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No. 6 of 2012

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Third Session Tenth Parliament Republic of  
Trinidad and Tobago

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SENATE

**BILL**

AN ACT to amend the Exchequer and Audit Act,  
Chap. 69:01 to provide for payments into and  
issues out of the Exchequer Account and for  
payments of other public moneys, howsoever  
held, by means of electronic funds transfer and  
for related matters

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THE EXCHEQUER AND AUDIT (AMENDMENT) BILL,  
2012

**Explanatory Note**

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

This Bill seeks to amend the Exchequer and Audit Act, Chap. 69:01 (“the Act”) to facilitate payments by and to the Government of Trinidad and Tobago by means of electronic funds transfer.

Clause 1 of the Bill contains the short title.

Clause 2 of the Bill seeks to provide that the Act would come into force by Proclamation.

Clause 3 would define the references to the Act in the Act for which this is the Bill.

Clause 4 of the Bill seeks to amend section 2 of the Act by the insertion of definitions of new words and terms.

Clause 5 of the Bill would amend the Act by inserting a new Part IVA entitled “Electronic Funds Transfer”.

Proposed section 23A seeks to provide for the electronic transfer of money by or to Departments of Government subject to the general or specific directions of the Treasury. This section would also maintain the validity of previous transactions.

Proposed section 23B requires that a Department of Government obtain from the client or public body the relevant information pertaining to the designated financial intermediary authorised to receive moneys on his behalf. Such information is also to be obtained from the Central Bank when an EFT payment is to be made by a Department to the Central Bank.

Proposed section 23C would oblige a Department of Government to designate the State Bankers which would receive electronically transferred funds for credit to the Exchequer Account or any other public account and to inform the client or public body making the payment accordingly.

Proposed section 23D would empower the Treasury to authorise the use of bank cards, credit cards or electronic money by public officials and to stipulate credit limits with respect to such cards and money. Proposed subsection (2) would provide that the cards and money are to be used solely in accordance with the appropriate law and any conditions as determined by the Treasury.

Proposed section 23E would empower the Minister to make Regulations, subject to negative resolution of Parliament, relating to electronic funds transfer that are necessary to give effect to the Act for which this is the Bill. The Regulations would provide, *inter alia*, for the conditions relating to electronic funds transfer, adequate processes and controls for ensuring authentication and access to information, appropriate controls to support the use of electronic signatures, appropriate guidelines and controls, and the liabilities of Departments of Government.

Proposed section 23F seeks to provide for the legality and enforceability of electronic funds transfers.

Proposed section 23G seeks to provide for the use of electronic signatures in electronic financial transactions effected in accordance with the Act for which this is the Bill.

Clause 6 of the Bill would amend the Electronic Transactions Act to empower the government to collect revenue and make payments in accordance with the provisions of that Act.

THE EXCHEQUER AND AUDIT (AMENDMENT) BILL,  
2012

**Arrangement of Clauses**

*Clause*

1. Short title
2. Commencement
3. Interpretation
4. Section 2 amended
5. Part IVA inserted
  - Electronic Funds Transfer
  - Payments made by a Department
  - Receipts by a Department
  - Bank cards, credit cards and electronic money
  - Regulations
  - Validity of payment
  - Electronic signatures
6. Act No. 6 of 2011 amended

## **BILL**

An Act to amend the Exchequer and Audit Act, Chap. 69:01 to provide for payments into and issues out of the Exchequer Account and for payments of other public moneys, howsoever held, by means of electronic funds transfer and for related matters

[ , 2012]

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

**1.** This Act may be cited as the Exchequer and Audit Short title (Amendment) Act, 2012.

- Commencement      **2.** This Act comes into operation on such date as is fixed by the President by Proclamation.
- Interpretation      **3.** In this Act, “the Act” means the Exchequer and Audit Act.
- Section 2 amended      **4.** Section 2 of the Act is amended by inserting in the appropriate alphabetical sequence the following definitions:
- Chap. 79:51      “ “bank card” has the meaning assigned to it in section 2 of the Electronic Transfer of Funds Crime Act;
- Chap. 79:02      “Central Bank” means the Central Bank of Trinidad and Tobago established under section 3(1) of the Central Bank Act;
- Act No. 6 of 2011      “client” means a person who conducts business with a Department;
- “credit card” has the meaning assigned to it in section 2 of the Electronic Transfer of Funds Crime Act;
- “data message” has the meaning assigned to it in section 2 of the Electronic Transactions Act, 2011;
- “Department” means a Ministry or a department of Government not under ministerial control;
- “electronic funds transfer” means any transfer of funds through electronic means that is initiated by a Department or a client so as to instruct, authorise or order the Central Bank or a financial intermediary to debit or credit an account with the Central Bank or financial intermediary;
- Chap. 79:09      “electronic money” has the meaning assigned to it in section 2 of the Financial Institutions Act;

“electronic signature” has the meaning assigned to it in section 2 of the Electronic Transactions Act, 2011;

“financial intermediary” means a financial institution, a credit union registered under the Cooperatives Societies Act or the Trinidad and Tobago Unit Trust Corporation established under section 3 of the Unit Trust Corporation of Trinidad and Tobago Act;

Chap. 81:03

Chap. 83:03

“financial institution” has the meaning assigned to it in section 2 of the Financial Institutions Act;

“information” has the meaning assigned to it in section 2 of the Electronic Transactions Act, 2011;

“Minister” means the Minister responsible for finance;

“public body” means—

- (a) the Tobago House of Assembly, the Executive Council of the Tobago House of Assembly or a division of the Tobago House of Assembly;
- (b) a municipal corporation established under the Municipal Corporations Act;
- (c) a statutory body, responsibility for which is assigned to a Minister of Government;
- (d) a company incorporated under the laws of Trinidad and Tobago that is owned or controlled by the State;
- (e) a body corporate or an unincorporated entity in relation to any function that it exercises on behalf of the State, or which is supported

Chap. 25:04

directly or indirectly by Government funds and over which Government is in a position to exercise control;

“public official” means an individual exercising a public official function or acting in a public official capacity and includes the following:

- (a) the President;
- (b) a Minister of Government;
- (c) a Parliamentary Secretary;
- (d) a member of Parliament;
- (e) a Judge, magistrate or the holder of any other judicial or *quasi-judicial* office;
- (f) a member of the Public Service, Judicial and Legal Service, Teaching Service and Police Service Commissions;
- (g) an accounting officer;
- (h) a receiver of revenue;
- (i) an administering officer appointed by the Minister to administer a special fund;
- (j) an officer authorised by the State to attend meetings abroad; and
- (k) such other individuals as are approved by the Treasury in writing;

“signatory” has the meaning assigned to it in section 2 of the Electronic Transactions Act, 2011;

“State Bankers” means the Central Bank or any financial institution in which a public or official account is held on the authority of the Treasury.”.



5. The Act is amended by inserting after section 23, Part IVA inserted the following Part:

“PART IVA

ELECTRONIC FUNDS TRANSFER

Electronic  
funds  
transfer

23A. (1) Notwithstanding any other law, a payment into or issue out of—

(a) the Exchequer Account; or

(b) other public moneys, howsoever held, may be made by means of electronic funds transfer in accordance with general or specific directions issued by the Treasury.

(2) Nothing in subsection (1) shall affect the validity of making payments or issues referred to in that subsection by any means that were lawful before the coming into force of this part.

Payments  
made by a  
department

23B. (1) Where a payment is to be made by a Department to a client or public body by means of electronic funds transfer out of the Exchequer Account or other public moneys, howsoever held, the Department shall obtain from the client or public body such information as may be necessary for the execution of the payment through the financial intermediary which has been designated to receive the payment on behalf of the client or public body.

(2) Where a payment is to be made by a Department to the Central Bank by means of electronic funds transfer out of the Exchequer Account or other public moneys howsoever held, the Department shall obtain from the Central Bank such information as may be necessary for the execution of the payment.

Receipts by a  
Department

23C. (1) For the purposes of receiving moneys, by means of electronic funds transfer, from a client or public body for credit to the Exchequer Account or other public account, a Department shall—

(a) designate the State Bankers through which such moneys shall be received; and

(b) provide the client or public body with such information as may be necessary to effect the electronic funds transfer through the State Bankers designated under paragraph (a).

(2) For the purposes of receiving moneys, by means of electronic funds transfer, from the Central Bank for credit to the Exchequer Account or other public account, a Department shall provide the Central Bank with such information as may be necessary to effect the electronic funds transfer.

Bank cards,  
credit cards  
and electronic  
money

23D. (1) The Treasury may—

(a) authorise the use of; and

(b) specify the credit limits in respect of,

bank cards, credit cards or electronic money by public officials.

(2) The bank cards, credit cards or electronic money referred to in subsection (1), shall be used solely for items of expenditure authorised by an Appropriation Act or any other written law and be subject to such conditions as may be determined by the Treasury.

Regulations

23E. (1) The Minister may make Regulations to give effect to the provisions of this Part including—

- (a) the conditions relating to electronic funds transfers, including the use of bank cards, credit cards or electronic money;
- (b) processes and controls for ensuring valid and reliable authentication and access to information;
- (c) environmental and application controls to support the use of electronic signatures;
- (d) guidelines and controls to ensure protection for clients and public bodies, the content and timing of disclosures and the identification of documentation with respect to electronic funds transfers;
- (e) the liabilities of the State with respect to—
  - (i) unauthorised electronic funds transfers by a Department or public official;
  - (ii) fraudulent or negligent conduct of a Department or public official and the treatment of losses occurring as a result of such conduct;
  - (iii) notification of loss, theft or unauthorised use of bank cards, credit cards or other devices; or
  - (iv) system malfunction or failure; or
- (f) dispute resolution.

(2) Regulations made under this section shall be subject to negative resolution of Parliament.

Validity of  
payment

23F. Notwithstanding any other law, any electronic funds transfer made in accordance with this Act shall be legally enforceable and binding.

Electronic  
signatures

23G. (1) Subject to this section, parties to an electronic funds transfer may agree to the use of a particular method or form of electronic signature, unless otherwise provided by written law.

(2) An electronic signature referred to in subsection (1) shall meet the minimum standards of reliability and integrity, and conform with the standard, which the parties have agreed to by contract.

(3) For the purposes of subsection (2), the criteria that shall be used to determine the reliability and integrity of an electronic signature include whether—

- (a) the authentication technology uniquely links the user of the signature to the signature;
- (b) the signature is capable of identifying its user;
- (c) the signature is created using a means that can be maintained under the sole control of its user;
- (d) the signature is linked to the information to which it relates in such a manner that any subsequent change in the information is detectable; and
- (e) such other criteria as may be prescribed by regulations.

(4) For the purposes of an electronic funds transfer, information, a record in electronic form or a data message that is signed with an electronic signature that satisfies the criteria set out in subsection (3) is deemed to be unaltered since the time of its signing.

(5) The electronic authentication products referred to in the Schedule to the Electronic Transactions Act, 2011 are the products which may be used to validate an electronic signature for the purposes of an electronic funds transfer.

(6) An electronic signature that is associated with an electronic authentication product issued by an electronic authentication service provider accredited under Part V of the Electronic Transactions Act, 2011, is deemed to satisfy the criteria set out in subsection (3).

(7) For the purposes of this section—

“electronic” has the meaning assigned to it in section 2 of the Electronic Transactions Act, 2011;

“electronic authentication product” has the meaning assigned to it in section 2 of the Electronic Transactions Act, 2011;

“electronic authentication service provider” has the meaning assigned to it in section 2 of the Electronic Transactions Act, 2011;

“products” has the meaning assigned to it in section 2 of the Electronic Transactions Act, 2011; and

“record” has the meaning assigned to it in section 2 of the Electronic Transactions Act, 2011.”.

Act No. 6 of 2011  
amended

**6.** The Electronic Transactions Act, 2011 is amended—

(a) in section 2 by inserting in its appropriate chronological sequence the following definition:

““revenue” means all tolls, duties, fees, licences, taxes, imports, royalties, rents, penalties, forfeitures, dues and all other receipts of the State from whatever source arising, over which Parliament has power of appropriation, including the proceeds of all loans raised;”;

(b) in section 53(1)—

- (i) in paragraph (c) by deleting the word “or” in the third line;
- (ii) by inserting the word “or” at the end of paragraph (d); and
- (iii) by inserting after paragraph (d) the following paragraph:

“(e) collects revenue or makes payments,”.

Passed in the Senate this      day of      , 2013.

*Clerk of the Senate*

I confirm the above.

*President of the Senate*

Passed in the House of Representatives this        day  
of                                    , 2013.

*Clerk of the House*

I confirm the above.

*Speaker*

No. 6 of 2012

THIRD SESSION  
TENTH PARLIAMENT

REPUBLIC OF  
TRINIDAD AND TOBAGO

**BILL**

AN ACT to amend the Exchequer and Audit Act, Chap. 69:01 to provide for payments into and issues out of the Exchequer Account and for payments of other public moneys, howsoever held, by means of electronic funds transfer and for related matters

Received and read the

First time .....

Second time .....

Third time .....