

No. 12 of 2002

**AN ACT TO AMEND THE CONSTITUTION
OF THE BAHAMAS**

[Date of Assent – 8th March, 2002]

WHEREAS it is enacted inter alia by Article 54(1) of the Constitution that subject to the provisions of Article 54, Parliament may, by an Act of Parliament passed by both Houses, alter any of the provisions of the Constitution:

ENACTED by the Parliament of The Bahamas in accordance with the provisions of Article 54 of the Constitution.

Short title.

1. (1) This Act may be cited as The Bahamas Constitution (Amendment) (No.3) Act, 2002.

(2) This Act shall have effect for the purpose of the alteration of the Constitution.

Interpretation.

2. In this Act “the Constitution” means the Constitution set out in the Schedule to The Bahamas Independence Order, 1973.

Repeal and replacement of Article 78 of the Constitution.

3. Article 78 of the Constitution is repealed and replaced by the following -

“Functions of the Attorney-General. 78. (1) There shall be an Attorney-General who shall be the principal legal adviser to the Government of The Bahamas and the office of the Attorney-General shall be the office of a Minister.

(2) The Attorney-General shall be responsible for the administration of Legal Affairs in The Bahamas and legal proceedings for and against the State shall be taken —

- (a) in the case of civil proceedings, in the name of the Attorney-General;
- (b) in the case of criminal proceedings, in the name of the Queen.

(3) The Attorney—General may, in the case of any offence to which this paragraph applies, give general or special directions to the Director of Public Prosecutions as to the exercise of the powers conferred upon the Director of Public Prosecutions by Article 92A and the Director of Public Prosecutions shall act in accordance with those directions.

(4) Paragraph (3) applies to—

- (a) offences under the laws of The Bahamas relating to -
 - (i) piracy,
 - (ii) trading or

- otherwise
dealing in
slaves,
 - (iii) foreign
enlistment,
to interfere
with the
peaceful
relations of
The
Bahamas
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; and
- (b) any offence under an
enactment relating to any
right or obligation of The
Bahamas under international
law.

(5) The Attorney—General may, in any case involving general considerations of public policy, give general or specific directions to the Director of Public Prosecutions as to the exercise of the powers conferred upon the Director of Public Prosecutions by Article 92A and the Director of Public Prosecutions shall act in accordance with those directions.”.

OBJECTS AND REASONS

This Act seeks to make an amendment to the Constitution of The Bahamas.

As a consequence of the creation of this office of Director of Public Prosecutions, Article 78 has been amended to transfer those powers relating to criminal proceedings (except those reserved to the Attorney-General) to the Director of Public Prosecutions and the Attorney-General in his or her capacity as principal legal adviser to the Government will exercise overall responsibility for the administration of legal affairs in The Bahamas (see clause 3)