



THE PARLIAMENT OF
TRINIDAD AND TOBAGO

BILL ESSENTIALS

Date Introduced: 4 December, 2020

House: House of Representatives

Minister: Minister of Finance

Links: The links to the Bill and its progress can be found on the Bill's home page through the Parliament's website, www.ttparliament.org

BILL ESSENTIALS

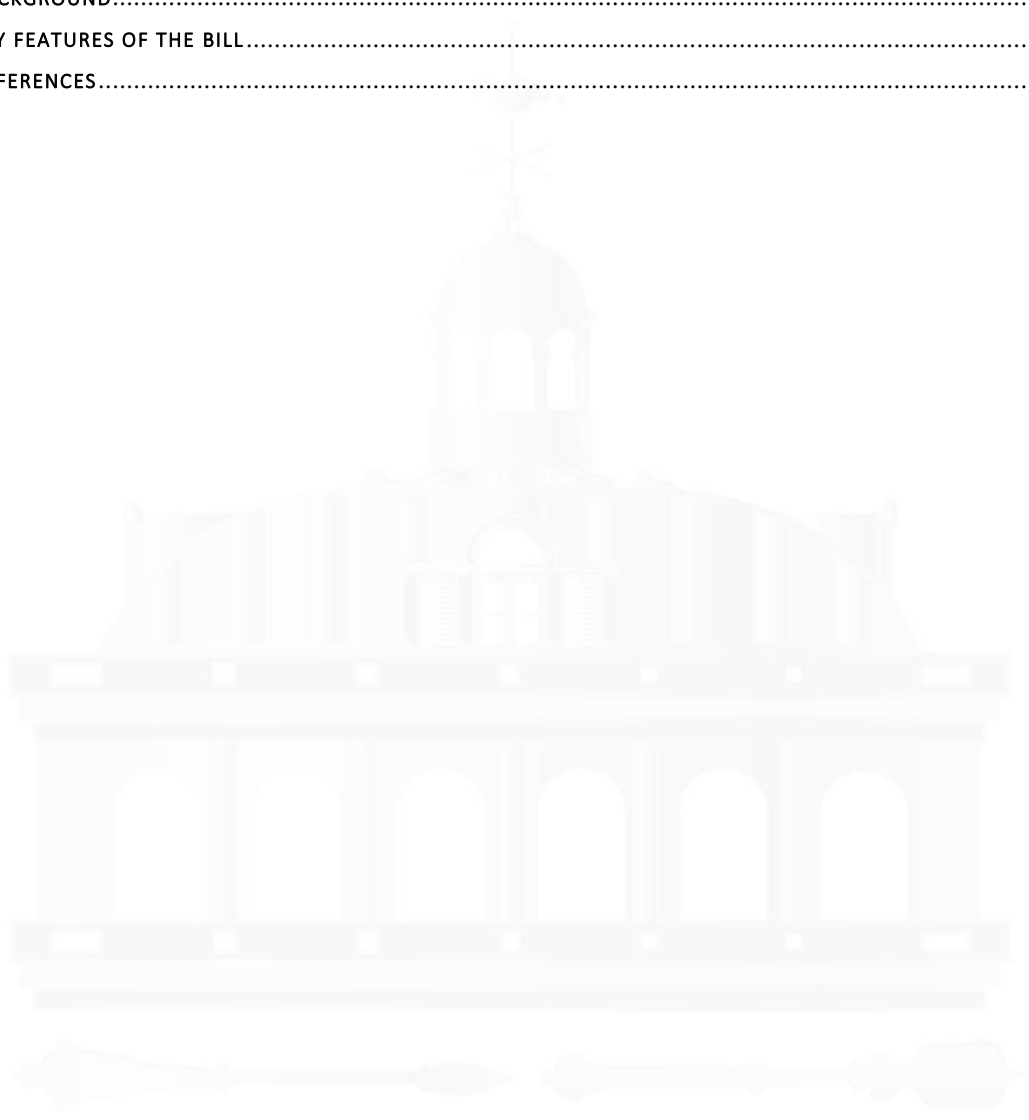
BILL ESSENTIALS NO. 10

1ST SESSION, 12TH PARLIAMENT

The Public Procurement and Disposal of Public Property (Amendment) Bill, 2020

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BACKGROUND

1. The **Public Procurement and Disposal of Public Property (Amendment) Bill, 2020**, (hereinafter referred to as “**the Bill**”) will be introduced in the House of Representatives by the Honourable Colm Imbert, Minister of Finance on December 4, 2020.
2. The Bill seeks to amend the **Public Procurement and Disposal of Public Property Act, 2015**¹ (hereinafter referred to as “**the Act**”).
3. The Act introduced a new regime for public procurement and the retention and disposal of public property, in accordance with the principles of good governance; namely accountability, transparency, integrity and value for money. The Act also established the Office of Procurement Regulator and repealed the **Central Tenders Board Act, Chap. 71:91**.

KEY FEATURES OF THE BILL

4. **Clause 4** of the Bill amends **Section 4** of the Act by deleting the existing definition for “*bid rigging*” and substituting it with the following new definition:

“bid-rigging” means collusive price-fixing and anti-competitive behaviour designed to unfairly influence the outcome of a competitive tender process in favour of one or more bidders.”

5. **Clause 5** of the Bill will amend **Section 7** of the Act, which states that the Act applies to public bodies and public-private partnership arrangements.
6. **Clause 5** amends **Section 7** of the Act by:
 -  Creating new subsection (5) which provides that the Act shall not apply to public bodies or State-controlled enterprises that provide:
 - legal services;
 - financial services;
 - accounting and auditing;
 - medical services; or
 - such other services as the Minister may, by Order, determine.

¹ <http://www.ttparliament.org/legislations/a2015-01.pdf>




Creating new subsection (6) which would subject an Order made under subsection (5) to the negative resolution of Parliament.²

7. **Clause 6** seeks to amend **Section 13(1)** of the Act by deleting paragraph (o). This would mean that the Office of Procurement Regulator would no longer have the function of acting on behalf of the State to dispose of real property owned by the Government.
8. **Clause 7** would amend **Section 29** by deleting paragraph (c) which provides that a procuring entity shall ensure that suppliers and contractors and their directors or officers have not been convicted of any criminal offence.
9. This amendment would instead provide that a procuring entity shall ensure that suppliers and contractors and their directors or officers shall not have been convicted within the past ten (10) years of corruption or fraud related offences locally or internationally as individuals or as directors or officers of a company.
10. **Clause 8** amends **Section 50 (12)** would change the time frame for the Office of Procurement Regulator to provide the reasons for its decisions and actions from twenty (20) working days to thirty (30) working days after the making a decision.
11. **Clause 9** seeks to amend **Section 59** by inserting subsection (1A) after subsection 1. Subsection (1A) provides that for the purposes of 59(1) that “relative” means a spouse, cohabitant within the meaning of the **Cohabitational Relationships Act**³, father, mother, brother, sister, son or daughter. The effect of this amendment is to include a “relative” as an associate in relation to conduct influencing a public officer, such as gaining an advantage or concession or influencing the decisions of a procuring entity.
12. **Clause 10** will amend **Section 66** of the Act to amend the effective dates of the operationalisation of the Act in relation to public officers. The amendment gives options to public officers for voluntary retirement, transfer or remaining in the Public Service.

² Negative Resolution means that the regulation shall be laid before the House and, within a prescribed period of time, may be annulled by a resolution of the House; Sir David Natzler and Mark Hutton, *Erskine May's Treatise on The Law, Privileges, Proceedings and Usage of Parliament* (23rd edn, LexisNexis 2004), 677-678

³ A “cohabitant” is a man who is living or has lived with a woman that he is not married but is living with or has lived with as his wife on a bona fide domestic basis for no less than five years or have a child together; or a woman who is living with or has lived with a man that she is not married to but is living with or has lived with as her husband on a bona fide domestic basis for no less than five years or have a child together.

 In subsection (1), by inserting the words “*or on the coming into force of this Part*” after the words “*on the date of assent of this Act*” so that the section will now state

“This section applies to an officer who, on the date of assent of this Act or on the coming into force of this Part”

 In subsection (2) by:

- Deleting the word “*Act*” and substituting it with the word “*Part*”;
- In paragraph (a) by deleting the word “*retire*” and substituting it with the word “*retirement*”; and
- In paragraph (c) by deleting the word “*remain*” and substituting it with word “*remaining*”.

REFERENCES

KEY LEGISLATION

- **Public Procurement and Disposal of Public Property Act, 2015**
<http://www.ttparliament.org/legislations/a2015-01.pdf>

LEGISLATION MENTIONED

- **Cohabital Relationships Act, Chap 45:55**
https://rgd.legalaffairs.gov.tt/laws2/Alphabetical_List/lawspdfs/45.55.pdf



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