



THE PARLIAMENT OF  
TRINIDAD AND TOBAGO

**BILL ESSENTIALS**

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Minister: Attorney General and  
Minister of Legal Affairs

HOR Bill No: 23 of 2020

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](http://www.ttparliament.org)

# BILL ESSENTIALS

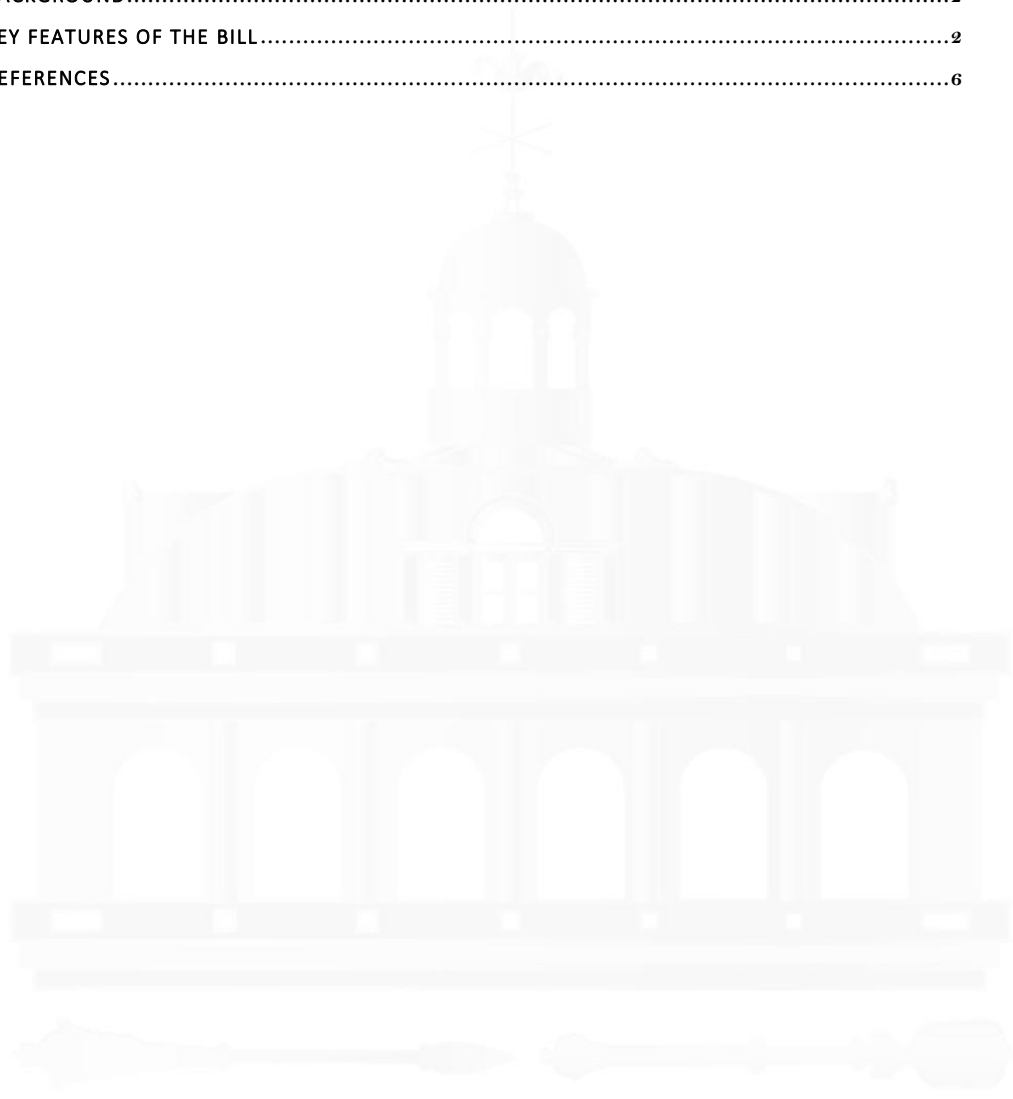
BILL ESSENTIALS NO. 2020-2021

1<sup>st</sup> SESSION, 12<sup>th</sup> PARLIAMENT

## The Miscellaneous Provisions (Special Reserve Police and Police Complaints Authority) Bill, 2020

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## BACKGROUND

1. The **Miscellaneous Provisions (Special Reserve Police and Police Complaints Authority) Bill, 2020**<sup>1</sup> (hereinafter referred to as “**the Bill**”) was introduced in the House of Representatives by the Honourable Faris Al-Rawi, Attorney General, on December 4, 2020.
2. The Bill seeks to amend the **Special Reserve Police Act, Chap. 15:03**<sup>2</sup> and the **Police Complaints Authority Act, Chap 15:05**<sup>3</sup> to strengthen the operations of the Police Complaints Authority and its relationship with the Special Reserve Police.


## KEY FEATURES OF THE BILL

### SPECIAL RESERVE POLICE ACT

Regulations under the Police Service Act to apply to matters concerning serious police misconduct

3. **Clause 2** of the Bill inserts a new section 23 into the **Special Reserve Police Act**. The new **section 23** would deem Regulations made under the Police Service Act<sup>4</sup> to be applicable to any matter concerning serious police misconduct by a member of the Special Reserve Police.
4. This provision shall apply *mutatis mutandis* i.e. with any necessary changes having been made,<sup>5</sup> until the relevant Regulations are made under section 22 of the Special Reserve Police Act.

### POLICE COMPLAINTS AUTHORITY ACT

5. **Clause 3(a)** of the Bill proposes to amend **Section 4** of the **Police Complaints Authority Act** by the inclusion of new definitions and amendment of existing definitions as follows:
  -  insertion of a new definition for “*Assistant Commissioner*” which would mean the Director or Assistant Commissioner of Municipal Police;


<sup>1</sup> <http://www.ttparliament.org/legislations/b2020h22.pdf>

<sup>2</sup> [https://rgd.legalaffairs.gov.tt/laws2/Alphabetical\\_List/lawspdfs/15.03.pdf](https://rgd.legalaffairs.gov.tt/laws2/Alphabetical_List/lawspdfs/15.03.pdf)


<sup>3</sup> [https://rgd.legalaffairs.gov.tt/laws2/Alphabetical\\_List/lawspdfs/15.05.pdf](https://rgd.legalaffairs.gov.tt/laws2/Alphabetical_List/lawspdfs/15.05.pdf)

<sup>4</sup> **Chap. 15:01** - [https://rgd.legalaffairs.gov.tt/Laws2/Alphabetical\\_List/lawspdfs/15.01.pdf](https://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/15.01.pdf)


<sup>5</sup> Black’s Law Dictionary 9<sup>th</sup> Edition

 in the definition of “*police officer*” by deleting the word “*Force*” substituting it with the word “*Service*” so the revised definition would now read as-

*“a member of the Municipal Police Service established under the Municipal Corporations Act”*

 amending the definition of “*serious police misconduct*” by:-

- inserting the words “*or the Municipal Police Service Regulations*” after “*Police Service Regulations*” wherever it appears; and
- inserting the words “*or the Municipal Police Service, as the case may be,*” after the words “*Police Service*” wherever it appears.

 The new amended definition of “*serious police misconduct*” would therefore now read as-

*“serious police misconduct” means the commission of a disciplinary offence under the Police Service Regulations or the Municipal Police Service Regulations which the Authority considers to be so serious as to bring the Police Service or the Municipal Police service as the case may be, into disrepute;*

6. **Clause 3(b)** of the Bill amends **section 7** of the **Police Complaints Authority Act (Qualification of Director and Deputy Director)** so that the new amended section would now read as-


*“A person appointed by the President as Director or Deputy Director shall have at least ten years’ experience as an Attorney-at-law, and may be ~~appointed~~ selected from within the Commonwealth.”*

Authority deemed to be constituted with one member

7. **Clause 3(c)** of the Bill seeks to amend the **Police Complaints Authority Act** by inserting a **new section 13A**.

8. This new section would provide that the Police Complaints Authority would be properly constituted with one member for a period not exceeding three (3) months where the Director or Deputy Director dies, resigns or is removed from or otherwise vacates his office before the expiry of the term that he was appointed to serve.


9. **Clause 3(d)** of the Bill seeks to amend existing section 21(1) of the **Police Complaints Authority Act** by:-

 inserting the words “*,the Municipal Police Service*” after the word “*Service*” in **paragraph (d)** which would empower the Police Complaints Authority to also


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advise the Municipal Police Service on issues concerning eliminating police corruption and serious police misconduct and which would now read as follows-

*“advise the Police Service, the Municipal Police Service and other public authorities on ways in which police corruption and serious police misconduct may be eliminated;”*

 inserting the words “*or the Municipal Police Service*” in **paragraph (e)** after the word “*Service*” which would give the Police Complaints Authority the power to now gather evidence in the prosecution of a person who is not a police officer for a criminal offence concerning the Municipal Police Service. Such amended paragraph would now read as follows-

*“gather evidence that may be admissible in the prosecution of a person who is not a police officer for a criminal offence in relation to the Police Service or the Municipal Police Service and to furnish that evidence to the Director of Public Prosecutions, or where an authority outside the State is concerned, the Attorney General”*

 inserting the words “*, the Assistant Commissioner*” in **paragraph (f)** after the existing word “*Commissioner*” so that 21(1)(f) which would also allow for the Assistant Commissioner to be given the evidence that would have been gathered by the Police Complaints Authority for the investigation of any serious police misconduct. The amended paragraph would now read as follows-

*“gather evidence that may be used in the investigation of serious police misconduct and furnish such evidence to the Commissioner, the Assistant Commissioner or the Commission for appropriate action;”*

10. **Clause 3(e)** seeks to amend existing **section 26** of the **Police Complaints Authority Act** by inserting the words “*the Commission*” after the existing phrase “*a public body or authority,*” and also by inserting the words “*or the Municipal Police Service*” after the existing phrase “*Police Service.*” The new amended Section 26 would now provide that-


*“The Authority may conduct an investigation on its own initiative or on the basis of a complaint made by a member of the public, a police officer, a public body or authority, the Commission or the appropriate unit or a disciplinary tribunal of the Police Service or the Municipal Police Service.”*


11. This amendment to section 26 would allow for the Police Complaints Authority to conduct an investigation on the basis of a complaint made inter alia, by the Commission, or the appropriate unit inclusive of the disciplinary tribunal of the Municipal Police Service.

Authority to be provided with written decision or update

12. **Clause 3(f)** proposes to amend the **Police Complaints Authority Act** by inserting a **new section 44A**.

13. This new section would provide that the Commissioner or the Assistant Commissioner shall provide the Authority, within three (3) months of the Authority making a recommendation pursuant to section 44(2)<sup>6</sup>, with:-

 a written decision, with reasons or any action which has been taken or is proposed to be taken or not taken, in respect of a recommendation; or

 a written update on the progress of a matter which is the subject of a recommendation.

14. This new provision imposes a duty on the Commissioner of Police or Assistant Commissioner of Municipal Police, upon the conclusion of an investigation and a recommendation by the Police Complaints Authority, to provide the Police Complaints Authority with a written decision with reasons or written update on any further action which has been taken or is proposed to be taken.

15. **Clause 3 (g)** seeks to amend existing **Section 48(2)** of the **Police Complaints Authority Act** by deleting the words “or the Commissioner” wherever it appears and replacing it with the new phrase “, *the Commissioner or the Assistant Commissioner*”. Section 48(2) would now state-

*“Where the Commission, the Commissioner or the Assistant Commissioner receives information or a complaint in relation to any of the matters mentioned in section 21(1)(a), the Commission, the Commissioner or the Assistant Commissioner shall immediately inform the Authority of the investigation in writing and the Authority shall have the sole responsibility for dealing with those matters.”*

16. This amendment imposes a duty on the Assistant Commissioner of Municipal Police to immediately inform the Police Complaints Authority of any information or complaint received in relation to criminal offences involving police officers, police corruption and serious police misconduct.

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<sup>6</sup> **Section 44(2) of the Police Complaints Authority Act** provides that the Police Complaints Authority may, based on its assessment or opinion of a concluded investigation, recommend whether consideration should be given to prosecute any person for a criminal offence or invoke disciplinary proceedings against any person, and make recommendations for the taking of any other action that the Authority considers appropriate.

## REFERENCES

### KEY LEGISLATION

- ***Miscellaneous Provisions (Special Reserve Police and Police Complaints Authority) Bill, 2020***  
<http://www.ttparliament.org/legislations/b2020h22.pdf>
- **Special Reserve Police Act, Chap. 15:03**  
[https://rgd.legalaffairs.gov.tt/laws2/Alphabetical\\_List/lawspdfs/15.03.pdf](https://rgd.legalaffairs.gov.tt/laws2/Alphabetical_List/lawspdfs/15.03.pdf)
- **Police Complaints Authority Act, Chap 15:05**  
[https://rgd.legalaffairs.gov.tt/laws2/Alphabetical\\_List/lawspdfs/15.05.pdf](https://rgd.legalaffairs.gov.tt/laws2/Alphabetical_List/lawspdfs/15.05.pdf)

### LEGISLATION MENTIONED

- **Police Service Act, Chap. 15:01**  
[https://rgd.legalaffairs.gov.tt/laws2/alphabetical\\_list/lawspdfs/15.01.pdf](https://rgd.legalaffairs.gov.tt/laws2/alphabetical_list/lawspdfs/15.01.pdf)



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