



PARLIAMENT  
REPUBLIC OF TRINIDAD AND TOBAGO

The Draft Constitution (Amendment)  
(Tobago Self-Government) Bill, 2020  
and  
The Draft Tobago Island  
Administration Bill, 2021



## THE DRAFT CONSTITUTION (AMENDMENT) (TOBAGO SELF-GOVERNMENT) BILL

The draft Bill confirms the recognition of the equality of status between the Island of Tobago and the Island of Trinidad within the unitary State of Trinidad and Tobago.

The Preamble to the Constitution of the Republic of Trinidad and Tobago will be amended to acknowledge the right of the people of Tobago to determine, in Tobago, their political, economic, social and cultural development.

### **Division of Powers (Clauses 8, 11 and 13, Fourth Schedule, Fifth Schedule)**

These clauses in the draft Bill set out the Division of Powers. Clause 8 establishes a new Tobago Legislature with full law making powers for matters regarding Tobago, specified in the Fourth Schedule. With respect to executive powers, Clause 11 accords the new Tobago Island Government (TIG) exclusive executive powers to manage the affairs of Tobago, except for such matters that are national in nature. Those areas for which the TIG would exercise exclusive administrative responsibility are specified in the Fifth Schedule. The draft proposes that the President will be required to act in accordance with the advice of the Executive Council with respect to matters in Tobago specified in the Fifth Schedule. These clauses reflect the core of the Bill's intent and engaged a significant degree of the Committee's deliberations.

The Committee recognizes the need to address the potential for conflict between laws of the national Parliament of Trinidad and Tobago and a law of the Tobago Legislature. It also appreciates that the preservation of matters of national interest created the need for a clearly delineated, though, not overly prescriptive list of subjects to be divided between the Tobago Island Government (TIG) and Trinidad and Tobago's Central Government.

### **Tobago Divisions of the Public Service Commission and Teaching Service Commission (Clauses 15, 16 and 17)**

The Committee proposes a Tobago Division of the Service Commission to be responsible for the offices under the TIG pursuant to Section 121 of the Constitution. The Tobago Division will include two additional members ordinarily resident in Tobago by an amendment to Section 120 of the Constitution.

The Teaching Service Commission will also be treated in like manner by way of an amendment to Section 124 of the Constitution which will provide for two Tobago members.

The Committee is also of the view that the Premier should be consulted in relation to the appointment of public officers and should also have the power to authorise transfers from the Office of Chief Administrator or Administrator of similar salary grade.

### **The Tobago Legislature (Clause 18)**

The Committee proposes a unicameral Tobago Legislature with twenty-six members empowered to make laws referred to as Tobago Acts 'for the peace, order and good government of Tobago'.

Fifteen of its Members would be elected Assemblymen while ten would be Councillors appointed by the President (five on the advice of the Premier, three on the advice of the Minority Leader and two by the President in his own discretion from outstanding persons, resident in Tobago, from economic, social or community organisations and other major fields of endeavor).

The draft proposes the creation of the Office of Premier, Deputy Premier, the office of the Secretary of Legal Affairs and an office of Minority Leader who shall not be required to vacate office upon a dissolution of the Legislature similar to the prevailing arrangements in the national Parliament.

The Bill proposes that the Premier shall be required to vacate office in the event that the Assembly passes a motion of no confidence in the Premier.

Provision is made for the election of the Presiding Officer and Deputy Presiding officer.

The Bill also provides for the filling of vacancies in the office of Premier and Deputy Premier.

Provision is also made for the appointment of Temporary Councillors in the event of absence on the grounds of sickness of absence from the jurisdiction of any of the appointed Councillors.

The Bill proposes that the powers, privileges and immunities of members of the Tobago Legislature be enshrined in the Constitution.

### **Tobago Island Government Bill**

This proposed companion Bill will essentially provide for operational matters including the financial provisions and a suite of administrative and financial oversight Committees.

This Bill will establish an Office of the Assembly Legislature headed by the Clerk of the Assembly which will be a public office.

**The Financial Provisions (Part IV—Clauses 22-30)**

An annual minimum budgetary allocation of 6.8% of total budget expenditure is being proposed (Clause 22). This sum can be increased, in any financial year, as may be advocated by the Fiscal Review Commission to meet the needs of the Tobago Island Government (clause 23(6)).

The Bill also provides for the passage of a Tobago Appropriation Bill and the laying and referral of Estimates to the Standing Finance Committee of the Tobago Legislature. This Committee will also have an oversight role to play when advances are made from the Contingencies Fund (clause 26(3)). This therefore, mirrors the level of oversight provided by the House of Representatives during the budget cycle.

Another layer of oversight is proposed through the establishment of financial scrutiny committees (clauses 16 & 17). This will enable the Tobago Legislature to have an oversight role on all aspects of the expenditure and use of public funds.

According to clause 28, the Committee proposes that the Tobago Executive Council's powers to borrow, should be exercised with the approval of the Minister of Finance and be generally granted.

The Bill also proposes that the Executive Council be granted the power to invest (clause 29) and that the Central Bank of Trinidad and Tobago be vested with the responsibility of managing any investment made.

The Tobago Island Government will be empowered to make financial rules in accordance with the Exchequer and Audit Act Chap. 69:01.

THE DRAFT CONSTITUTION (AMENDMENT) (TOBAGO  
SELF-GOVERNMENT) BILL

**Arrangement of Clauses**

*Clause*

1. Short title
2. Commencement
3. Alteration of Constitution
4. Preamble amended
5. Section 1A inserted
6. Section 3 amended
7. Section 5 amended
8. Section 53 amended
9. Section 54 amended
10. Section 61 amended
11. Section 75 amended
12. Section 75A inserted
13. Section 80 amended
14. Section 81A inserted
15. Section 120 amended
16. Section 121 amended
17. Section 124 amended
18. Chapter 11A repealed and substituted
19. Section 144 inserted
20. First Schedule amended
21. Fourth and Fifth Schedules inserted

## **DRAFT BILL**

AN ACT to amend the Constitution of the Republic of  
Trinidad and Tobago to accord self-government to  
Tobago and for related matters

[ , 2021]

WHEARAS it is enacted by subsection (1) of section 54 of <sup>Preamble</sup>  
the Constitution that Parliament may alter any of the  
provisions thereof:

And whereas it is provided in subsection (3) of the  
said section 54 that insofar as it alters certain

provisions of the Constitution a Bill for an Act of Parliament under the said section 54 shall not be passed by Parliament unless the final vote thereon in the House of Representatives, it is supported by the votes of not less than three-fourths of all the members of the House and in the Senate, it is supported by the votes of not less than two-thirds of all members of the Senate:

And whereas it is intended by this Act to alter the Constitution:

- |                            |  |
|----------------------------|--|
| Enactment                  | ENACTED by the Parliament of Trinidad and Tobago as follows:   |
| Short title                | <b>1.</b> This Act may be cited as the Constitution (Amendment) (Tobago Self- Government) Act, 2021.   |
| Commencement               | <b>2.</b> This Act shall come into operation on such date as is fixed by the President by Proclamation.  |
| Alteration of Constitution | <b>3.</b> This Act shall be construed as altering the Constitution.  |
| Preamble amended           | <b>4.</b> The Preamble of the Constitution is amended by inserting after paragraph (c), the following paragraph:<br><i>(ca)</i> recognise the right to self-determination of the people of Trinidad and Tobago including the right of the people of Tobago to determine in Tobago their political status and freely pursue their economic, social and cultural development; ”. |
| Section 1A inserted        | <b>5.</b> The Constitution is amended by inserting after section 1, the following section:<br>“Equality of status 1A. There shall be equality of status between the Island of Trinidad and the Island of Tobago within the sovereign democratic State of Trinidad and Tobago.”.  |
| Section 3 amended          | <b>6.</b> Section 3 of the Constitution is amended—<br><i>(a)</i> in subsection (1)—<br><i>(i)</i> in the definition of “public service”, by deleting the words “Tobago House of Assembly established by   |

section 3 of the Tobago House of Assembly Act, in a civil capacity” and substituting the words “Tobago Island Government, in a civil capacity”; and

- (ii) by inserting in the appropriate alphabetical sequence, the following definitions:

“ “House of Assembly” means the House of Assembly of the Tobago Legislature referred to in section 141A;

“Tobago Act” means a law passed by the Tobago Legislature in relation to Tobago;

“Tobago Executive Council” means the Tobago Executive Council established section 75A (1);

“Tobago Island Government” includes the Tobago Executive Council and its Divisions

“Tobago Legislature” means the Tobago Legislature established under section 141A (1)”; and

- (b) by inserting after subsection (9) the following subsection:

“(10) For the purposes of sections 53, 75A and Chapter 11A, 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.”.



Section 5 amended 7. Section 5(2) of the Constitution is amended in the *chapeau*, by inserting after the word “Parliament”, the words “or the Tobago Legislature”.

Section 53 amended 8. Section 53 of the Constitution is amended by renumbering that section as section 53(1) and inserting the following subsection:

Fourth  
Schedule “(2) Subject to subsection (1) and (3), the Tobago Legislature may make laws for the peace, order and good government of Tobago with respect to the matters set out in the Fourth Schedule.

(3) The power of the Tobago Legislature to make laws shall not extend to—

- (a) altering the provisions of this Constitution; or
- (b) any of the matters set out in Chapter 1 of this Constitution.

(4) Where a Tobago Act is inconsistent with an Act passed by Parliament, the Act passed by Parliament prevails to the extent of the inconsistency.

(5) Subject to subsection (6), the power of Parliament to make laws having effect in Tobago shall not extend to any of the matters set out in the Fourth Schedule.

(6) At any time when it is expressly declared in any Act passed by Parliament that a provision in that Act, being a provision that relate to a Fourth Schedule matter is required to have effect in the island of Tobago—

- (a) in the interests of external affairs;
- (b) in the interests of national security;

- (c) in relation to a state of public emergency; or
- (d) in relation to a national financial crisis, that provision shall accordingly have effect in the island of Tobago, and where there is any inconsistency between that provision and the provision of any Act passed by the Tobago Legislature, the provisions of the Act passed by Parliament shall prevail.”.

9. Section 54(3)(b) of the Constitution is amended Section 54 amended by—

- (a) inserting after the word “139”, the words “, 141A to 141R”; and
- (b) deleting the words “and Third Schedules” and substituting the words “, Third, Fourth and Fifth Schedules”.

10. Section 61 of the Constitution is amended— Section 61 amended

- (a) by repealing subsection (1) and inserting the following subsection:

“(1) Subject to the provisions of this Constitution—

- (a) the power of Parliament to make laws shall, except where otherwise authorised by statute, be exercised by Bills passed by the House of Representatives and the Senate and assented to by the President; and
- (b) the power of the Tobago Legislature to make laws shall, except where otherwise authorised by

statute, be exercised by Bills passed by the House of Assembly and assented to by the President.”;

- (b) in subsection (2), by inserting after the words “a Bill”, the words “, including a Bill passed by the House of Assembly,”;
- (c) in subsection (3), by inserting after the words “A Bill”, the words “, including a Bill passed by the House of Assembly,”; and
- (d) in subsection (4) by inserting—
  - (i) after the words “of Parliament” the words “or House of Assembly”; and
  - (ii) after the words “that Parliament” the words “or House of Assembly, as the case may be”.

Section 75 amended **11.** Section 75 of the Constitution is amended by repealing subsection (1) and substituting the following subsection:

“(1) There shall be a Cabinet for Trinidad and Tobago which shall have—

- (a) the general direction and control of the Government of Trinidad and Tobago and shall be collectively responsible therefor to Parliament; and
- (b) in relation to Tobago, no responsibility for the matters set out in the Fifth Schedule, unless there is an emergency or unforeseen circumstance requiring the intervention of the Cabinet.”.

Fifth  
Schedule

Section 75A inserted **12.** The Constitution is amended by inserting after section 75, the following section:

“Exclusive responsibility of the Tobago Executive Council 75A. (1) There shall be a Tobago Executive Council which shall have—

- (a) the general direction and control of the Tobago Island

Government and shall be collectively responsible therefor to the Tobago Legislature; and

- (b) subject to section 75(1)(b), exclusive jurisdiction for the administration within Tobago of the matters set out in the Fifth Schedule, in accordance with any law.”.

**13.** Section 80 of the Constitution is amended by Section 80 amended repealing subsection (1) and substituting the following subsection:

“(1) In the exercise of his functions under this Constitution or any other law, the President shall act in accordance with the advice of—

- (a) the Cabinet or a Minister acting under the general authority of the Cabinet, in relation to matters under the Government of Trinidad and Tobago; or
- (b) the Tobago Executive Council or a Secretary acting under the general authority of the Tobago Executive Council, with respect to matters in Tobago set out in the Fifth Schedule, except in cases where other provision is made by this Constitution or such other law, and, without prejudice to the generality of this exception, in cases where by this Constitution or such other law, he is required to act—
- (i) in his discretion;
- (ii) after consultation with any person or authority other than the Cabinet

or the Tobago Executive Council; or

- (iii) in accordance with the advice of any person or authority other than the Cabinet or the Tobago Executive Council.”.

Section 81A inserted **14.** The Constitution is amended by inserting after section 81, the following section:

“President to be informed concerning matters of Tobago Island Government 81A. The Premier shall keep the President fully informed concerning the general conduct of the Tobago Island Government and shall furnish the President with such information as he may request with respect to any particular matter relating to the Tobago Island Government.”.

Section 120 amended **15.** Section 120 of the Constitution is amended—

- (a) in subsection (1), by deleting the words “two nor more than four other members”, and inserting the words “four nor more than six other members, two of whom shall be ordinarily resident in Tobago”; and
- (b) by inserting after subsection (1), the following subsection:

“(1A) The Public Service Commission shall have a Tobago Division which shall have the power as set out in section 121(1) in relation to the offices under the Tobago Island Government.”

Section 121 amended **16.** Section 121 of the Constitution is amended—

- (a) by inserting after subsection (5), the following subsection:

“(5A) Before the Public Service Commission makes any appointment in Tobago to the office of Chief Administrator, Administrator, to a head of a department in a Division and to a chief professional advisor in a Division, it shall consult the Premier.”; and

(b) by inserting after subsection (6), the following subsection:

“(6A) Power to make appointments on transfer to the office of Chief Administrator or Administrator, from one such office to another such office carrying the same salary, shall vest in the Premier.’.

17. Section 124 of the Constitution is amended— Section 124 amended

(a) in subsection (1), by deleting the words “four other members”, and inserting the words “six other members, two of whom shall be ordinarily resident in Tobago”; and

(b) by inserting after subsection (1), the following subsection:

“(1A) The Teaching Service Commission shall have a Tobago Division which shall have the power as set out in section 125 in relation to the offices under the Tobago Island Government.”.

18. Chapter 11A of the Constitution is repealed and the following Chapter is substituted: Chapter 11A  
repealed and  
substituted

#### “CHAPTER 11A

#### SELF-GOVERNMENT OF TOBAGO

Establishment of the Tobago Legislature 141A. (1) There shall be a Tobago Legislature which shall consist of the President and the House of Assembly.

(2) Subject to sections 5 and 53(2) and subsections (3) and (4), the Tobago Legislature shall have power to make laws for the peace, order and good government of Tobago.

(3) A law in force before the coming into force of this section shall continue to apply to Tobago, until such time as it is replaced by a Tobago Act and until any existing law in relation to matters for Tobago is replaced by a Tobago Act, the existing law shall apply in accordance with the powers and functions of the Tobago Legislature.

(4) Subject to the provisions of this Constitution, the Tobago Legislature shall have such other powers and functions in relation to Tobago as may be prescribed.

(5) A Tobago Act shall have effect in Tobago.

(6) Except on the recommendation or with the consent of the Tobago Executive Council, the House of Assembly shall not—

(a) proceed upon any Bill, including any amendment to a Bill, which in the opinion of the person presiding, makes provision for any of the following purposes:

(i) for imposing or increasing any charge on the revenues or other funds of Tobago or

for altering any such charge otherwise than by reducing it; or

(ii) for compounding or remitting any debt due to Tobago;

(b) proceed upon any motion, including any amendment to a motion, the effect of which, in the opinion of the person presiding, would be to make provision for any of the purposes aforesaid; or

(c) receive any petition which in the opinion of the person presiding, requests that provision be made for any of the purposes aforesaid.

(7) In this section a public Bill which, in the opinion of the Presiding Officer in the Tobago Legislature, contains only provisions dealing with all or any of the following matters, namely:

(a) the imposition, for the payment of debt or other financial purposes, of charges on public money or the variation or repeal of any such charges;

(b) the grant of money to Tobago or to any authority or person, or the variation or revocation of any such grant;

(c) the appropriation, receipt, custody, investment, issue or audit of accounts of public money;



- (d) the raising or guarantee of any loan or the repayment thereof, or the establishment, alteration, administration or abolition of any sinking fund provided in connection with any such loan; or
- (e) subordinate matters incidental to any of the matters referred to in this subsection,

shall be referred to as a “Money Bill”.

Composition  
of the House  
of Assembly

141B. The House of Assembly shall consist of—

- (a) fifteen Assemblymen elected at an election held in accordance with the Representation of the People Act and who are qualified to be electors under section 12 of the Representation of the People Act, or such other number of Assemblymen as corresponds with the number of electoral districts as provided for by an Order made by the President;
- (b) five Councillors appointed by the President, acting in accordance with the advice of the Premier;
- (c) three Councillors appointed by the President, acting in accordance with the advice of the Minority Leader;

- (d) two Councillors appointed by the President in his discretion from outstanding persons, resident in Tobago, from economic or social or community organisations and other major fields of endeavour; and
- (e) a Presiding Officer who may or may not be an Assemblyman, who shall not be a—
  - (i) member of the Tobago Executive Council; or
  - (ii) person appointed under paragraph (d).

141C. (1) Subject to the provisions of this Constitution, the House of Assembly may, by resolution, make Standing Orders to regulate its own business and such Standing Orders shall be published in the *Gazette*.

Powers,  
privileges and  
immunities

(2) Subject to the rules and Standing Orders of the House of Assembly, there shall be freedom of speech in the Chamber of the House of Assembly.

(3) No civil or criminal proceedings may be instituted against any member or other person for words spoken before, or written in a report of, the House of Assembly or a committee thereof.

(4) In other respects, the powers, privileges and immunities of the House of Assembly, Members and

committees of the House of Assembly, shall be such as may from time to time be prescribed by Parliament and until so defined shall be those that apply to the House of Representatives and to its members and committees.

Swearing in  
of members  
of the  
Tobago  
Legislature

141D. The President shall administer the oath of office set out in the First Schedule to the members of the Tobago Legislature at a meeting held for such purpose, not later than three days after the date of the election or appointment, as the case may be.

Election of  
Presiding  
Officer and  
Deputy  
Presiding  
Officer

141E. (1) When the House of Assembly first meets after the election and before it proceeds to the dispatch of any other business, it shall elect a person to be the Presiding Officer of the House of Assembly, and if the office of Presiding Officer falls vacant at any time before the next dissolution, the House of Assembly shall, as soon as practicable, elect another person to that office.

(2) When the House of Assembly first meets after the election and before it proceeds to the dispatch of any other business except the election of the Presiding Officer, the House of Assembly shall elect a person to be the Deputy Presiding Officer of the House of Assembly who is not a Secretary or an Administrator or a person appointed by the President under section 141B, and if the office of the Deputy Presiding Officer falls vacant at any time before the next dissolution, the House of Assembly shall, as soon as practicable, elect another person to that office.

(3) Where any person who is not a member of the Tobago Legislature is elected to be a Presiding Officer of the House of Assembly he shall, by virtue of holding office of Presiding Officer, be a member of the House of Assembly in addition to the Assemblymen and Councillors.

(4) The President shall administer the oath set out in the First Schedule to the Presiding Officer whenever the occasion arises.

(5) The Presiding Officer shall ex officio be a Justice of the Peace.

(6) A person shall vacate the office of Presiding Officer or Deputy Presiding Officer—

- (a) in the case of a Presiding Officer elected from among the Assemblymen or in the case of the Deputy Presiding Officer where he ceases to be a member of the House of Assembly, so however that the Presiding Officer shall not vacate his office by reason only that he has ceased to be a member of the House of Assembly on a dissolution of the Tobago Legislature, until the House of Assembly first meets after that dissolution; and
- (b) in the case of a Presiding Officer elected from among persons who are not

members of the House of Assembly—

- (i) when the House first meets after any dissolution of the Tobago Legislature;
- (ii) where he ceases to be a citizen of Trinidad and Tobago; or
- (iii) where any circumstances arise that would cause him to be disqualified for election as a member of the House by virtue of section 141L or any law.

(7) Where the office of Presiding Officer is vacant or the Presiding Officer is for any reason unable to perform any function conferred upon him, that function may be performed by the Deputy Presiding Officer.

Election of  
Premier and  
Deputy  
Premier

141F. Where there is occasion for the election of a Premier and a Deputy Premier, the Assemblymen shall elect from among their number, the Premier and the Deputy Premier and following such election, the President shall administer to the Premier and the Deputy Premier respectively, the oath of office set out in the First Schedule.

Vacancy in  
office of  
Premier  
and Deputy  
Premier

141G. (1) Whenever the position of Premier becomes vacant in accordance with this Constitution, the Deputy Premier shall assume office of Premier until a new Premier is appointed.

(2) If the office of Premier becomes vacant in circumstances in which the office of the Deputy Premier is also vacant in accordance with this Constitution, the functions of the office of Premier shall, until such time as a new Premier or Deputy Premier assumes office in accordance with section 141F, be performed by a Secretary who is an Assemblyman appointed by the President on the advice of the Tobago Executive Council.

(3) Whenever the Premier is absent from Trinidad and Tobago or is unable to perform the functions of Premier by reason of illness or any other cause the President authorise—

(a) the Deputy Premier; or

(b) during any period when there is no Deputy Premier, some other member of the Tobago Executive Council,

to discharge such of the functions of the office of Premier as the President may specify, and the Deputy Premier or other member of the Tobago Executive Council may discharge those functions until his authority is revoked by the President.

(5) Where the Deputy Premier is unable to perform the function of Premier for any reason then the discharge of the function of the office of Premier shall be performed by a Secretary who is also an Assemblyman, and who shall be elected by the Assemblymen from among their number,

as the Premier and following such election, the President shall administer to the Premier the oath of office set out in the First Schedule.

(6) Whenever the position of Deputy Premier becomes vacant in accordance with this Constitution, the function of the office of Deputy Premier shall be performed by a Secretary who is also an Assemblyman, and who shall be elected by the Assemblymen from among their number, as the Deputy Premier and following such election, the President shall administer to the Deputy Premier the oath of office set out in the First Schedule.

Appointment  
of Minority  
Leader

141H. (1) There shall be an office of Minority Leader and appointments thereto shall be made by the President.

(2) Immediately after administering the oaths of office to the Premier and the Deputy Premier, the President shall, if the person concerned is willing to be appointed, appoint as Minority Leader the Assemblyman who, in his judgment is best able to command the support of the greatest number of Assemblymen who do not support the Premier.

(3) The office of Minority Leader shall become vacant—

- (a) where he resigns his office;
- (b) where the holder thereof ceases to be a member of the House of Assembly for any cause other than a dissolution of the House of Assembly; or

(c) when the House of Assembly first meets after a dissolution of the House of Assembly.

(4) Where the office of Minority Leader is vacant, whether because there is no member of the House of Assembly so qualified for appointment or because no one qualified for appointment is willing to be appointed, or because the Minority Leader has resigned his office or for any other reason, any provision in this Constitution requiring consultation with the Minority Leader shall, in so far as it requires such consultation, be of no effect.

(5) The President shall administer to the Minority Leader the oath set out in the First Schedule whenever the occasion arises.

Appointment  
of Councillors

141I. Immediately after the appointment of the Minority Leader under section 141H, the President shall administer to each Councillor the oath set out in the First Schedule.

Temporary  
appointments

141J. (1) Where a Councillor is incapable of performing his functions as a Member of the House of Assembly by reason of—

(a) his absence from Trinidad and Tobago; or

(b) illness,

the President may appoint a person qualified for appointment as a Councillor to be temporarily a Member of the House of Assembly during such suspension, absence or illness.



(2) In the exercise of the powers conferred upon him by this section the President shall act—

- (a) in accordance with the advice of the Premier in relation to a Councillor appointed under section 141B (b);
- (b) in accordance with the advice of the Minority Leader in relation to a Councillor appointed under section 141B (c); and
- (c) in accordance with his own judgment in relation to a Councillor appointed by him under section 141B (d).

Motion of No  
Confidence in  
Premier

141K. (1) Where the House of Assembly passes a resolution, supported by the votes of a majority of Assemblymen, declaring that it has no confidence in the Premier and the Premier does not within seven days of the passing of such a resolution either resign or advise the President to dissolve the House of Assembly, the President shall revoke the appointment of the Premier.

(2) The Premier shall also vacate his office—

- (a) when after any dissolution of the House of Assembly he is informed by the President that the President is about to reappoint him as Premier or to appoint another person as Premier; or

(b) where for any reason other than a dissolution of the House of Assembly he ceases to be a member of the House of Assembly.

(3) A Secretary, other than the Premier, shall vacate his office—

(a) when any person is appointed or reappointed as Premier;

(b) where his appointment is revoked by the President acting in accordance with the advice of the Premier.

(4) Where at any time the Premier is required under section 141M (1) to cease to perform his functions as a member of the House of Assembly, he shall cease during such time to perform any of his functions as Premier.

(5) Where at any time a Secretary, other than the Premier, is required under section 141M (1) to cease to perform his functions, he shall cease during such time to perform any of his functions as Secretary.

Qualification  
and  
disqualifica-  
tion for  
membership

141L. (1) Subject to subsection (2), a person is qualified to be elected as an Assemblyman in a primary election or on a bye-election or as a Presiding Officer or appointed as a Councillor if that person—

(a) is a citizen of the Republic of Trinidad and Tobago;

(b) is qualified to be an elector under section 12 of the Representation of the People Act; and

(c) resides in Tobago.

(2) A person not being a citizen of the Republic of Trinidad and Tobago is disqualified from being elected or appointed as a Member of the House of Assembly, or being a citizen if he—

- (a) is a citizen of a country other than Trinidad and Tobago having become such citizen voluntarily, or is under a declaration of allegiance to such a country;
- (b) has been adjudged or otherwise declared bankrupt under any law in force in any country and has not been discharged;
- (c) is a mentally ill person within the meaning of the Mental Health Act;
- (d) is under sentence of death imposed on him by a Court in any country or is serving sentence of imprisonment, by whatever name called, exceeding twelve months imposed on him by such a Court or substituted by competent authority for some other sentence imposed on him by such a Court or is under such a sentence of imprisonment, the execution of which has been suspended;

- (e) is disqualified from being elected under sections 31 and 32 of the Representation of the People Act;
- (f) holds, or is acting in, an office of the House of Assembly as may be prescribed, but a person is not disqualified by reason only of receiving, or being entitled to receive, payment by way of travelling or subsistence allowances or a refund of out-of-pocket expenses;
- (g) is a member of the Senate or the House of Representatives or of a Municipal or Regional Corporation;
- (h) is disqualified for membership of the House of Representatives by virtue of any law in force in Trinidad and Tobago by reason of his having been convicted of any offence relating to elections;  
or
- (i) is not qualified to be registered as an elector at a Parliamentary election under any law in force in Trinidad and Tobago.

(3) The House of Assembly may provide that, subject to such exceptions and limitations, if any, as may be prescribed, a person may be disqualified

for membership of the House of Assembly by virtue of—

(a) his holding or acting in any office or appointment (either individually or by reference to a class of office or appointment);

(b) his belonging to any of the armed forces of the State or to any class of person that is comprised in any such force; or

(c) his belonging to any police force or to any class of person that is comprised in any such force.

(4) For the purposes of subsection (2) (d)—

(a) two or more sentences of imprisonment that are required to be served consecutively shall be regarded as separate sentences if none of those sentences exceeds twelve months, but if any one of such sentences exceeds that term they shall be regarded as one sentence; and

(b) no account shall be taken of a sentence of imprisonment imposed as an alternative to or in default of the payment of a fine.

Vacancy of  
office of a  
Member of  
the House of  
Assembly

141M. (1) Subject to section 141N, the seat of an Assemblyman becomes vacant where he—

- (a) submits a written resignation to the Presiding Officer or, in the case of the Presiding Officer, where he submits a written resignation to the President or his appointment as Presiding Officer is revoked in accordance with subsection (2);
  - (b) is absent from ordinary sittings of the House of Assembly for such period and in such circumstances as may be prescribed in the Standing Orders of the House of Assembly; or
  - (c) ceases to possess any of the qualifications required by section 141L (1) or is or becomes disqualified from being a Member for any of the reasons set out in section 141L (2).
- (2) The President shall revoke—
- (a) the appointment of a Councillor on the advice of the person who nominated him or by reason of any of the matters set out in subsection (1); and
  - (b) the appointment of the Presiding Officer following a vote of no confidence against him supported by a majority of the Members.

Declaration of  
vacancy 141N. (1) The Presiding Officer shall formally declare a vacancy in the House of Assembly—

(a) at the first meeting of the House of Assembly following the vacating of a seat by virtue of section 141M or section 141L(4); or

(b) on the adoption of a motion of the Members based on the recommendation of a committee appointed for the purpose of section 141M (1)(c).

(2) A vacancy pursuant to subsection (1) shall have effect from the date on which it is so declared.

(3) The notice of a declaration of vacancy shall be signed by the Clerk and sent forthwith to the President and a copy thereof shall be posted up in a prominent position 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.

Filling of  
vacancies 141O. (1) Where the President is notified that the seat of an Assemblyman has become vacant, the President shall, subject to subsections (2) and (3), issue a writ addressed to the Returning Officer of the corresponding electoral area for the holding of a bye-election for the election of an Assemblyman to fill the vacancy.

(2) The President shall, after consultation with the Prime Minister and the Premier, fix the date of a bye-election for the election of an Assemblyman, which date shall not be earlier than the expiration of two months after the declaration of the vacancy nor later than the expiration of three months after that declaration.

(3) No bye-election for the election of an Assemblyman shall be held within a period of one year prior to the holding of a primary election and the President may decline to issue a writ under subsection (1) if the vacancy is declared within one year from the date on which the House of Assembly is due to stand dissolved.

(4) Where the seat of the Presiding Officer or Deputy Presiding Officer is declared vacant, an election to fill that vacancy shall be held at the meeting of the House of Assembly next following the declaration of the vacancy.

(5) A person elected or appointed to the House of Assembly to fill a vacancy shall be administered the relevant oath of office by the Presiding Officer or, where the person is elected to the office of Presiding Officer, by the Deputy Presiding Officer.

Dissolution of  
the Tobago  
Legislature 141P. (1) The Tobago Legislature shall continue for four years from the date of its first sitting after any primary election, and shall then stand dissolved.



(2) A primary election for the House of Assembly shall be held on the second Monday after the date of the fourth anniversary of the last primary election.

(3) Where the date specified under subsection (2) is a public holiday or the date of a general election, the primary election of the House of Assembly shall be held on the Monday of the following week.

The Tobago  
Executive  
Council

141Q. (1) The Tobago Executive Council provided for in section 75A shall consist of a Premier, a Deputy Premier and such number of other Secretaries from among the Members of the House of Assembly, one of whom shall be a Secretary of Legal Affairs who shall be an Attorney-at-law admitted to practise in Trinidad and Tobago, appointed by the President acting in accordance with the advice of the Premier.

(2) The President shall administer to a Secretary the oath set out in the First Schedule.

(3) The functions of the Premier and the other Secretaries shall be prescribed.

(4) The President, acting in accordance with the advice of the Premier, may, by directions in writing, assign to a Secretary responsibility for any business of the Tobago Island Government, including the administration of any Division of the Tobago Island Government and shall administer to a Secretary the oath set out in the First Schedule.

(5) Where a Secretary is incapable of performing his functions by reason of his absence from Trinidad and Tobago or by reason of illness, the President, acting in accordance with the advice of the Premier, may appoint another person to act in the office of such Secretary during such absence or illness.

(6) Where any Secretary has been assigned responsibility for any Division of the Tobago Island Government, he shall exercise general direction and control over that Division and, subject to such direction and control, the Division shall be under the supervision of an Administrator whose office shall be a public office.

(7) For the purposes of this section—

- (a) two or more Divisions of the Tobago Island Government may be placed under the supervision of one Administrator; or
- (b) two or more Administrators may supervise any Division of the Tobago Island Government assigned to a Secretary.

(8) The Tobago Executive Council shall continue to discharge its functions during any period that the Tobago Legislature is dissolved.

Jurisdictional  
limit 141R. The powers of the Tobago Legislature and the Tobago Executive Council under section 53 and this Chapter shall have effect within Tobago.”.

New section 144  
inserted

**19.** The Constitution is amended by inserting after section 143, the following section:

<sup>“Mediation  
Committee</sup> 144. (1) A Mediation Committee is established.

(2) The Mediation Committee shall comprise five members as follows:

- (a) the Prime Minister, who shall be the Chairman or his alternate;
- (b) the Premier, who shall be the Vice Chairman or his alternate;
- (c) two persons appointed from the members of the Cabinet; and
- (d) one person appointed from the members of the Tobago Executive Council.

(3) The Mediation Committee shall have the jurisdiction to mediate or mitigate any disputes that may arise in relation to the exercise of administrative powers set out in the Fifth Schedule.

(4) A review of a decision of the Mediation Committee shall lie to the High Court.

(5) An appeal against a decision of the High Court under subsection (4) shall lie to the Court of Appeal, and the decision of the Court of Appeal shall be final.

First Schedule  
amended

**20.** The Constitution is amended by inserting in the First Schedule the following:

“OATH (OR AFFIRMATION) OF OFFICE FOR ASSEMBLYMEN

(Section 141D)

I,....., having been elected an Assemblyman for Tobago do swear by ..... (solemnly affirm) that I will bear true faith and allegiance to Trinidad and Tobago, will uphold the Constitution and the law, and will conscientiously and impartially discharge the duties and responsibilities of Assemblyman that I am now about to assume.

OATH (OR AFFIRMATION) OF OFFICE FOR THE PRESIDING OFFICER AND THE DEPUTY PRESIDING OFFICER

(Section 141E)

I, ..... having been elected Presiding Officer/Deputy Presiding Officer of the House of Assembly do swear by .....(solemnly affirm) that I will bear true faith and allegiance to Trinidad and Tobago and will uphold the Constitution and the law, that I will conscientiously, impartially and to the best of my knowledge, judgment and ability discharge the functions of my office.

OATH (OR AFFIRMATION) OF OFFICE FOR THE PREMIER, THE DEPUTY PREMIER, SECRETARIES AND ASSISTANT SECRETARIES

(Sections 141F)

I, ..... do swear by.....(solemnly affirm) that I will bear true faith and allegiance to Trinidad and Tobago and will uphold the Constitution and the law that I will conscientiously, impartially and to the best of my ability discharge my duties as Premier/Deputy Premier/Secretary/Assistant Secretary and do right to all manner of people without fear or favour, affection or ill-will.

OATH (OR AFFIRMATION) OF OFFICE FOR  
MINORITY LEADER

(Section 141H)

I, .....,  
having been appointed a Minority Leader for Tobago do swear by  
..... (solemnly affirm) that  
I will bear true faith and allegiance to Trinidad and Tobago, will  
uphold the Constitution and the law, and will conscientiously and  
impartially discharge the duties and responsibilities of Minority  
Leader that I am now about to assume.

OATH (OR AFFIRMATION) OF OFFICE FOR  
COUNCILLORS

(Section 141I, 141J)

I,.....,  
having been appointed a Councillor for Tobago do swear  
by.....(solemnly  
affirm) that I will bear true faith and allegiance to Trinidad and  
Tobago, will uphold the Constitution and the law, and will  
conscientiously and impartially discharge the duties and  
responsibilities of Councillor that I am now about to assume.”.

Fourth and Fifth  
Schedules inserted

**21.** The Constitution is amended by inserting after  
the Third Schedule, the following Schedules:

“FOURTH SCHEDULE

(Section 53)

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

- (1) Agriculture
- (2) Amenities for tourists
- (3) Animals
- (4) Archaeological or historical sites and monuments
- (5) Borrowing of moneys, or obtaining grants of moneys, for the purposes of the Tobago Island Government and the making of grants and loans for those purposes

- (6) Cemeteries
- (7) Cinemas
- (8) Conservation and supply of water
- (9) Dangerous or inflammable substances
- (10) Economic planning and development other than national planning and development
- (11) Employment of persons who are not citizens
- (12) Hotels, restaurants, bars, casinos and other similar establishments
- (13) Housing
- (14) Industries, trades and businesses
- (15) 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
- (16) Manufacture and supply of electricity
- (17) Parks and other places for public recreation
- (18) Prevention and control of fires
- (19) Roads and highways- except offences relating to vehicular traffic
- (20) Sport and cultural activities
- (21) Any matter that is incidental or supplementary to any matter referred to in this list.

#### FIFTH SCHEDULE

(Section 75)

THE LIST OF RESPONSIBILITY AREAS FOR WHICH THE TOBAGO ISLAND  
GOVERNMENT SHALL HAVE EXCLUSIVE ADMINISTRATIVE POWERS IN  
TOBAGO

- 1. Agriculture, Lands and Fisheries
- 2. Community Development
- 3. Culture

4. Education

Except

National Accreditation System

5. Finance

Except—

Banking (Central and Commercial)

Borrowing (External)

Foreign Exchange and Exchange Control

Customs and Excise

Taxation

Financial Intelligence

National Insurance

6. Health

7. Housing

8. Industrial Development

9. Labour

10. Office of the Assembly Legislature

11. Office of the Premier

Except—

Commissions of Enquiry

Constitutional Matters

Protocols of the State

Public Holidays

Children's Authority of Trinidad and Tobago

12. 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

Constitutional Reform

The Criminal Justice System

Intellectual Property

Law Reform

Law Revision  
National Anti-Money Laundering and  
Counter Financing of Terrorism  
Office of the Director of Public Prosecutions  
Office of the Solicitor General  
Registrar General  
Law Revision Commission  
Sentencing Commission

13. Planning and Development

Except—

National Framework for Sustainable  
Development  
National Monitoring and Evaluation  
National Statistics  
National Trust  
Vision 2030

14. Public Utilities

Except—

Meteorological Services

15. Social Services

16. Sport

17. Tourism

18. Works and Infrastructure

19. Youth Development.”.

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

*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-fourths of all the members of the House, that is to say, by the votes of        members of the House.

*Clerk of the House*

I confirm the above.

*Speaker*

Passed in the Senate this        day of        , 2021.

*Clerk of the Senate*

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

*Clerk of the Senate*

I confirm the above.

*President of the Senate*



**THE DRAFT**  
**TOBAGO**  
**ISLAND**  
**ADMINISTRATION BILL**



THE DRAFT TOBAGO ISLAND GOVERNMENT BILL

**Arrangement of Clauses**

*Clause*

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- SCHEDULE

# DRAFT 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]

ENACTED by the Parliament of Trinidad and Tobago as 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—
- “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 24;
- “Tobago Island Government” includes the Tobago Executive Council and its Divisions;
- “Tobago Legislature” means the Tobago Legislature established under section 141A (1) of the Constitution.
- (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.
- Application      **4.** No provision of this Act or of a Tobago Act shall be interpreted so as to authorise—
- (a) anything which is inconsistent with, or in derogation of the Constitution;
- (b) the operation of a Tobago Act beyond the confines of Tobago; or
- (c) any convention, declaration, treaty, protocol, agreement or any international compact of any sort whatever between the Tobago Island Government and any foreign State.

## PART II

## TOBAGO ISLAND GOVERNMENT

5. (1) The Prime Minister and the Premier 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.

Meetings between  
Prime Minister and  
Premier

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

6. (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.

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

## PART III

## TOBAGO LEGISLATURE

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

Tobago Legislature  
constituted

8. Standing Orders of the House of Assembly shall include provisions for the—

Standing Orders

- (a) regulation of procedures of the House of Assembly; and
- (b) procedures for the election of the Premier, Deputy Premier, Presiding Officer and Deputy Presiding Officer.

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

Assumption

(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

**10.** (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 its 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

**11.** 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.



**12.** (1) The salaries, allowances and other conditions <sup>Remuneration of</sup> of service of the Members of the House of Assembly shall <sup>members</sup> 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 Premier 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 30, 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) A Secretary or the Presiding Officer shall not engage in any trade, business, occupation or other undertaking for profit or remuneration other than that of serving as Secretary or the Presiding Officer.

**13.** (1) Where the President is notified that the seat of <sup>Filling of vacancies</sup> an Assemblyman/Assemblyperson has become vacant, the President shall, subject to subsections (2) and (3), issue a writ addressed to the Returning Officer of the corresponding electoral area for the holding of a bye-election for the election of an Assemblyman/Assemblyperson to fill the vacancy.

(2) The President shall, after consultation with the Prime Minister and the Premier, fix the date of a bye-election for the election of an Assemblyman/Assemblyperson, which date shall not be earlier than the expiration of two months after the declaration of the vacancy nor later than the expiration of three months after that declaration.

(3) No bye-election for the election of an Assemblyman/Assemblyperson shall be held within a period of one year prior to the holding of a primary election and the President may decline to issue a writ under subsection (1) if the vacancy is declared within one year from the date on which the House of Assembly is due to stand dissolved in accordance with section 141P of the Constitution.

(4) Where the office of the Presiding Officer or Deputy Presiding Officer is declared vacant, an election to fill that vacancy shall be held at the meeting of the House of Assembly next following the declaration of the vacancy.

(5) A person elected or appointed to the House of Assembly to fill a vacancy shall be administered the relevant oath of office by the President.

Appointment of  
certain Select  
Committees

14. (1) In addition to any other Select Committee which the House of Assembly is empowered to appoint 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 the Fourth and Fifth Schedules of the Constitution;
  - (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-committee which sub-committee 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, the sitting of a Committee shall be held 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.

**15.** (1) There shall be a Public Accounts Committee Public Accounts Committee which shall consist of not less than four nor more than 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 14 (1)(b)(iv) an enterprise shall be taken to be controlled by the Tobago Island Government if 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.

**16.** (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 Administrations and Appropriations Committee shall be so constituted as to ensure, so far as is possible, that the balance of the parties and groups.

(4) Where no member of the Minority is willing to act as Chairman of the Public Administrations 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;
- (b) the budgetary expenditure of the Tobago Island Government agencies as it occurs and keeps the House of Assembly informed of how the budget allocation is being implemented; and

(c) the administration of Tobago Island Government agencies to determine hindrances to their efficiency and to make recommendations to the Tobago Island Government for improvement of public administration.

Exemption from jury service **17.** Notwithstanding any written law, a Member of the House of Assembly shall be exempt from jury service.

House of Assembly is a public body Chap. 11:11 **18.** The House of Assembly is a public body for the purposes of the Prevention of Corruption Act.

Members of House of Assembly as persons in public life Chap. 22:01 **19.** Members of the House of Assembly are persons in public life for the purposes of the Integrity in Public Life Act.

Establishment of the Office of the Tobago Legislature, Clerk and Deputy Clerk of the House of Assembly **20.** (1) There is established a body known as the Office of the Tobago Legislature, which shall be headed by the 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 Public Service Commission shall have the power to appoint a person to an office mentioned in subsection (2) in accordance with section 121(1) of the Constitution.

(4) Before the Public Service Commission makes an appointment to an office mentioned in subsection (2), it shall consult the Premier.

(5) A person shall not be appointed to an office mentioned in subsection (2) if the Premier signifies to the Public Service Commission his objection to the appointment of that person to that office.

(6) The power to make an appointment on transfer to the offices mentioned in subsection (2) from one such office to another such office carrying the same salary shall vest in the Premier.

(7) 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.

(8) 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.

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

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

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

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

(13) An officer in the Public Service may, with the approval of the appropriate Service Commission and the consent of the Premier, consent to be seconded to the office of the Clerk of the House of Assembly or Deputy Clerk House of Assembly upon such terms and conditions as may be acceptable to the Premier and the officer.

(14) Where secondment is effected, the Tobago Executive Counsel shall make such arrangements as may be necessary to preserve the rights of the officer seconded to any pension, gratuity or other allowance for which he would have been eligible had he not been seconded.

(15) A period of secondment shall not exceed five years.

(16) An officer who has been seconded to the office of Clerk or Deputy Clerk of the House of Assembly in pursuance of this section may, with the approval of the appropriate Service Commission, be transferred from the office of Clerk or Deputy Clerk of the House of Assembly to an office in the Public Service on the termination of the period of his secondment.

(17) The Premier, 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.

(18) 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.

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

(20) The Clerk of the 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.

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

## PART IV

### FINANCE

22. Parliament shall appropriate for the use of the Tobago allocation House of Assembly for any financial year no less than 6.8 percent of the total sum appropriated by Parliament in that financial year or such other percentage to be determined by the Fiscal Commission and approved by the Parliament by Resolution.

23. (1) There shall be established a Fiscal Review Fiscal Review Commission Commission 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 subsection (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 Commission shall serve for a period no less than two years and no more than five years.

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

- (a) determine and recommend to Parliament the sums required to be appropriated to Tobago in each financial year;
- (b) 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;
- (c) to initiate special audits into any financial matter of the Tobago Island Government; and
- (d) 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 Commission 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 Commission shall be taken into consideration by Parliament in making an appropriation above 6.8 percent in any financial year.

**24.** There shall be a fund to be called “the Tobago <sup>Tobago Fund</sup> 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.

**25.** (1) The Secretary responsible for finance shall <sup>Tobago</sup> cause to be prepared and laid before the House of <sup>Appropriation Bills</sup> Assembly not later than thirty days after the monies which have been appropriated by Parliament for the 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 **26.** (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.

**27.** Monies appropriated by Parliament to the Tobago 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. Retention of monies

**28.** (1) The Tobago Executive 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. Power to borrow

- (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 purpose 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.

- 29.** (1) The Tobago Executive Council may invest— Power to invest
- (a) for any purpose relevant to its functions under any law;
  - (b) for the purpose 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 investments to the Central Bank.

Schedule

(3) The terms and conditions of the delegation of responsibility under subsection (2) shall include the matters set out in the Schedule and be published by the Secretary with responsibility for finance in the *Gazette* by Notification.

Financial Rules

**30.** The Tobago Legislature shall approve Financial Rules as are necessary for the proper management of finances.

## PART V

### GENERAL PROVISIONS

Tobago Island  
Government and  
Tobago Legislature  
as public bodies  
Chap. 71:91  
Act No. 1 of 2015

**31.** The Tobago Island Government and the Tobago Legislature, in pursuance of their functions, are subject to the Central Tenders Board Act or the Public Procurement and Disposal of Public Property Act, as the case may be.

Transitional arrange-  
ments

**32.** (1) A person who immediately before the commencement of this Chapter become a member of the Tobago House of Assembly, shall upon commencement of this Act become a member of the Tobago Legislature, but 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.

(2) Any matter before the House of Assembly which immediately before the commencement of this Act was not disposed of by the Tobago House of Assembly shall continue under the Tobago Legislature.

(3) The rules and orders of the 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.

(4) A person who immediately before this Act was employed by an institution established under the House of Assembly Act shall continue in such employment subject to and in accordance with this Act and any other applicable laws regulating such employment.

(5) Any vacancy which may occur in an office referred to in subsection (4) shall, if necessary, be filled by a person designated by the persons continuing in office in terms of subsection (4), acting in consultation with the Executive Council.

(6) 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 (4), be exercised in accordance with the House of Assembly Act, as if it had not been repealed or superseded by this Act, and any such person shall continue to be competent 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.

**33.** The Tobago House of Assembly Act is repealed. Chap. 25:03 repealed

**34.** The Interpretation Act is amended in— 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” the words “or a Tobago Act”;
- (g) section 19, by inserting after the word “Act” wherever it occurs, the words “or a Tobago Act”;
- (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 a 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 laws” 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”.

Chap. 3:02 amended **35.** 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—

- (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 maybe.”; 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 maybe,”; 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 maybe”;

(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 maybe,”; and

(i) section 12(2), by inserting after the words “of Parliament” the words “or a Tobago Act”.

**SCHEDULE**

[Section 29(3)]

**A. Responsibilities of the Central Bank**

The responsibilities of the Central Bank as manager of the investments shall include but not be limited to the—

- (a) management of the assets and other resources of the Tobago Fund in accordance with this Act and the prudent investor standard of an investment manager, engaged in the asset management profession;
- (b) investment of the assets and other resources of the Tobago Fund in accordance with this Act and the operational and investment guidelines developed by the Tobago Executive Council in consultation with the Central Bank;
- (c) selection and retention on behalf of the investments from the Tobago Fund appropriate third-party service providers, such as, Attorneys-at-law, Auditors and Advisors in order to carry out competently, the mandate specified in the instrument of delegation;
- (d) selection of an appropriate global custodian for the investments from the Tobago Fund;
- (e) maintenance of records and documentary support for all investments, receipts, disbursements and other transactions relating to the management of the investments in accordance with prevailing accounting practice;
- (f) submission of quarterly reports to the Tobago Executive Council on the holdings, performance and risk of the investments no later than one month after the end of each quarter;
- (g) submission of an Annual Report of the investments to the Tobago Executive Council no later than two months after the end of the financial year; and
- (h) Report shall contain audited financial statements and an investment report on the performance of the investments.

**B. Liability of Central Bank**

The Central Bank as Manager of the investments from the Tobago Fund shall not be liable for any error of judgment or for any act or omission or any loss suffered in connection with the matters to which the delegation relates, except for loss resulting from gross negligence or wilful misconduct in the performance of its obligations under the delegation nor for any loss incurred by reason of any act or omission of the custodian, external managers or any third party.

The Government shall indemnify the Central Bank against any and all losses, claims, damages, liabilities and expenses (including reasonable attorneys' fees and expenses) arising from its duties and obligations as manager of the investments from the Tobago Fund except those arising from gross negligence or wilful misconduct on the part of the Central Bank.

**C. Fees**

There must be specified in the instrument of delegation the annual management fee charged by the Central Bank as Manager of the investments from the Tobago Fund. The fee is to be a percentage of the market value of the investments from the Tobago Fund as agreed between the Tobago Executive Council and the Central Bank. The management fee is exclusive of any custodian fees, broker fees, current account fees or any other third party fees that may accrue incidental to the management of the investments from the Tobago Fund.

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

*Clerk of the House*

I confirm the above.

*Speaker*

Passed in the Senate this        day of                   , 2021.

*Clerk of the Senate*

I confirm the above.

*President of the Senate*



The Joint Select Committee appointed to consider the Constitution (Amendment) (Tobago Self-Government) Bill, 2020 has proposed draft companion Bills to accord self government to Tobago. The Committee is requesting public comment on the proposals. Visit [www.ttparliament.org](http://www.ttparliament.org) for more information.