

THE COMMISSION OF ENQUIRY (VALIDATION AND
IMMUNITY FROM PROCEEDINGS) ACT, 2009

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Second Session Ninth Parliament Republic of
Trinidad and Tobago



REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 13 of 2009

[L.S.]

AN ACT to validate the proceedings and the record of the proceedings of the Commission of Enquiry into the Construction Sector, which was appointed on 9th September, 2008 by the President under the Commissions of Enquiry Act, Chap. 19:01, and for other related matters

[Assented to 3rd November, 2009]

WHEREAS the President acting pursuant to section 2^{Preamble} of the Commissions of Enquiry Act, Chap. 19:01, ("the Act") appointed a Commission of Enquiry into the Construction Sector ("the Commission") on 9th September, 2008:

And whereas under section 15 of the Act it is provided, *inter alia*, that all commissions appointed under the Act shall be published in the *Gazette* and shall take effect from the date of publication:

And whereas the publication of the appointment of the Commission was not done pursuant to section 15 of the Act:

And whereas the commissioners proceeded from 9th September, 2008 until 10th September, 2009 to exercise the powers which would ordinarily have been vested in them under the Act, including summoning witnesses and parties concerned and examining them on oath and taking evidence:

And whereas it is desirable to remedy the consequence of the failure to comply with section 15 of the Act so that prior to the commencement of this Act—

- (a) the proceedings and the record of the proceedings of the enquiry are deemed not to be invalid;
- (b) the evidence given to the Commission is deemed valid and can be used by the Commission in its report to the President;
- (c) each commissioner shall not be subject to any legal proceedings for any matter or thing done by him as a commissioner; and
- (d) every witness who gave evidence before the Commission or any person who published any evidence given to the Commission shall not be subject to any legal proceedings in respect of such evidence or publication, as the case may be:

And whereas it is enacted by section 13(1) of the Constitution that an Act of Parliament to which that section applies may expressly declare that it shall have effect even though inconsistent with sections 4 and 5 of the Constitution and, if any Act does so declare, it shall have effect accordingly:

And whereas it is provided in section 13(2) of the Constitution that an Act of Parliament to which that section applies is one the Bill for which has been passed by both Houses of Parliament and at the final vote thereon in each House has been supported by the votes of not less than three-fifths of all the members of that House:

And whereas it is necessary and expedient that the provisions of this Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution:

ENACTED by the Parliament of Trinidad and Tobago as Enactment follows:

1. This Act may be cited as the Commission of Short title Enquiry (Validation and Immunity from Proceedings) Act, 2009.

2. This Act shall have effect even though inconsistent Act inconsistent with Constitution with sections 4 and 5 of the Constitution.

3. In this Act—

“Act” means Commissions of Enquiry Act;

Interpretation

Chap. 19:01

“Commission” means the Commission of Enquiry into the Construction Sector, which was appointed on 9th September, 2008 by the President pursuant to section 2 of the Act;

“commissioner” means a person appointed by the President as a member of the Commission;

“evidence” includes all information, witness statements, books, plans and other documents given to the Commission during the period 9th September, 2008 to 10th September, 2009;

“proceedings” means the proceedings of the Commission between the period 9th September, 2008 to 10th September, 2009.

Validation of proceedings and record of the proceedings of commission of enquiry

4. The proceedings and record of the proceedings of the Commission are deemed to be valid to the extent that it would have been valid if the Commission had been published in the *Gazette* in accordance with section 15 of the Act.

Validation of any matter or thing done by commissioners

5. Every matter, act or thing done by the Commission or a commissioner under the purported authority of the Act from 9th September, 2008 to 10th September, 2009 that would have been lawful if section 15 of the Act had been complied with at the time when it was done is hereby validated and declared to have been lawfully done by it or him, respectively.

Validation of evidence given by any witness

6. The evidence given by any witness to the Commission during the proceedings of the Commission under the purported authority of section 12 of the Act that would have been lawful if section 15 of the Act had been complied with at the time when the evidence was given is hereby validated and declared to have been lawfully given by that witness.

Use of validated evidence

7. Subject to section 9, the evidence validated by section 6 may be—

- (a) relied on by the commissioners in the conduct of the Commission and in their report to the President; and
- (b) used in any civil or criminal proceedings in any Court.

Validity of publications

8. Any evidence obtained and published or disseminated by any means by any person under the purported privilege of the Act during the purported subsistence of the Commission from 9th September, 2008 to 10th September, 2009 that would have been lawful if section 15 of the Act had been complied with at the time when it was done is hereby validated and declared to have been lawfully done by that person.

9. Notwithstanding any law to the contrary, no legal Immunity proceedings or other action shall be filed or maintained against—

- (a) the Commission or a commissioner for any matter, act or thing done by the Commission or a commissioner;
- (b) any person who gave evidence to the Commission; or
- (c) any person who reported, published or in any other manner disseminated any evidence given by a person to the Commission in respect of such dissemination,

as a consequence of the failure to gazette the Commission.

Passed in the Senate this 1st day of October, 2009.

N. ATIBA-DILCHAN

Acting Clerk of the Senate

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the Senate and at the final vote thereon in the Senate has been supported by the votes of not less than three-fifths of all the members of the Senate, that is to say by the votes of 23 Senators.

N. ATIBA-DILCHAN

Acting Clerk of the Senate

Passed in the House of Representatives this 21st day
of October, 2009.

J. SAMPSON
Clerk of the House

IT IS HEREBY CERTIFIED that this Act is one the Bill for
which has been passed by the House of Representatives
and at the final vote thereon in the House has been
supported by the votes of not less than three-fifths of all
the members of the House, that is to say by the votes
of 36 members of the House.

J. SAMPSON
Clerk of the House

House of Representatives amendments agreed to by the
Senate this 2nd day of November, 2009.

N. ATIBA-DILCHAN
Acting Clerk of the Senate