Legal Supplement Part C to the "Trinidad and Tobago Gazette", Vol. 60, No. 105, 8th July, 2021 No. 6 of 2021

First Session Twelfth Parliament Republic of Trinidad and Tobago

HOUSE OF REPRESENTATIVES

BILL

AN ACT to repeal the Tobago House of Assembly Act, Chap. 25:03, and to provide for the powers and functions of the Tobago Island Government and the Tobago Legislature and for related matters

THE TOBAGO ISLAND GOVERNMENT BILL, 2021

Explanatory Note

(These notes form no part of the Bill but are intended only to indicate its general purport.)

The Bill seeks to provide greater autonomy to Tobago but maintains the unitary state of the Republic of Trinidad and Tobago. The Bill proposes the repeal of the Tobago House of Assembly Act, Chap. 25:03, and to provide for the powers and functions of the Tobago Island Government and the Tobago Legislature. The Bill also seeks to provide for operational matters, including financial provisions and a suite of administrative and financial oversight committees.

The Bill is a companion Bill to the Constitution (Amendment) (Tobago Self-Government) Bill, 2021. The Bill contains sixty-one clauses and two schedules, and requires a simple majority vote.

Clause 1 of the Bill contains the short title of the Act for which this is the Bill.

Clause 2 of the Bill would provide for the commencement of the Act by Presidential Proclamation.

Clause 3 of the Bill would provide for the interpretation provision, which includes a proposed definition of Tobago merely for administrative purposes.

Clause 4 of the Bill would provide for the application of the Act and its confines, that is, no derogations from the Constitution of the Republic of Trinidad and Tobago, international treaties, and conventions, and restricting the operation of the Act to Tobago.

Clause 5 seeks to provide the Tobago Executive Council with exclusive administrative jurisdiction, up to eleven nautical miles, in relation to a number of matters listed in Schedule 1.

Clause 6 of the Bill would provide for quarterly meetings between the Prime Minister and Chief Secretary to promote harmony in the affairs of both islands.

Clause 7 of the Bill would provide for the Tobago Island Government to act on behalf of the Government of Trinidad and Tobago when authorised by a memorandum of understanding. Clause 8 of the Bill would provide for the powers of a Secretary of the House of Assembly.

Clause 9 of the Bill would provide for a Chief Administrator, who shall be a public officer and also an Accounting Officer.

Clause 10 of the Bill would provide for the functions of Administrators, and whose terms and conditions of office would be equivalent to a Deputy Permanent Secretary.

Clause 11 of the Bill would provide the Tobago Island Government with a power to employ persons on contract.

Clause 12 of the Bill would provide for the Tobago Legislature which is to be constituted by the President and the House of Assembly.

Clause 13 of the Bill would provide the Tobago Legislature with the power to make laws, but only in relation to the matters listed in Schedule 2.

Clause 14 of the Bill would provide for the assumption of duty of both elected and appointed members of the House of Assembly.

Clause 15 of the Bill would provide for a time limit for elected or appointed members of the House of Assembly to be sworn into office, including an extension provision, and for the disqualification of members who fail to be duly sworn into office.

Clause 16 of the Bill would provide for the publication of names of members of the House of Assembly after their election or appointment to the House of Assembly.

Clause 17 of the Bill would provide for the remuneration of members of the House of Assembly, review of their salaries by the Salaries Review Commission, establishment of a pension scheme for members of the House of Assembly, and restriction of engagement in other work for remuneration by the Chief Secretary, Deputy Chief Secretary, Secretary, Assistant Secretary and the Presiding Officer.

Clause 18 of the Bill would provide for the appointment of certain select committees, other than those which the House of Assembly can appoint when this Act becomes law or its standing orders, for the purpose of inquiring into certain listed matters and reporting to the House of Assembly.

Clause 19 of the Bill would provide for the constitution and functions of a Public Accounts Committee.

Clause 20 of the Bill would provide for the constitution and functions of a Public Administration and Appropriations Committee.

Clause 21 of the Bill would provide that members of the House of Assembly are exempted from jury service.

Clause 22 of the Bill would provide that the House of Assembly is a public body for the purposes of the Prevention of Corruption Act, Chap. 11:11.

Clause 23 of the Bill would provide that members of the House of Assembly are persons in public life for the purposes of the Integrity in Public Life Act, Chap. 22:01.

Clause 24 of the Bill would provide for the establishment of the Office of the Tobago Legislature which shall be headed by the Clerk of the House of Assembly, who shall be an Accounting Officer, together with a Deputy Clerk of the House of Assembly, both of whom are public officers.

Clause 25 of the Bill would provide for the Public Service Commission to consult the Chief Secretary before appointing the Clerk and Deputy Clerk of the House of Assembly.

Clause 26 of the Bill would provide that the Salaries Review Commission would review the salaries and other conditions of service of the Clerk and the Deputy Clerk of the House of Assembly.

Clause 27 of the Bill would provide for the publication of the Tobago Acts in the *Gazette*.

Clause 28 of the Bill would provide for the establishment of the Secretary of Finance as the corporation sole for Tobago.

Clause 29 of the Bill would provide for the corporation sole to have a seal which shall be judicially noticed as such, and for the execution of documents by the Secretary of Finance.

Clause 30 of the Bill would provide for the annual parliamentary allocations for the House of Assembly.

Clause 31 of the Bill would provide for the establishment of a Tobago Fund.

Clause 32 of the Bill would provide for the collection of revenue in Tobago which shall be credited to the Tobago Fund and set off against the annual parliamentary allocation. Clause 33 of the Bill would provide for the expenditure of the Tobago Island Government.

Clause 34 of the Bill would provide that the accounts of the House of Assembly are public accounts for the purpose of the Constitution.

Clause 35 of the Bill would provide for the retention and use of monies at the end of each financial year.

Clause 36 of the Bill would provide for the surrender of excess moneys paid into the Tobago Fund.

Clause 37 of the Bill would provide the Tobago Executive Council, subject to approval of the Minister of Finance, with the power to borrow locally and internationally.

Clause 38 of the Bill would provide the Tobago Executive Council with the power to invest.

Clause 39 of the Bill would provide for the making of Financial Rules for the proper management of finances of the Tobago Island Government.

Clause 40 of the Bill would provide for description of property under the control of the Tobago Island Government for the purpose of any civil or criminal proceedings.

Clause 41 of the Bill would provide for the Appropriation of Bills.

Clause 42 of the Bill would provide for the establishment of a Contingencies Fund.

Clause 43 of the Bill would provide for the establishment and functions of the Fiscal Review Committee.

Clause 44 of the Bill would provide that the current Assemblymen are deemed to be elected Assembly Members when this Act become law.

Clause 45 of the Bill would provide for a savings provision to deal with certain issues, including saving the current rules and orders of the Tobago House of Assembly.

Clause 46 of the Bill would provide that persons employed by the current Tobago House of Assembly, including persons on contract, would continue in their jobs when this Act becomes law, saving their terms and conditions of service, including their superannuation benefits, where applicable. Clause 47 would provide that persons employed on the permanent establishment of the current Tobago House of Assembly must exercise one of three options within three months of this Act becoming law.

Clause 48 of the Bill seeks to continue former representative associations for the purpose of collective bargaining on behalf of transferred employees when this Act becomes law.

Clause 49 of the Bill seeks to save existing industrial relations agreements in relation to transferred employees.

Clause 50 of the Bill seeks to save and apply collective bargaining agreements in relation to transferred employees.

Clause 51 of the Bill seeks to preserve the right to freedom of association.

Clause 52 of the Bill would provide for monies in the current Tobago Fund to be transferred to the new Tobago Fund when this Act becomes law.

Clause 53 of the Bill would provide that all property, rights, and liabilities of the current Tobago House of Assembly shall be vested in the Secretary of Finance when this Act becomes law.

Clause 54 of the Bill would provide that all current legal proceedings by or against the current Tobago House of Assembly shall be continued by or against the Tobago Island Government when this Act becomes law.

Clause 55 of the Bill would seeks to save the current financial rules until new rules are made by the House of Assembly when this Act becomes law.

Clause 56 of the Bill would provide the President with the power to amend Schedule 1 and Schedule 2 but only to add other matters.

Clause 57 of the Bill would provide for consequential amendments to written laws.

Clause 58 of the Bill seeks to repeal the Tobago House of Assembly Act, Chap. 25:03.

Clause 59 of the Bill would provide for consequential amendments to the Interpretation Act, Chap. 3:01.

Clause 60 of the Bill would provide for consequential amendments to the Statutes Act, Chap. 3:02.

Clause 61 of the Bill seeks to amend clause 2 of the Trinidad and Tobago Order in Council, 1898, to remove Tobago as a ward of the State of Trinidad and Tobago.

Schedule 1 provides a list of matters for which the Tobago Executive Council shall have exclusive administrative jurisdiction in Tobago, up to eleven nautical miles.

Schedule 2 provides a list of matters for which the Tobago Legislature shall have exclusive law making powers in Tobago.

THE TOBAGO ISLAND GOVERNMENT BILL, 2021

Arrangement of Clauses

Clause

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BILL

AN ACT to repeal the Tobago House of Assembly Act, Chap. 25:03, and to provide for the powers and functions of the Tobago Island Government and the Tobago Legislature and for related matters

[, 2021]

 $E{\tt NACTED}$ by the Parliament of Trinidad and Tobago as ${\tt Enactment}$ follows:

PART I

PRELIMINARY

1. This Act may be cited as the Tobago Island short title Government Act, 2021.

Commencement	2. This Act comes into force on such day as is fixed by the
	President by Proclamation.

Interpretation

3. (1) In this Act—

- "Fiscal Review Committee" means the Fiscal Review Committee established under section 43;
- "former Assembly" means the Tobago House of Assembly established under the Constitution (Amendment) Act, 1996 and constituted under section 5 of the Tobago House of Assembly Act repealed by this Act;
- "former Fund" means the Tobago House of Assembly Fund established under the Constitution (Amendment) Act, 1996;
- "House of Assembly" means the House of Assembly of the Tobago Legislature referred to in section 141A of the Constitution;
- "Tobago Act" means a law passed by the Tobago Legislature in relation to Tobago;
- "Tobago Executive Council" means the Tobago Executive Council established under section 75A(1) of the Constitution;
- "Tobago Fund" means the Tobago Fund established under section 31;
- "Tobago Island Government" includes the Tobago Executive Council and its Divisions;
- "Tobago Legislature" means the Tobago Legislature established under section 141A of the Constitution.

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Chap. 25:03

(2) A reference to "Tobago" means the Island of Tobago, Little Tobago, St. Giles Island, Marble Island, Goat Island, Sisters Island and the internal and inland waters of Tobago.

4. (1) No provision of this Act or of a Tobago Act shall Application be interpreted so as to—

- (a) authorise anything which is inconsistent with, or in derogation of, the Constitution;
- (b) authorise the operation of a Tobago Act beyond the confines of Tobago;
- (c) authorise any convention, declaration, treaty, protocol, agreement or any international compact of any sort whatever between the Tobago Island Government and any foreign State; or
- (d) contradict any obligations of Trinidad and Tobago under any convention, declaration, treaty, protocol, agreement or any international compact of any sort whatever between Trinidad and Tobago and any foreign State.

(2) The Tobago Island Government shall not do or undertake any action contrary to any obligation of Trinidad and Tobago under any convention, declaration, treaty, protocol, agreement or any international compact of any sort whatever between Trinidad and Tobago and any foreign State.

(3) The Tobago Legislature shall not enact any law contrary to any obligation of Trinidad and Tobago under any convention, declaration, treaty, protocol, agreement or any international compact of any sort whatever between Trinidad and Tobago and any foreign State.

PART II

TOBAGO ISLAND GOVERNMENT

5. (1) In accordance with the powers under Tobago Executive section 75(A)(1)(b) of the Constitution, the Tobago Council: Jurisdiction for administration

Executive Council shall have exclusive jurisdiction for the administration within Tobago of the matters set out in Schedule 1.

(2) The exclusive administrative jurisdiction, conferred on the Tobago Executive Council by subsection (1) in relation to the list of matters set out in Schedule 1, shall extend to such part of the territorial sea of Trinidad and Tobago comprising those areas of the sea having as their inner limits the low watermark of Tobago and as their outer limits, a line measured seaward from that low watermark, every point of which is at a distance of eleven nautical miles from the nearest point of that low watermark.

6. (1) The Prime Minister and the Chief Secretary shall hold quarterly meetings with a view to formulating administrative and legislative mechanisms for the promotion of harmony in the affairs of Trinidad and Tobago.

(2) The Chief Secretary may, if invited by the Prime Minister so to do, attend meetings of Cabinet in order that the Chief Secretary may represent the interests of Tobago in any matter having or likely to have an effect on Tobago.

7. (1) The Government of Trinidad and Tobago may, by way of Memorandum of Understanding, authorise the Tobago Island Government to act on behalf of the Government of Trinidad and Tobago in respect of any of its responsibilities in Tobago.

(2) Where a statutory authority or a State enterprise provides services in Tobago, that authority or enterprise shall, in providing those services, act in accordance with the policies or programmes of the Tobago Island Government.

8. (1) Where a Secretary is assigned responsibility for a Division of the Tobago Island Government, he shall exercise general direction and control over that Division.

Meetings between Prime Minister and Chief Secretary

Schedule 1

Tobago Island Government to act on behalf of the Government of Trinidad and Tobago

Powers of a Secretary (2) Nothing in this Act shall affect mutual consultation between a Minister and a Secretary.

9. (1) There shall be assigned to the Tobago Island Chief Administrator Government, a Chief Administrator who shall be a public officer for the purposes of section 121 of the Constitution.

(2) The Chief Administrator shall be an Accounting Officer who shall be responsible for such Division as may be assigned to him by the Chief Secretary.

10. (1) Each Division of the Tobago Island Administrators Government shall be under the supervision of an Administrator, who shall be the Accounting Officer of the Division under his supervision.

(2) The terms and conditions of service of an Administrator shall be equivalent to those of a Deputy Permanent Secretary.

11. Subject to the guidelines prescribed or issued by Appointment on the Government in respect of the employment of persons ^{contract} on contract, the Tobago Island Government may appoint on contract such persons as it thinks fit.

PART III

TOBAGO LEGISLATURE

12. The Tobago Legislature shall be constituted by the Tobago Legislature President and the House of Assembly.

13. In accordance with the powers under section 53(2) Power to make law of the Constitution, the Tobago Legislature may make laws with respect to the matters set out in the Schedule 2. Schedule 2

14. (1) No person elected or appointed to the House of Assumption Assembly shall assume the duties of his office until he is administered the relevant oath of office.

(2) The term of office of a Member of the House of Assembly commences on the day on which he is elected or appointed to office. Time limit for swearing in

15. (1) Where a person elected or appointed to serve in the House of Assembly is not present at the meeting referred to in section 141D of the Constitution, he shall be administered the oath of office by the President at a meeting convened for that purpose and held not later than one month after the date of his election or appointment to office or, subject to subsection (3), at the next ordinary meeting at which he is present.

(2) Subject to subsection (3), where at the expiration of one month from the date of his election or appointment, a Member has not taken the oath of office, he is disqualified from assuming the duties and responsibilities of a Member and his seat shall fall vacant.

(3) The Presiding Officer may resolve before the expiration of the period of one month of the election or appointment of a Member who has not taken the oath of office, either on his own motion or at the request of that Member, to extend the period of one month to a period not exceeding three months, at the end of which extended period, should the Member not be sworn, his seat shall fall vacant.

(4) Notice of any extension of time granted in accordance with subsection (3) shall be immediately made to the President by the Presiding Officer and announced to the House of Assembly.

Publication of names of members **16.** Upon the election or appointment to the House of Assembly, the names of the Members of the House of Assembly shall be posted on the outer door of the Chamber of the House of Assembly and published in the *Gazette* and in at least one daily newspaper circulating in Trinidad and Tobago and may be published electronically or by any other means.

Remuneration of members and pension scheme **17.** (1) The salaries, allowances and other conditions of service of the Members of the House of Assembly shall be reviewed by the Salaries Review Commission in accordance with section 141 of the Constitution.

(2) The report of the Salaries Review Commission under subsection (1) concerning any review of salaries or other conditions of service, or both, shall be submitted to the President who shall forward a copy to the Chief Secretary for presentation to the Tobago Executive Council and for laying, as soon as possible thereafter, on the table of the House of Assembly.

(3) The House of Assembly shall, in accordance with the Financial Rules made under section 39, establish a pension scheme for the Members of the House of Assembly.

(4) The salaries and allowances payable to the Members of the House of Assembly are a charge on the Tobago Fund.

(5) Section 3(5) of the Constitution applies to the Members of the House of Assembly.

(6) The Chief Secretary, Deputy Chief Secretary, Secretary, Assistant Secretary and the Presiding Officer shall not engage in any trade, business, occupation or other undertaking for profit or remuneration other than that of serving as Chief Secretary, Deputy Chief Secretary, Secretary, Assistant Secretary or Presiding Officer.

18. (1) In addition to any other Select Committee Appointment of which the House of Assembly is empowered to appoint Committees under this Act and its Standing Orders, the House of Assembly shall, within one calendar month after the—

- (a) commencement of the Constitution (Amendment) (Tobago Self-Government) Act, 2021; and
- (b) first meeting of the House of Assembly after any election, or such time as the House of Assembly may resolve not being later than three months thereafter,

appoint four Select Committees, to inquire into and report to the House in respect of—

- (i) matters listed in Schedules 1 and 2;
- (ii) all Divisions under the Tobago Executive Council;
- (iii) authorities created by Tobago Acts; and
- (iv) enterprises owned or controlled by or on behalf of the Tobago Island Government or which received funding from the State of more than two-thirds of its total income in any one year.

(2) A Committee appointed for the purposes set out in subsection (1) may—

- (a) appoint sub-committees from among its members and delegate any of its powers to such sub-committees and the sub-committees shall make a report of its opinion and observations which shall be laid in the House of Assembly;
- (*b*) adjourn from place to place;
- (c) appoint specialist advisers to assist them in their deliberations; and
- (d) subject to any order of the House of Assembly or resolution of a Committee, conduct its sitting in public.

(3) A Select Committee in exercising its powers under subsection (2) shall not enquire into the validity of the exercise of the functions of a body referred to in subsection (2)(a) nor modify, alter, rescind or in any way interfere with the decisions of any such body.

(4) The Standing Orders of the House of Assembly shall apply to a Committee appointed under this section.

19. (1) There shall be a Public Accounts Committee Public Accounts which shall consist of not less than four nor more than ^{Committee} six members.

(2) The Chairman of the Public Accounts Committee shall be a member of the Minority, if any, and if willing to act.

(3) The Public Accounts Committee shall be so constituted as to ensure, so far as is possible, that the balance of the parties and groups in the House of Assembly is reflected in the Committee.

(4) Where no member of the Minority is willing to act as Chairman of the Public Accounts Committee, one of the members appointed pursuant to section 141B(d) of the Constitution and willing to serve shall be appointed Chairman.

(5) The Public Accounts Committee shall consider and report to the House of Assembly on—

- (a) appropriation accounts of moneys expended out of sums granted by the House of Assembly to meet the public expenditure of Tobago;
- (b) the report of the Auditor General on any such accounts, balance sheets and other financial statements;
- (c) the balance sheets, other financial statements and all audited accounts and audited reports of all enterprises that are owned or controlled by or on behalf of the Tobago Island Government; and
- (d) such other accounts as may be referred to the Committee by the House of Assembly or as are authorised or required to be considered by the committee under any other enactment.

(6) For the purposes of subsection (5) and section 18(1)(b)(iv), an enterprise shall be taken to be controlled by the Tobago Island Government or any body controlled by the Tobago Island Government—

- (a) exercises or is entitled to exercise control directly or indirectly over the affairs of the enterprise;
- (b) is entitled to appoint a majority of the directors of the Board of Directors of the enterprise; or
- (c) holds at least fifty per cent of the ordinary share capital of the enterprise, as the case may be.

20. (1) There shall a Public Administration and Appropriations Committee which shall consist of not less than four nor more than six members.

(2) The Chairman of the Public Administration and Appropriations Committee shall be a member of the Minority, if any, and if willing to act.

(3) The Public Administration and Appropriations Committee shall be so constituted as to ensure, so far as is possible, that there is a balance of the parties and groups.

(4) Where no member of the Minority is willing to act as Chairman of the Public Administration and Appropriations Committee, one of the representatives appointed pursuant to section 141B(d) of the Constitution and willing to serve shall be appointed as the Chairman.

(5) The Public Administration and Appropriations Committee shall consider and report to the House of Assembly on—

> (a) the budgetary expenditure of the Tobago Island Government agencies to ensure that expenditure is embarked upon in accordance with House of Assembly approval;

Public Administration and Appropriations Committee

- (b) the budgetary expenditure of the Tobago Island Government agencies as it occurs and keep the House of Assembly informed of how the budget allocation is being implemented; and
- (c) the administration of Tobago Island determine Government agencies to hindrances to their efficiency and to make recommendations to the Tobago Island Government for improvement of public administration.

21. Notwithstanding any written law, a member of the Exemption from jury House of Assembly shall be exempt from jury service.

22. The House of Assembly is a public body for the House of Assembly is a public body purposes of the Prevention of Corruption Act. Chap. 11:11

23. Members of the House of Assembly are persons in Members of House of public life for the purposes of the Integrity in Public Life Assembly as public life for the purposes of the Integrity in Public Life Assembly as a second s public life Act. Chap. 22:01

24. (1) There is established a body known as the Office Establishment of the of the Tobago Legislature, which shall be headed by the Tobago Legislature, Clerk and Deputy Clerk of the House of Assembly.

Clerk of the House of Assembly

(2) The offices of the Clerk of the House of Assembly and the Deputy Clerk of the House of Assembly are established as public offices.

(3) The terms and conditions of service of the Clerk of the House of Assembly shall be equivalent to those of an Administrator.

(4) Section 14A of the Civil Service Act shall apply to the Clerk of the House of Assembly and the Deputy Clerk of the House of Assembly.

(5) The offices of Clerk and Deputy Clerk are, for the purpose of sections 42, 43, 110, 120, 122, 133 and 134 of the Constitution, deemed to be public offices.

(6) The Clerk of the House of Assembly shall be an Accounting Officer.

(7) The Clerk of the House of Assembly shall be responsible for—

- (a) advising the House of Assembly on parliamentary law, practice and procedure;
- (b) ensuring that the Tobago Legislature is provided with the property, staff and services required for the performance of its legislative functions;
- (c) the management and administration of the Office of the Tobago Legislature; and
- (d) the efficient discharge of such functions as are provided to be discharged by him under the Rules and Standing Orders of the House of Assembly or as may be assigned to him by the Presiding Officer.

(8) The Chief Secretary, acting on the recommendation of the Secretary responsible for finance after consultation with the Clerk of the House of Assembly, may from time to time prescribe, by notice published in the *Gazette*, the offices, other than the office of Deputy Clerk, which are to constitute the staff of the Office of the Tobago Legislature and may likewise prescribe the seniority of offices.

25. (1) The Public Service Commission shall have the power to appoint a person to the office of Clerk of the House of Assembly and the office of Deputy Clerk of the House of Assembly, in accordance with section 121(1) of the Constitution.

(2) Before the Public Service Commission makes an appointment to the office of Clerk of the House of Assembly and the Deputy Clerk of the House of Assembly, it shall consult the Chief Secretary.

(3) A person shall not be appointed to an office mentioned in subsection (1) if the Chief Secretary signifies to the Public Service Commission his objection to the appointment of that person to that office.

Appointment of Clerk and Deputy Clerk of the House of Assembly (4) The power to make an appointment on transfer to the offices mentioned in subsection (1) from one such office to another such office carrying the same salary and allowances shall vest in the Chief Secretary.

(5) Before the Public Service Commission makes any appointment to or transfers a member of the staff of the Office of the Tobago Legislature, it shall first consult with the Clerk of the House of Assembly.

(6) Before the Public Service Commission appoints a person—

- (a) to any office on the establishment of the Office of the Tobago Legislature, other than the office of Deputy Clerk of the House of Assembly; or
- (b) holding or acting in any office on the establishment of the Office of the Tobago Legislature to any other public office,

the Commission shall consult the Clerk of the House of Assembly.

26. (1) The Salaries Review Commission shall from Salaries and time to time, with the approval of the President, review allowances of the Clerk and Deputy the salaries and other conditions of service of the Clerk Clerk of the House of the House of Assembly and the Deputy Clerk of the House of the House of Assembly.

(2) The salaries and allowances of the Clerk and Deputy Clerk shall be a charge on the Tobago Fund.

(3) The salary payable to the Clerk and Deputy Clerk shall not be altered to their disadvantage after their appointment.

27. The House of Assembly shall publish the Tobago Publication of Acts in the *Gazette*.

PART IV

FINANCE

28. (1) The Secretary responsible for finance for the Establishment of time being shall be a corporation sole by the name of the Secretary of Finance as a corporation sole

Secretary of Finance and all property transferred to and vested in the Secretary of Finance by a Tobago Act or otherwise acquired by the Secretary of Finance shall be held in trust for the Tobago Island Government.

(2) Upon and by virtue of the appointment of any person to be Secretary of Finance, the benefit of all Deeds, contracts, bonds, securities or things in action vested in his predecessor at the time of his predecessor ceasing to hold office shall be transferred to and vested in and enured for the benefit of the person so appointed in the same manner as if he had been contracted with instead of his predecessor and as if his name had been inserted in all such deeds, contracts, bonds or securities instead of the name of his predecessor.

(3) Notwithstanding the provisions of the State Liability and Proceedings Act, the Secretary of Finance may sue or be sued in his corporate capacity but only with respect to any real or personal property for the time being vested in him.

29. (1) The Secretary of Finance as a corporation sole shall have a seal which shall be kept in his custody and shall be judicially noticed as such.

(2) The seal of the corporation sole may be affixed to documents and instruments in the presence of the Secretary of Finance and shall be attested by the signature of the Secretary of Finance, and the signature shall be sufficient evidence that the seal was duly and properly affixed and is the lawful seal of the corporation sole.

(3) All documents, other than those required by law to be under seal, made by, and all decisions of, the corporation sole may be signified under the hand of the Secretary of Finance.

(4) Notwithstanding the provisions the of Registration of Deeds Act and the Real Property Act relating to the matters thereunder required to be

Chap. 8:02

Seal of corporation sole

Chap. 19:06 Chap. 56:02 performed and to the mode of their performance prior to the registration of a deed, document or other instrument, the affixing of the seal of the corporation sole and the signing by the Secretary of Finance in the manner set out in subsection (2) shall be, and shall be taken as, sufficient evidence for the purposes of those Acts of the due execution by the corporation sole of any deed, document or other instrument.

30. Parliament shall appropriate for the use of the Tobago allocation House of Assembly for any financial year no less than six point eight percent (6.8%) of the total sum appropriated by Parliament in that financial year or such other percentage as may be determined by the Fiscal Review Committee under section 43 and approved by the Parliament by Resolution.

31. (1) There shall be a fund called "the Tobago Fund" Tobago Fund which shall consist of—

- (a) such monies as shall be appropriated by Parliament for the use of the Tobago Island Government; and
- (b) such other monies as the Tobago Island Government may lawfully collect, borrow or be granted.

(2) Monies appropriated by Parliament for the service of the financial year of the House of Assembly shall be credited to the Tobago Fund in quarterly releases in advance *en bloc*.

32. (1) Notwithstanding section 13 of the Exchequer Collection of and Audit Act, all revenue collected in Tobago on behalf revenues of the Government and payable thereto in respect of activities undertaken or discharged in Tobago shall be paid into the Tobago Fund.

(2) Upon the coming into force of this Act, any company, financial institution or a person operating a business in Tobago shall pay in Tobago all taxes, fees, duties, levies and other imposts in respect of its operations in Tobago.

(3) Monies credited to the Tobago Fund in accordance with subsections (1) and (2) shall be set-off against the annual allocation appropriated by Parliament to the Tobago Fund.

33. All expenditure incurred by the Tobago Island Expenditure Government shall be paid out of the Tobago Fund.

- Audit of accounts **34.** The accounts of the House of Assembly are public accounts of Trinidad and Tobago for the purposes of section 116 of the Constitution.
- **35.** Monies appropriated by Parliament to the Tobago Retention of monies Fund for the service of a financial year which remain unexpended at the end of that financial year shall be retained by the House of Assembly.
- **36.** (1) Subject to subsection (2), where in any financial Surrender of surplus monies year, monies paid into the Tobago Fund in accordance with section 31 exceed the quantum appropriated by Parliament to the Tobago Fund for that year, the Tobago Island Government shall retain fifty per cent or such larger portion as the Minister with responsibility for finance, may by Order specify in respect of that year, of such excess to be applied towards such projects as it considers fit.

(2) The Tobago Island Government shall surrender the balance of the excess to the Consolidated Fund within the first quarter of the following financial year.

37. (1) Subject to subsection (2), the Tobago Executive Power to borrow Council shall have the power to borrow locally and internationally such sums as the Tobago Executive Council considers necessary for the discharge of its functions.

- (2) The Tobago Executive Council may borrow—
 - (a) for any purpose relevant to its functions under any written law;
 - (b) for the purpose of the prudent management of its financial affairs;

- (c) for the purposes of any investment as approved by the Tobago Executive Council; and
- (d) for any other purpose approved by the Tobago Legislature,

subject to the approval of the Minister with responsibility for finance, which should not unreasonably be withheld.

- **38.** (1) The Tobago Executive Council may invest— Power to invest
 - (a) for any purpose relevant to its functions under any law;
 - (b) for the purposes of the prudent management of its financial affairs;
 - (c) money that is not, for the time being, required by the Tobago Executive Council for any other purpose; and
 - (d) only in a form of investment approved by the Tobago Legislature.

(2) The Tobago Executive Council shall delegate its responsibility for the management of one of its investment accounts to the Central Bank.

39. The Secretary with responsibility for finance shall Financial Rules make Financial Rules as are necessary for the proper management of the finances of the Tobago Island Government which Rules shall be approved by the Tobago Legislature.

40. In any civil or criminal proceedings in respect of Description of any monies or other property whatsoever belonging to, or property under the control of the Tobago Island Government, it shall be sufficient to describe the same as being the monies or property of the Republic of Trinidad and Tobago.

41. (1) The Secretary responsible for finance shall _{Tobago} cause to be prepared and laid before the House of ^{Appropriation Bills} Assembly not later than thirty days after the monies

which have been appropriated by Parliament for use by the Tobago Island Government after the commencement of each financial year, estimates of the revenues and expenditure of Tobago Island Government for that year.

(2) The heads of expenditure contained in the estimates, other than expenditure charged upon the Consolidated Fund by the Constitution or any Act, shall be included in a Bill, to be known as the 'Tobago Appropriation Bill', providing for the issue from the monies which have been appropriated by Parliament under subsection (1) to the Tobago House of Assembly Fund to be monies necessary to meet that expenditure and the appropriation of those monies for the purposes specified therein.

- (3) If, in respect of any financial year, it is found—
 - (a) that the amount appropriated by the Tobago 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 the Act; or
 - (b) that any monies have been expended for any purpose in excess of the amount appropriated for that purpose by the Tobago Appropriation Act or for a purpose for which no amount has been appropriated by the Act,

a supplementary estimate showing the monies appropriated by Parliament for use by the Tobago House of Assembly shall be laid before the Tobago House of Assembly and the heads of any such expenditure shall be included in a Supplementary Tobago Appropriation Bill.

Contingencies Fund **42.** (1) The House of Assembly may provide for the establishment of a Contingencies Fund and for authorising the Secretary with responsibility for finance, if he is satisfied that there has arisen an urgent and unforeseen need for expenditure for which no other provision exists, to make advances from the Fund to meet that need.

(2) Where any advance is made in accordance with subsection (1), a supplementary estimate shall be presented and a Supplementary Appropriation Bill shall be introduced as soon as possible for the purpose of replacing the amount so advanced.

(3) Estimates containing the details of the financial requirements shall be presented at the same time as any such Bill and shall immediately stand referred to the Standing Finance Committee.

(4) The procedure for the passage of the Appropriation Bill or the Supplementary Appropriation Bill in the Tobago Legislature shall be set out in the Standing Orders and shall include the referral of such Bills together with the relevant Estimates to the Standing Finance Committee of the House of Assembly.

43. (1) There shall be established a Fiscal Review Fiscal Review Committee which shall comprise—

- (a) a Chairman, who shall be the Minister with responsibility for finance or his alternate;
- (b) a Deputy Chairman, who shall be the Secretary with responsibility for finance or his alternate;
- (c) one member appointed by the Tobago Executive Council; and
- (d) two members appointed by the Cabinet.

(2) The members of the Commission appointed under subsections (1)(c) and (d) shall be qualified and have at least ten years of experience in—

- *(a)* law;
- (b) management or business administration;
- (c) finance or accounting; or
- (d) economics.

(3) The members of the Fiscal Review Committee shall serve for a period no less than two years and no more than five years.

(4) The responsibilities of the Fiscal Review Committee shall be to—

- (a) determine and recommend to Parliament the sums required to be appropriated to Tobago in each financial year;
- (b) establish a mechanism for revenue sharing between the Tobago Island Government and the Government of Trinidad and Tobago;
- (c) ensure that all revenues, fees and duties collected in Trinidad that are attributable to Tobago such as from custom duties, import duties and stamp duties and other duties shall be held for the account of Tobago;
- (d) to initiate special audits into any financial matter of the Tobago Island Government; and
- (e) give due consideration to the financial and developmental needs of Tobago in the context of Trinidad and Tobago and shall allocate financial resources to Tobago as fairly as is practicable, and in determining what is fair and practicable, the following considerations, among others, shall apply:
 - (i) physical separation of Tobago by sea from Trinidad;
 - (ii) isolation from the principal national growth centres;
 - (iii) absence of the multiplier effect of expenditures and investments (private and public) made in Trinidad;

- (iv) restricted opportunities for employment and career fulfillment; and
- (v) the impracticability of participation by residents of Tobago in the major educational, cultural and sporting facilities located in Trinidad.

(5) The Fiscal Review Committee shall submit to Parliament prior to the presentation of the budget in any financial year, a report on the review of the sums required to be appropriated.

(6) The report of the Fiscal Review Committee shall be taken into consideration by Parliament in making an appropriation above 6.8 percent in any financial year.

PART V

TRANSITIONAL PROVISIONS

44. Notwithstanding section 58, the persons who were Assemblymen Assemblymen of the former Assembly immediately prior deemed to be elected Assembly Members to the coming into force of this Act shall, on its coming into force, be deemed to have been elected as Assembly Members pursuant to section 141B of the Constitution, and shall for the purpose of any law relating to the payment of pension benefits to such members not be disqualified solely by reason of this section.

45. (1) Any matter before the House of Assembly Continuation of which immediately before the commencement of this Act ^{matters and rules of} was not disposed of by the Tobago House of Assembly ^{Assembly} shall continue under the Tobago Legislature.

(2) The rules and orders of the Tobago House of Assembly in force immediately before the commencement of this Act, shall, to the extent that they can *mutatis mutandis* be applied in respect of the business and proceedings of the Tobago Legislature, continue in force until amended or replaced under this Act. Saving of employment

46. (1) A person who was employed by an institution established under the Tobago House of Assembly Act, immediately before the date of the coming into force of this Act shall, on that date, be transferred to the Tobago Island Government and all the rights, privileges, tenure and other terms and conditions of service incidental to such employment shall continue in such employment subject to and in accordance with this Act and any other applicable laws regulating such employment.

(2) The superannuation benefits which have accrued to a person under subsection (1), who prior to the coming into in force of this Act was employed by the former Assembly, shall be preserved at the date of his transfer to the Tobago Island Government, and such person shall continue to accrue superannuation benefits on the basis of the salary applicable to the office which he held immediately prior to his transfer to the Tobago Island Government.

(3) Executive authority which was vested in any person immediately before the commencement of this Act shall, during the period in which that person continues in office in terms of subsection (1), be exercised in accordance with the Tobago House of Assembly Act, as if it had not been repealed or superseded by this Act, and any such person shall continue to administer any Division or other institution which was entrusted to, and to exercise and perform any power or function which was vested in him immediately before that commencement.

(4) A person who, immediately before the commencement of this Act, was employed on contract by an institution established under the Tobago House of Assembly Act shall continue in such employment under this Act, until the expiration of the term of the contract.

Staff of the Tobago Island Government **47.** (1) This section applies to an officer who, on the date of the coming into force of this Act—

(a) holds a permanent appointment to; or

(b) holds a temporary appointment to, and has served at least two continuous years in,

an office in the Public Service on the establishment of the Tobago House of Assembly.

(2) A person to whom this section applies may, within three months of the coming into force of this Act, exercise one of the following options:

- (a) voluntarily retire from the Public Service on terms and conditions agreed between him or his appropriate recognised association and the Chief Personnel Officer;
- (b) transfer to the Tobago Island Government with the approval of the appropriate Service Commission on terms and conditions no less favourable than those enjoyed by him in the Public Service; or
- (c) remain in the Public Service, provided that an office commensurate with the office held by him in the Public Service prior to the date of the coming into force of this Act, is available.

48. Subject to any written law, a person transferred Continuation of under section 46 shall, for the purpose of collective association bargaining, continue to be represented by the relevant representative association that formerly represented him.

49. An agreement applicable to a person transferred Existing agreements under section 46 shall be valid and binding on the relevant representative association and the Tobago Island Government, and such agreement is deemed to be registered under the Industrial Relations Act. Chap. 88:01

50. Upon the commencement of this Act and subject Continuation of to any written law a collective agreement or other ^{collective agreements} agreement that immediately prior to the commencement of this Act affected a person transferred under section 46, shall continue to have effect in relation to such a person.

Right of association

Transferral of monies credited to

former Fund and appropriated to

former Assembly

51. Persons employed in the Tobago Island Government may form an association which may be registered as a trade union or may join a trade union.

52. Upon the coming into force of this Act—

- (a) all sums of monies credited to and all charges on the former Fund shall be transferred to the Tobago Fund; and
- (b) all sums of monies appropriated to the former Fund shall be appropriated to the Tobago Fund.
- **53.** Upon the coming into force of this Act—
 - (a) all lands and other property of every kind located in Tobago vested in the State except the residences of the President and the Prime Minister are hereby vested in the Secretary of Finance who shall hold them in trust for the Tobago Island Government in right of the Republic of Trinidad and Tobago;
 - (b) all lands and other property of every kind, including things in action, vested in the former Assembly are hereby vested in the Secretary of Finance who shall hold them in trust for the Tobago Island Government; and
 - (c) all the rights, privileges and benefits and all the liabilities and obligations that, immediately before the coming into force of this Act, the former Assembly was entitled or subject to, are hereby transferred to and conferred or imposed upon the Secretary of Finance.

54. Legal proceedings pending immediately before the coming into force of this Act by or against the former Assembly may, on the coming into force of this Act, be continued by or against the Tobago Island Government as the party to the proceedings instead of the former Assembly.

Vesting of powers, rights and property in the Tobago Island Government

Pending legal proceedings

24

55. Notwithstanding the repeal of the Tobago House Savings of Assembly Act by this Act, the Tobago House of Assembly Financial Rules, 1990 shall, until such time as Financial Rules are made and approved under section 39 and come into force, remain in force and apply to the House of Assembly with such modifications as are necessary for conformity with this Act.

PART VI

GENERAL PROVISIONS

56. The President may by Order, subject to negative Order to amend resolution of Parliament, amend Schedule 1 and Schedules 1 and 2 Schedule 2 to add any other matter.

57. (1) A reference in any written law to the former _{Consequential} Assembly shall be construed as a reference to the House ^{amendments} of Assembly or the Tobago Island Government, as the case may be.

(2) A reference in any written law to Assemblyman shall be construed as a reference to Assembly Member.

58. The Tobago House of Assembly Act is repealed.

59. The Interpretation Act is amended in—

Chap. 25:03 repealed Chap. 3:01 amended

- (a) section 4, by inserting after the words "Every Act", the words "or Tobago Act";
- (b) section 5, by inserting after the words "an Act", the words "or a Tobago Act";
- (c) section 8, by inserting after the words "Act" wherever it occurs, the words "or a Tobago Act";
- (d) section 9, by inserting after the words "An Act" the words "or a Tobago Act";
- (e) section 14 (2), by inserting after the word "Act", the words "or Tobago Act";
- (f) section 17(9), by inserting after the word "Act" wherever it occurs, the words "or a Tobago Act";

- (g) section 19, by inserting after the words "an Act" and "the Act", the words "or a Tobago Act" and "or the Tobago Act", respectively;
- (h) section 49, by inserting after the word "Act" wherever it occurs, the words "or a Tobago Act";
- (i) section 66(1), by inserting after the word "Act" wherever it occurs, the words "or Tobago Act";
- (j) section 68(2), by inserting after the word "Act" wherever it occurs, the words "or Tobago Act";
- (k) section 75(1), in the definition of—
 - (i) "statutory document" by inserting after the word "Act", the words "or a Tobago Act";
 - (ii) "statutory instrument" by inserting after the words "House of Parliament" the words "or the Tobago Legislature"; and
 - (iii) "written law" by inserting after the word "Acts" the words ", Tobago Acts,"; and
- (*l*) section 79, in the definition of "statutory board" by inserting after the words "an Act", the words "or a Tobago Act".
- 60. The Statutes Act is amended in—
 - (a) section 2, by inserting after the word " "Acts" " the words "or "Tobago Acts", as the case maybe";
 - (b) section 3-

Chap. 3:02 amended

(i) in subsection (2), by deleting the full stop and inserting after the words "as follows:", the words ", or "Enacted by the Tobago Legislature as follows:", as the case may be."; and (ii) by inserting after subsection (3), the following subsection:

> "(3A) In every Bill passed under section 141A of the Constitution and presented to the President for assent, the words of enactment shall be as follows:

> > "Enacted by the President by and with the advice and consent of the Tobago Legislature in accordance with section 141A of the Constitution and by the authority of the same as follows:"";

- (c) section 4, by inserting after the word "Representatives", the words "or the Clerk of the House of Assembly, as the case maybe,";
- (d) section 6, by inserting after—
 - (i) subsection (1), the following subsection:

"(1A) When the Constitution, for any purpose, requires a Bill to be supported at the final vote thereon by the votes of a specified proportion of the members of the House of Assembly, the Clerk of the House of Assembly shall certify whether any such Bill

passed by the House of Assembly was at the final vote supported by the votes of the required proportion of the members of the House of Assembly."; and

- (ii) the words "and authenticated", the words "under subsection (1) or (1A)";
- (e) section 7(2), by inserting after the—
 - (i) word "Representatives", the words "or the Clerk of the House of Assembly, as the case may be,"; and
 - (ii) words "of Parliament", the words "or the Tobago Legislature";
- (f) section 8, by inserting after the words "House of Representatives" wherever they occur, the words "or Clerk of the House of Assembly";
- (g) section 9, by inserting after the word "Parliament", the words "or the Tobago Legislature, as the case may be";
- (h) section 11, by inserting after the word "Parliament" wherever it occurs in subsections (2), (3) and (4), the words "or the Tobago Legislature, as the case may be,"; and
- (i) section 12(2), by inserting after the words "of Parliament", the words "or a Tobago Act".

Written law amended Council Paper No. 177 M.P. No. 4533/1898 M.P. No. 4538 M.P. N

SCHEDULE 1

(Section 5)

THE LIST OF MATTERS FOR WHICH THE TOBAGO EXECUTIVE COUNCIL SHALL HAVE EXCLUSIVE ADMINISTRATIVE JURISDICTION IN TOBAGO

- 1. Agriculture
- 2. Community Development

3. Construction and maintenance of public buildings and the maintenance of the residences of the President and Prime Minister

- 4. Co-operatives
- 5. Culture and the Arts
- 6. Customs and Excise
- 7. Education, including Curriculum

Except-

National Accreditation System

8. Emergency Management Services

9. Finance, that is to say, the collection of revenue and the meeting of expenditure incurred in the carrying out of the functions of the Tobago Island Government

Except-

- Banking (Central and Commercial)
- **Financial Intelligence**

Foreign Exchange and Exchange Control

- Macro-economic policy
- National Insurance
- National Pension Scheme

Taxation

- 10. Fisheries
- 11. Food Production
- 12. Forestry
- 13. Health Services
- 14. Highways and Roads
- 15. Housing
- 16. Industrial Development

17. Infrastructure, including air and sea transport, wharves and airports and public utilities

- 18. Labour
- 19. Land and Marine parks
- 20. Library Services
- 21. Licensing
- 22. Marketing

23. Museums, archives, historical sites and historical buildings and Cemeteries

24. Office of the Chief Secretary

Except—

Commission of Enquiry

Constitutional Matters

Protocols for State

Public Holidays

Children's Authority of Trinidad and Tobago

25. Office of the Secretary of Legal Affairs

Except—

Anti-Money Laundering, Counter Financing of Terrorism and Proliferation Financing (AML/CFT/PF)

Appointments to Quasi-Judicial Bodies

Children's Attorney

Constitutional Reform

Construction of court facilities for the Judiciary

The Criminal Justice System

Intellectual Property

International Office of Child Rights

Law Reform Commission

Law Revision Commission

Legal Service Complaints

National Anti-Money Laundering and Counter Financing of Terrorism Committee

National Biosafety

Office of the Chief Parliamentary Counsel
Office of the Chief State Solicitor
Office of the Director of Public Prosecutions
Office of the Solicitor General
Registrar General
Central Authority
Council of Legal Education
Environmental Commission
Equal Opportunity Commission
Equal Opportunity Tribunal
Hugh Wooding Law School
Industrial Court
International Law and Human Rights Unit
Legal Aid and Advisory Authority
Sentencing Commission

26. Planning and Development

Except-

National Framework for Sustainable Development National Monitoring and Evaluation National Statistics National Trust National Development Plan

National planning and development

- 27. Plant and Animal Quarantine
- 28. Postal services and collection of revenue therefrom

Tax Appeal Board

29. Public Utilities

Except-

Meteorological Services

- 30. Social Welfare
- 31. Sports
- 32. State Lands
- 33. Statistics and Information

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- 34. Telecommunications
- 35. The Environment

Except—

Environmental Management Authority National environmental conservation

- 36. The Tobago Legislature
- 37. Tourism, including amenities and levies
- 38. Town and Country Planning
- 39. Valuations
- 40. Works
- 41. Youth Development.

42. The Tobago Executive Council shall have exclusive administrative jurisdiction in relation to the list of matters set out above within Tobago and such part of the territorial sea of Trinidad and Tobago comprising those areas of the sea having as their inner limits the low watermark of Tobago and as their outer limits, a line measured seaward from that low watermark, every point of which is at a distance of eleven nautical miles from the nearest point of that low watermark.

SCHEDULE 2

(Section 13)

THE LIST OF MATTERS FOR WHICH THE TOBAGO LEGISLATURE SHALL HAVE EXCLUSIVE LAW MAKING POWERS IN TOBAGO

- 1. Agriculture, Plant and Animal Quarantine
- 2. Community Affairs and Cooperatives

3. Conservation (other than national environmental conservation)

- 4. Consumer Affairs
- 5. Culture and Entertainment

6. Economic Planning and Development (other than macro-economic policy, national planning and development)

- 7. Education, Library, Training and Skills development
- 8. Emergency Management Systems
- 9. Employment of persons who are not citizens

10. Financial matters, including borrowing, investment, revenue and other matters of the Tobago Island Government (other than Banking (Central and Commercial), Financial Intelligence, Foreign Exchange and Exchange Control, Macro-economic policy, National Insurance, National Pension Scheme and Taxation)

- 11. Forestry
- 12. Generation, Supply and Distribution of renewable energy
- 13. Health and Social Services (other than national pension)
- 14. Heritage and Historical sites
- 15. Housing
- 16. Industries, Trade and Businesses

17. Land and Buildings other than land and buildings vested in the State and specifically appropriated to the use of the Government, including holding of land by persons who are not citizens

18. Matters related to the proceedings and operations of the Tobago Legislature

- 19. Prevention and control of fires
- 20. Restaurants, Bars, Casinos and other similar establishments
- 21. Sport

22. The Environment (other than the Environmental Management Authority)

- 23. Tourism, including amenities and levies
- 24. Transport, Roads and Highways.

Passed in the House of Representatives this day of , 2021.

 $Clerk \ of \ the \ House$

I confirm the above.

Speaker

Passed in the Senate this 2021.

day of

Clerk of the Senate

,

I confirm the above.

President of the Senate

No. 6 of 2021

FIRST SESSION TWELFTH PARLIAMENT

REPUBLIC OF TRINIDAD AND TOBAGO

BILL

AN ACT to repeal the Tobago House of Assembly Act, Chap. 25:03, and to provide for the powers and functions of the Tobago Island Government and the Tobago Legislature and for related matters

Received and read the

First time Second time Third time