

# **A BILL**

## **ENTITLED**

**AN ACT to Amend the Constitution of Jamaica.**

**[ ]**

**BE IT ENACTED** by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica in accordance with the provisions of section 49 of the Constitution of Jamaica, and by the authority of the same, as follows:—

**1.** This Act may be cited as the Constitution (Amendment) Act, 2010, and shall be read and construed as one with the Constitution of Jamaica (hereinafter referred to as the Constitution) and all amendments thereto.

**Short title  
and con-  
struction.**

Amendment  
of section 91  
of the  
Constitution.

**2. Section 91 of the Constitution is amended—**

- (a) by deleting subsection (1) and inserting the following as subsections (1), (1 A) and (1 B)—

“ (1) Where any person has been sentenced to death for an offence against the law of Jamaica, the Governor-General shall cause—

- (a) a written report of the case from the trial judge, together with such other information derived from the record of the case or elsewhere as the Governor-General may require, to be forwarded to the Privy Council; and

- (b) a notice to be delivered to the person sentenced, specifying a date, being in the case of sub-paragraph (ii) or (iii) a date not less than eighteen months after the date of the delivery of the notice, on or before which the person or his legal representative—

- (i) shall commence any application to, or consultation with, any entity outside of Jamaica (other than Her Majesty in Council) in relation to the offence for which the person has been sentenced to death;

- (ii) shall conclude any application to, or consultation with, any entity outside of Jamaica (other than Her Majesty in Council) in relation to the offence for which the person has been sentenced to death; and

- (iii) may submit to the Governor-General, for consideration by the Privy Council, representations relating to the case in accordance with such procedure as shall be set out in the notice,

so that the Privy Council may make a recommendation to the Governor-General in accordance with the provisions of section 90 of this Constitution.

(1A) Representations submitted under subsection (1)(b) may include any report issued by the date specified under sub-paragraph (ii) of subsection (1)(b), by an entity referred to in that sub-paragraph.

(1B) Nothing in this section or section 13 shall be construed as requiring—

- (a) the Governor-General or the Privy Council, in the exercise of the powers conferred on them by section 90 or this section, to consider the report of any entity referred to in subsection (1)(b)(i) in any case where the report has not been issued by the entity, and submitted by the person sentenced, on or before the date specified under subsection (1) (b)(ii); or
- (b) the Governor-General, in giving notice under subsection (1)(b), to take into account any period of time within which any such entity is likely to produce its report.”;

(b) in subsection (2), by deleting the words “power of requiring information conferred on the Governor-General by subsection (1) of” and substituting therefor the words “powers conferred on the Governor-General by”;

(c) by inserting the following as subsections (3), (4) and (5)—

“ (3) In relation to a person to whom a notice is delivered in accordance with subsection (1)(b), the Governor-General may exercise, after the date specified under subsection (1)(b)(ii), the powers conferred on him by section 90.

(4) For the purposes of this section, in determining its recommendations to the Governor-General under section 90, the Privy Council shall consider—

- (a) the written report and other information referred to in subsection (1)(a); and
- (b) all representations submitted in accordance with a notice delivered under subsection (1)(b) in relation to the case.

(5) Where the provisions of this section have been complied with, no act done by the—

- (a) Governor-General in exercise of the powers conferred on him by section 90; or
- (b) the Privy Council in exercise of the powers conferred on it by section 90 or this section,

shall be held to be inconsistent with or in contravention of the provisions of Chapter III.”.

Provision for  
persons  
already  
sentenced.

**3.** The provisions of this Act shall not apply to a person sentenced to death on or before the date of coming into operation of this Act.

## MEMORANDUM OF OBJECTS AND REASONS

A decision has been taken to amend the Constitution of Jamaica in order to provide —

- (a) for notice to be given to a person sentenced to death, specifying a date—
  - (i) within which applications to, or consultations with, entities outside of Jamaica (other than Her Majesty in Council) by the person shall be commenced; and
  - (ii) being not less than eighteen months after the delivery of the notice—
    - (A) within which applications to, or consultations with, entities outside of Jamaica (other than Her Majesty in Council) by that person shall be concluded;
    - (B) within which representations relating to the case in accordance with such procedure as shall be set out in the notice, may be submitted to the Governor-General, for consideration by the Jamaican Privy Council,
- for the purpose of enabling the exercise of the Governor-General's powers under section 90 of the Constitution;
- (b) for a person who has been sentenced to death to be given the opportunity to submit representations, within the time-frame specified as indicated by paragraph (a), before a decision is made under section 90 of the Constitution;
- (c) that if the express provisions of section 91 are observed, no act taken pursuant to section 90 of the Constitution shall be inconsistent with Chapter III of the Constitution; and
- (d) that the above amendments shall not apply to persons sentenced to death on or before the date on which the amendments come into operation.

This Bill seeks to give effect to that decision.

DOROTHY C. LIGHTBOURNE, C.D., Q.C.  
Minister of Justice.

# A BILL

## ENTITLED

AN ACT to Amend the Constitution  
of Jamaica.

---

As introduced by the Honourable Minister of Justice.

---

---

PRINTED BY JAMAICA PRINTING SERVICES (1992) LTD.,  
(GOVERNMENT PRINTERS), DUKE STREET, KINGSTON, JAMAICA.

---