes those functions;</li><li>(b) another person is appointed to that office and assumes those functions; or</li><li>(c) the appointment of the acting Director is revoked by the President acting on the recommendation of the Judicial and Legal Services Commission.</li></ul>
Director to vacate office	<p><b>166.</b> The Director of Public Prosecutions shall vacate office</p> <ul style="list-style-type: none"><li>(a) at the expiration of his or her term of appointment, beginning on the day of his or her term of appointment, or at such earlier time as may be specified in his or her instrument of appointment; or</li><li>(b) on attaining the retirement age of sixty-seven years, whichever of those events occurs earlier.</li></ul>
Removal of Director from office	<p><b>167.</b> A person holding the Office of Director of Public Prosecutions may be removed from office only for inability to perform the functions of the 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 section.</p>
Referral of removal of Director to tribunal	

**168.** The Director of Public Prosecutions shall be removed from office by the President if the question of his or her removal has been referred to a tribunal appointed by the President and the tribunal has recommended to the President that he or she ought to be removed for inability as aforesaid or for misbehaviour.

Appointment of  
tribunal

**169.** If the Prime Minister or the Chairman of the Judicial and Legal Services Commission represents to the President that there are credible grounds for investigating whether the Director of Public Prosecution ought to be removed from office, then

- (a) the President shall appoint a tribunal which shall consist of a Chairman and not less than two other members, selected by 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 Caribbean or a court having jurisdiction in appeals from such a court; and
- (b) the tribunal shall enquire into the matter and report on the facts thereof to the President and recommend to him or her whether the Director of Public Prosecutions ought to be removed under this section.

Suspension of  
Director

**170.** If the question of removing the Director of Public Prosecutions has been referred to a tribunal under this section, the President, acting on the recommendation of the Judicial and Legal Services Commission, may suspend the Director of Public Prosecutions from performing the functions of the office and any such suspension may at any time be revoked by the President, acting on the recommendation as aforesaid, and shall in any case cease to have effect if the tribunal recommends to the President that the Director of Public Prosecutions should not be removed from office.

Powers of the Director  
of Public Prosecutions

**171.**(1) The Director of Public Prosecutions has power, in any case in which he or she considers it desirable to do so,

- (a) to institute and undertake criminal proceedings against any person before any court other than a court-martial in respect of any offence;
- (b) to take over and continue any such criminal proceedings that may have been instituted by any other person or authority; and
- (c) to discontinue at any stage before judgment is delivered any such criminal proceedings instituted or undertaken by the Director or any other person or authority.

(2) The powers of the Director of Public Prosecutions may be exercised by him or her in person or through other persons

acting under and in accordance with his or her general or special instructions.

(3) The powers conferred upon the Director of Public Prosecutions are vested in him or her to the exclusion of any other person or authority.

(4) Where a person or authority other than the Director of Public Prosecutions has instituted criminal proceedings, those proceedings may be withdrawn by or at the instance of that person or authority with the leave of the court.

(5) The Director of Public Prosecutions is not subject to the direction or control of any other person or authority in the exercise of the powers conferred on him or her by this section.

(6) For the purposes of this section,

- (a) an appeal from a determination in any criminal proceedings before a court; or
- (b) a case stated or question of law reserved, for the purposes of any such proceedings, to another court is to be taken to be part of those proceedings.

(7) The Director of Public Prosecutions shall, before entering upon the duties of the office, take and subscribe before the President the Oath of Allegiance and the Oath for the due execution of the office prescribed in this Constitution.

Attorney General may  
give special directions  
to Director

**172.**(1) The Attorney-General may, in the case of any offence to which this section applies, give general or special directions to the Director of Public Prosecutions as to the exercise of the powers conferred upon the Director, and the Director shall act in accordance with those directions.

(2) This section applies to any offence

- (a) relating to
  - (i) piracy;
  - (ii) trading or otherwise dealing in slaves;
  - (iii) foreign enlistment;
  - (iv) publications calculated to interfere with the peaceful relations of the Commonwealth of Grenada with foreign states;
  - (v) high treason, treason, misprison of treason or treachery;
  - (vi) sedition or seditious meetings;
  - (vii) official secrets;
  - (viii) mutiny or incitement to mutiny;
  - (ix) unlawful oaths;
- (b) under or enactment relating to any right or obligation of the Commonwealth of Grenada under international law; or
- (c) which in the opinion of the Attorney-General concerns the security of the State.

## CHAPTER XII CITIZENSHIP

Continuation of citizenship

**173.** Any person who, immediately before the coming into force of this Constitution, was a citizen of Grenada by birth, descent, naturalization or registration shall, on and after that day, continue to be a citizen of Grenada by birth, descent, naturalization or registration, as the case may be.

Citizenship by birth on or after the appointed day

**174.** Subject to section 173 a person born in Grenada on or after the coming into force of this Constitution, shall become a citizen of Grenada at the date of birth.

Disqualification of persons born in Grenada

**175.**(1) A person shall not become a citizen of Grenada by virtue of section 153 if, at the date of birth, neither of the person's parents is a citizen of Grenada.

(2) A person shall not become a citizen of Grenada by virtue of section 153 if, at the date of birth,

(a) either of the person's parents possesses immunity from suit and legal process as is accorded to an envoy of a foreign sovereign power accredited to Grenada; or

(b) either of the person's parents is a citizen of a country with which Grenada is at war or one with which Grenada has no diplomatic relations, and neither of the person's parents is a citizen of Grenada.

Qualification of persons born outside of Grenada on appointed day

**176.** A person born outside of Grenada on or after the coming into force of this Constitution becomes a citizen of Grenada by birth if, at the time of birth, that person is born to a citizen who is in the service of Grenada in a diplomatic or consular capacity.

Citizenship of person born outside of Grenada to Grenadian parent

**177.** A person born outside of Grenada on or after the coming into force of this Constitution shall become a citizen of Grenada at the date of birth if at that date the person's father or mother is a citizen of Grenada.

Person born in Grenada before appointed day

**178.**(1) A person who

(a) was born in Grenada; and

(b) was a citizen of the United Kingdom and Colonies before Independence Day,

became a citizen of Grenada by birth on Independence Day.

Citizenship by descent of person born outside of Grenada

**179.** A person who was born outside of Grenada before Independence Day, and any one of whose parents or grandparents was born in Grenada, shall, subject to any Act, be eligible to become a citizen of Grenada by naturalization or registration.

Citizenship by marriage

**180.** A person who, on or after the coming into force of this Constitution, marries another person who is or becomes a citizen of Grenada shall, subject to any Act, be eligible to become a citizen of Grenada by naturalization and that person shall, for this purpose, upon completing the requisite qualifying period of residence in Grenada, become a citizen of Grenada.

Acquisition of citizenship

**181.(1)** Provision may be made by or under an Act –

- (a) for the acquisition of citizenship of Grenada by any person who is not eligible or who is no longer eligible to become a citizen of Grenada under the foregoing provisions of this Chapter; but who has been granted residency in Grenada and has satisfied the requisite period of residence as determined by law;
- (b) for depriving any person of citizenship of Grenada, if it was unlawfully acquired;
- (c) for the renunciation of citizenship of Grenada by any person; and
- (d) for the maintenance of the register of citizens of Grenada who are also citizens of other countries.

(2) A person who is a citizen of Grenada may concurrently possess the citizenship of another country and a law made for the purposes of subsection (1)(a) shall not require, as a condition for the acquisition of citizenship of Grenada, that a person renounces any other citizenship that the person may possess at the time.

Citizenship of person born on registered ship etc.

**182.(1)** For the purposes of this Chapter -

- (a) a person born on a registered ship or aircraft shall be deemed to have been born at the place where the ship or aircraft was registered; and
- (b) a person born on an unregistered ship or aircraft belonging to the government of a country shall be deemed to have been born in that country.

(2) Any reference in this Chapter to the national status of the father or mother of a person at the time of the birth of that person shall, in relation to a person born after the death of the father or mother, be construed as a reference to the national status of the father or mother at the time of the father's or mother's death; and, accordingly, where that death occurred before the coming into force of this Constitution, the national status that the father or mother would have had if he or she had died on the coming into force of this Constitution shall be deemed to be his or her national status at the time of his or her death.

Citizenship only on terms and conditions of this Chapter

**183.** Parliament may make no provision for the acquisition of citizenship of Grenada, other than in accordance with the stipulations of this Chapter, by persons who are not or could not otherwise become citizens of Grenada by virtue of this Chapter.

**CHAPTER XIII**  
**PART 1**  
**THE PROTECTIVE SERVICES COMMISSION**

The Protective Services  
Commission

**184.**(1) There shall be a Protective Services Commission for Grenada consisting of a Chairman and not fewer than three or more than five other members.

(2) The members of the Protective Services Commission shall be appointed by the President by instrument under the Public Seal, after the President has consulted with the Prime Minister and the Leader of the Opposition.

(3) The functions of the Protective Services Commission shall pertain to the operations of the Police Force, the Fire Service, and the Prison Service of Grenada, and of any Defence Forces operating in Grenada, whether established by the Parliament of Grenada or as a regional body established by the Member-States of CARICOM; and to all matters concerning the appointment, removal, organisation and discipline of their members.

(4) No person shall be qualified to be appointed as a member of the Protective Services Commission if he or she holds or is acting in any public office other than the office of member of the Judicial and Legal Services Commission or member of the Public Service Commission.

(5) A member of the Protective Services Commission shall not, within a period of three years commencing with the date on which he or she last held or acted in that office, be eligible for appointment to any office, the power to make appointments to which is vested by this Constitution in the President, acting on the advice of the Protective Services Commission.

(6) The office of a member of the Protective Services Commission shall become vacant—

- (a) at the expiration of five years from the date of his or her appointment or such earlier time as may be specified in the instrument by which he or she was appointed;
- (b) if he or she resigns his or her office;
- (c) if he or she is appointed to any public office other than the office of member of the Judicial and Legal Services Commission or member of the Public Service Commission;
- (d) if the President, acting on the recommendation of the Prime Minister after consultation with the Leader of the Opposition, directs that he or she shall be removed from office for inability to discharge the functions thereof (whether arising from infirmity of body or mind or any other cause) or for misbehaviour.

(7) If the office of a member of the Protective Services Commission is vacant or a member is for any reason unable to perform the functions thereof, the President, 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, and any person so appointed shall, subject to the provisions of subsection (6) of this section, continue to act until the office of the member of the Commission is filled or until his or her appointment is revoked by the President, acting on the recommendation of the Prime Minister after consultation with the Leader of the Opposition.

(8) The members of the Protective Services Commission shall receive such salaries and allowances as may from time to time be prescribed by or under any law or by a resolution of the National Assembly:

Provided that—

- (a) no such resolution may reduce any salary or allowance for the time being prescribed by or under a law; and
- (b) the salary of a member of the Protective Services Commission shall not be reduced during his or her continuance in office.

(9) The salaries for the time being payable to the members of the Protective Services Commission under this Constitution shall be charged on and paid out of the Consolidated Fund.

## **PART II THE POLICE FORCE**

The Police Service

**185.**(1) There shall be a Police Force of Grenada.

(2) Subject to this Constitution and any other law, the Police Force shall be organised and administered in such manner as may be provided for by or under an Act.

(3) The Police Force shall be commanded by a Commissioner of Police who shall be appointed by the President by instrument under the Public Seal, on the recommendation of the Protective Services Commission, after the Commission has consulted with the Prime Minister and the Leader of the Opposition. The Commissioner of Police shall be responsible for determining the use, and controlling the operations, of the Force in accordance with law.

(4) The President, acting on the advice of the Protective Services Commission, may, by instrument under the Public Seal, appoint a Deputy Commissioner of Police and Inspectors of Police to assist the Commissioner of Police in the efficient operations of the Force.

(5) The functions of the Police are—

- (a) to maintain law and order in and preserve the internal security of Grenada and of any other

area over which the State has proclaimed its jurisdiction;

- (b) to prevent and detect crime in Grenada and in any other area over which the State has proclaimed its jurisdiction; and
- (c) to perform such other functions as may be prescribed by an Act.

(6) The President, acting in accordance with the advice of the Protective Services Commission, may, by instrument under the Public Seal direct that, to such extent and subject to such conditions as may be specified in that instrument, the powers (other than the power to remove from office) vested in the President as Head of the Police Force in relation to offices in the Force shall (without prejudice to the exercise of those powers by the President as Head) be exercisable by such one or more members of the Protective Services Commission, or by such public officer, as may be so specified.

(7) Parliament may make provision with respect to offences of indiscipline in the Police Force and the punishment that may be imposed for any such offence; and any power to exercise disciplinary control (including any power to remove a person from office) over persons holding or acting in any office in the Police Force, being a power conferred by or under the provisions of this Chapter, shall be exercised in accordance with any such provision.

(8) The Commissioner of Police or the Deputy Commissioner of Police may be removed from office by the President if the Prime Minister represents to the satisfaction of the President that there are credible grounds for his or her removal, and the President, acting on the recommendation of the Prime Minister, appoints a tribunal to conduct an investigation of that officer and, upon the conclusion of the investigation, the tribunal recommends to the President that the officer in question be removed from office.

(9) Before the President acts in accordance with the advice of the tribunal

- (a) that the Commissioner of Police or the Deputy Commissioner of Police, as the case may be, shall be removed from office; or
- (b) that a penalty should be imposed on the officer in question by way of disciplinary control,

the President shall inform the officer in writing of that advice, and, if the officer then applies for the case to be reviewed, the President shall not act in accordance with that advice but shall refer the case in accordance with the terms of the application; but, acting in accordance with the advice of the Protective Services Commission, the President may nonetheless suspend the officer from performing the functions of the office pending the review.

(10) An application for review by either the Commissioner or the Deputy Commissioner of Police under this

Chapter shall be made in writing and shall state the choice of the officer whether the case should be reviewed by

- (i) a Court of Law; or
  - (ii) the Public Service Appeal Board on appeal;
- and once the officer's choice of one of those forms of review has been so made, the other form of review is therefore not available to him or her in that case.

(11) Where a case has been referred to a Court of Law or to the Public Service Appeal Board, as the case may be, the Court or the Board shall consider the case and,

- (a) where the case is dealt with by a Court, that Court shall advise the President; and
- (b) where the case is dealt with by the Board, the Board shall render its decision to the Protective Services Commission, which shall then advise the President in conformity with the decision of the Board,

what action should be taken in respect of the officer, and the President shall act in accordance with that advice.

(12) Subject to the provisions of this Chapter, the power to appoint persons to hold or act in offices in the Police Force below the rank of Inspector of Police (i.e. at the rank of Sergeant and below, and including the power to confirm such appointments), the power to exercise disciplinary control over persons holding or acting in such offices and the power to remove such persons from office shall vest in the Protective Services Commission.

(13) Nothing in this section shall be construed as precluding the assignment to a Ministry of Government the responsibility for the organisation, maintenance and administration of the Police Force.

### **PART III THE PRISON SERVICE**

The Prison Service

**186.**(1) There shall be a Prison Service of Grenada.

(2) Subject to this Constitution and any other law, the Prison Service shall be organised and administered in such manner as may be provided for by or under an Act.

(3) The Prison Service shall be commanded by a Commissioner of Prisons who shall be appointed by the President by instrument under the Public Seal, on the recommendation of the Protective Services Commission, after the Commission has consulted with the Prime Minister and the Leader of the Opposition. The Commissioner of Prisons shall be responsible for the management and operations of the Prison Service in accordance with law.

(4) The President, acting on the advice of the Protective Services Commission, may, by instrument under the Public Seal, appoint a Deputy Commissioner of Prisons and Inspectors of

Prisons to assist the Commissioner of Prisons in the efficient management and operation of the Prison Service.

- (5) The functions of the Prison Service are—
- (a) to assist in the maintenance of law and order in and in preserving the internal security of Grenada and of any other area over which Grenada has proclaimed its jurisdiction, through the effective operation and management of prisons;
  - (b) to serve as the principal instrument for the execution of the punishment of those persons convicted of crimes and sentenced to imprisonment by a court of law;
  - (c) to hold such persons lawfully committed to prison, pending trial;
  - (d) to protect persons committed to the prisons from all harm and danger; and
  - (e) to secure the prisons in such manner as to protect the public from the breakout of prisoners.

(6) The President, acting in accordance with the advice of the Protective Services Commission, may, by instrument under the Public Seal direct that, to such extent and subject to such conditions as may be specified in that instrument, the powers (other than the power to remove from office) vested in the President as Head of the Prison Service in relation to offices in the Service shall (without prejudice to the exercise of those powers by the President as Head) be exercised by such one or more members of the Protective Services Commission, or by such public officer, as may be so specified.

(7) Parliament may make provision with respect to offences of indiscipline in the Prison Service and the punishment that may be imposed for any such offence; and any power to exercise disciplinary control (including any power to remove a person from office) over persons holding or acting in any office in the Prison Service, being a power conferred by or under the provisions of this Chapter, shall be exercised in accordance with any such provision.

(8) The Commissioner of Prisons or the Deputy Commissioner of Prisons may be removed from office by the President if the Prime Minister represents to the satisfaction of the President that there are credible grounds for his or her removal, and the President, acting on the recommendation of the Prime Minister, appoints a tribunal to conduct an investigation of that officer and, upon conclusion of the investigation, the tribunal recommends to the President that the officer in question be removed from office.

- (9) Before the President acts in accordance with the advice of the tribunal

- (a) that the Commissioner of Prisons or the Deputy Commissioner of Prisons, as the case may be, shall be removed from office; or
- (b) that a penalty should be imposed on the officer in question by way of disciplinary control,

the President shall inform the officer in writing of that advice, and, if the officer applies for the case to be reviewed, the President shall not act in accordance with that advice but shall refer the case in accordance with the terms of the application; but, acting in accordance with the advice of the Protective Services Commission, the President may nevertheless suspend the officer from performing the functions of the office pending the review.

(10) An application for review by the Commissioner of Prisons or the Deputy Commissioner of Prisons under this Chapter shall be made in writing and shall state the choice of the officer whether the case should be reviewed by

- (i) a Court of Law; or
  - (ii) the Public Service Appeal Board on appeal;
- and once the officer's choice of one of those forms of review has been so made, the other form of review is thereafter not available to him or her in that case.

(11) Where a case has been referred to a Court of Law or the Public Service Appeal Board, as the case may be, the Court or the Board shall consider the case and,

- (a) where the case is dealt with by a Court, that Court shall advise the President; and
- (b) where the case is dealt with by the Board, the Board shall render its decision to the Protective Services Commission, which shall then advise the President in conformity with the decision of the Board,

what action should be taken in respect of the officer, and the President shall act in accordance with that advice.

(12) Subject to the provisions of this Chapter, the power to appoint persons to hold or to act in offices in the Prison Service below the rank of Commissioner of Prisons, Deputy Commissioner of Prisons and Inspector of Prisons, the power to exercise disciplinary control over persons holding or acting in such offices and the power to remove such persons from office shall vest in the Protective Services Commission.

(13) Nothing in this Section shall be construed as precluding the assignment to a Ministry of Government the responsibility for the organisation, maintenance and administration of the Prisons of Grenada.

#### **PART IV THE FIRE SERVICE**

**187.(1)** There shall be a Fire Service of Grenada.

(2) Subject to this Constitution and any other law, the Fire Service shall be organised and administered in such manner as may be provided for by or under an Act.

(3) The Fire Service shall be commanded by a Chief Fire Officer who shall be appointed by the President by instrument under the Public Seal, on the recommendation of the Protective Services Commission, after the Commission has consulted with the Prime Minister and the Leader of the Opposition. The Chief Fire Officer shall be responsible for the management and operations of the Fire Service in accordance with law.

(4) The President, acting on the advice of the Protective Services Commission, may, by instrument under the Public Seal, appoint a Deputy Chief Fire Officer and such other Fire Officers as may be deemed necessary to assist the Chief Fire Officer in the efficient management and operation of the Fire Service.

(5) The functions of the Fire Service are—

- (a) to assist in the maintenance of public order and security by protecting life and property against destruction by fire;
- (b) to assist in the fulfilment of the internal obligations of the State to provide for the civil defence and security of all its citizens;
- (c) to provide assistance to civil authorities during a period of emergency;
- (d) to perform such other functions and services as may be prescribed by an Act; or as may be directed by the President for the common good and the security of the State.

(6) The President, acting in accordance with the advice of the Protective Services Commission, may, by instrument under the Public Seal direct that, to such extent and subject to such conditions as may be specified in that instrument, the powers (other than the power to remove from office) vested in the President as Head of the Fire Service in relation to offices in the Service shall (without prejudice to the exercise of those powers by the President as Head) be exercised by such one or more members of the Protective Services Commission, or by such public officer, as may be specified.

(7) Parliament may make provision with respect to offences of indiscipline in the Fire Service and the punishment that may be imposed for any such offence; and any power to exercise disciplinary control (including any power to remove a person from office) over persons holding or acting in any office in the Fire Service, being a power conferred by or under the provisions of this Chapter, shall be exercised in accordance with any such provision.

(8) The Chief Fire Officer or Deputy Chief Fire Officer may be removed from office by the President if the Prime Minister represents to the satisfaction of the President that there are credible grounds for his or her removal, and the President, acting on the

recommendation of the Prime Minister, appoints a tribunal to conduct an investigation of that officer and, upon conclusion of the investigation, the tribunal recommends to the President that the officer in question be removed from office.

(9) Before the President acts in accordance with the advice of the tribunal

(a) that the Chief Fire Officer or the Deputy Chief Fire Officer, as the case may be, shall be removed from office; or

(b) that a penalty should be imposed on the officer in question by way of disciplinary control,

the President shall inform the officer in writing of that advice, and, if the officer applies for the case to be reviewed, the President shall not act in accordance with that advice but shall refer the case in accordance with the terms of the application; but, acting in accordance with the advice of the Protective Services Commission, the President may nevertheless suspend the officer from performing the functions of the office pending review.

(10) An application for review by the Chief Fire Officer or the Deputy Chief Fire Officer, as the case may be, under this Chapter shall be made in writing and shall state the choice of the officer whether the case be reviewed by

(i) a Court of Law; or

(ii) the Public Service Appeal Board on appeal; and once the officer's choice of one or those forms of review has been so made, the other form of review is thereafter not available to him or her in that case.

(11) Where a case has been referred to a Court of Law or the Public Service Appeal Board, as the case may be, the Court or the Board shall consider the case and,

(a) where the case is dealt with by a Court, the Court shall advise the President; and

(b) where the case is dealt with by the Board, the Board shall render its decision to the Protective Services Commission, which shall then advise the President in conformity with the decision of the Board,

what action should be taken in respect of the officer, and the President shall act in accordance with that advice.

(12) Subject to the provisions of this Chapter, the power to appoint persons to hold or to act in offices of the Fire Service below the rank of Chief Fire Officer and Deputy Chief Fire Officer, the power to exercise disciplinary control over persons holding or acting in such offices and the power to remove such persons from office shall vest in the Protective Services Commission.

(13) Nothing in this Section shall be construed as precluding the assignment to a Ministry of Government the responsibility for the organisation, maintenance and administration of the Fire Service of Grenada.

**CHAPTER XIV  
LOCAL GOVERNMENT**

Local government  
Council for Carriacou  
and Petite Martinique

**188.**(1) There shall be a Council for Carriacou and Petite Martinique, which shall be the principal organ of local government in those islands.

(2) The Council shall have such membership and functions as Parliament may prescribe.

(3) Parliament may also provide for a system of local government for the other Parishes of Grenada, including the Town of St. George's, with such membership and functions as may be deemed necessary for the citizenry's participation in the governance of Grenada.

**CHAPTER XV**  
**ALTERATION OF THE CONSTITUTION**

Alteration of Constitution

**189.**(1) Subject to this section, this Constitution may be altered or amended –

- (a) by a Bill stating in the long title that it is a Bill to alter or amend this Constitution, and is passed by a vote of not less than two-thirds of the members of the National Assembly;
- (b) there has been an interval of not less than ninety days between the introduction of the Bill in the National Assembly and the beginning of the proceedings in the Assembly on the final reading of the Bill in that House;
- (c) the Bill has been approved on a referendum, held in accordance with such provision as may be made in that behalf by Parliament, by not less than two-thirds of all the votes validly cast on that referendum; and
- (d) the Speaker certifies that the conditions stated in this section have been satisfied.

(2) Every person who, at the time when the referendum is held, would be entitled to vote in elections of members of the National Assembly shall be entitled to vote on a referendum held for the purposes of this section in accordance with such procedures as may be prescribed by Parliament for the purposes of the referendum and no other person shall be entitled so to vote.

(3) The conduct of any referendum for the purposes of subsection (2) of this section shall be under the general supervision of the Supervisor of Elections and the provisions of Chapter VI of this Constitution pertaining to the exercise by the Supervisor of Elections or by any other officer of those functions, relating to elections of members of the National Assembly shall likewise apply with respect to a referendum.

- (4) (a) A Bill to alter this Constitution shall not be submitted to the President for his or her assent unless it is accompanied by a certificate under the hand of the Speaker of the National Assembly (or, if the Speaker is for any reason unable to exercise the functions of his or her office, the Deputy Speaker) that the relevant provisions of this section have been complied with and, where a referendum has been held, by a certificate of the Supervisor of Elections stating the results of the referendum.
- (b) The certificate of the Speaker or, as the case may be, the Deputy Speaker under this

subsection shall be conclusive that the relevant provisions of this section have been complied with and shall not be enquired into in any Court of Law.

- (5) In this section—
- (a) a reference to this Constitution includes a reference to a law that amends or replaces any provision of this Constitution; and
  - (b) a reference to the alteration of this Constitution includes a reference to the amendment, modification or re-enactment, with or without amendment or modification, of any provision of this Constitution, the suspension or repeal of any such provision and the making of different provisions in lieu of such provisions, and the addition of a new provision to this Constitution.

(6) This section shall not apply to a Bill in so far as the Bill makes provision for the purpose of giving effect to arrangements for a Federation, Confederation or Union of Grenada with any other State, or for the establishment of some other form of constitutional association between Grenada and another State.

Grenada's union with other States

**190.**(1) This Constitution acknowledges the authority of the Commonwealth of Grenada to join in political union with any other State, insofar that the overriding objective of such a union is the social and economic development of Grenada and the further enhancement of sound democratic governance and the rule of law, and the principles on which that union is based are in no way contrary to this Constitution.

(2) A Bill may be introduced in the National Assembly pursuant to subsection (1) for the purpose of giving effect to arrangements, whether by way of Alliances, Treaties or constitutional instruments, as the case may be, for Grenada's entry into Federation, Confederation or Union with any other State, or for the establishment of some other form of constitutional association between Grenada and another State.

- (3) (a) A Bill introduced for the purpose of facilitating Grenada's entry into Federation, Confederation or Union or some other form of constitutional association with other States, as the case may be, and which shall have the intended consequence of directly affecting the continued existence of Grenada as an independent, sovereign State, its territorial integrity, and its position and its standing within the community of States, must be supported by a vote of not less than three-quarters of all the members of the National Assembly, on the final reading of

- the Bill in that House, and shall make provision for the proposed Treaty or constitutional instrument, as the case may be, constituting the basis of the proposed Federation, Confederation or Union or constitutional association, to be submitted to a popular vote in a public referendum; and
- (b) the proposed Treaty or constitutional instrument, as the case may be, shall not be deemed approved unless it receives a favourable vote of not less than two-thirds of all the votes validly cast on that referendum, where not less than two-thirds of the electorate would have voted at that referendum.

(4) A referendum held for the purpose stated in subsections (1) and (2) shall be under the supervision of the Supervisor of Elections and shall be conducted in accordance with the provisions of Chapter VI of this Constitution pertaining to elections of members of the National Assembly.

(5) A Bill to introduce a Treaty or constitutional instrument, as the case may be, for the purpose of facilitating Grenada's entry into a Federation, Confederation or Union, or some other form of constitutional association between Grenada and any other State shall not be submitted to the President for his or her assent unless—

- (a) there has been an interval of not less than six (6) months between the introduction of the Bill in the National Assembly and the beginning of the proceedings in the Assembly on the final reading of the Bill in that House; and
- (b) the proposed Treaty or constitutional instrument, as the case may be, has been approved on a referendum by not less than two-thirds of all the votes validly cast on that referendum, where not less than two-thirds of the electorate would have voted at that referendum.
- (6) (a) A Bill submitted to the President for his or her assent in accordance with subsection (4) shall be accompanied by a certificate under the hand of the Speaker of the National Assembly (or, if the Speaker is for any reason unable to exercise the functions of his or her office, the Deputy Speaker) that the Bill has received the approval of not less than three-quarters of all the members of the National Assembly; and, by a certificate of the Supervisor of Elections stating that the

proposed Treaty or constitutional instrument, as the case may be, has been duly submitted to a national referendum as required under this section, and specifically stating the results of the referendum.

- (b) The certificate of the Speaker or, as the case may be, the Deputy Speaker under this subsection shall be conclusive that the relevant provisions of this section have been complied with and shall not be enquired into in any Court of Law.

## CHAPTER XVI TREATIES AND EXECUTIVE AGREEMENTS

Power of Executive to negotiate, sign and ratify treaties etc. with approval of Parliament

**191.**(1) The Executive of the Commonwealth of Grenada shall be responsible for the conduct of the political and international relations of Grenada with foreign States and international organisations, whether by way of treaties, executive agreements, or other appropriate instruments.

(2) The Executive of the Commonwealth of Grenada shall have the authority to negotiate and sign all international treaties, conventions and agreements with foreign States or international organisations, and submit them to the National Assembly for approval; and, upon approval by the National Assembly, by a vote of not less than two-thirds of all the members of that House, the Executive may ratify the treaty, convention or agreement, as the case may be.

(3) (a) The National Assembly may not grant approval to any international treaty, convention or agreement containing clauses contrary to this Constitution.

(b) International treaties, conventions or agreements are approved by the National Assembly in the form of Acts of Parliament.

(4) Once an international treaty, convention or agreement, as the case may be, has been approved and ratified in the manner stipulated by this Constitution, it becomes part of the Law of Grenada and abrogates any laws in conflict with it.

(5) An international treaty, convention or agreement, or any specific provision thereof, made in accordance with subsection (2), but which requires further legislative action for its implementation and enforcement, may not be implemented and enforced by the Courts of Law until the requisite legislative action has been taken.

(6) (a) Nothing contained in this section shall preclude the Executive from concluding international agreements without the approval of the National Assembly where, in its considered judgment, and given the nature of the subject matter and the need for requisite dispatch, an Executive Agreement is the more appropriate instrument for conducting the international relations of the State and the discharge of the duties of its office under this Constitution.

(b) An Executive Agreement concluded between Grenada and any foreign State shall not become part of the Law of Grenada and is not enforceable in the Courts of Law, unless that Agreement subsequently receives legislative approval by a vote of not less than

two-thirds of all the members of the National Assembly.

- (c) Likewise, an Executive Agreement concluded between Grenada and any foreign State may not contravene this Constitution and the Laws of Grenada.