

# THE TOBAGO ISLAND GOVERNMENT BILL, 2021

## ARRANGEMENT OF CLAUSES

### PART I

#### PRELIMINARY

*Clause*

1. Short title
2. Commencement
3. Interpretation
4. Application

### PART II

#### TOBAGO ISLAND GOVERNMENT

5. Tobago Executive Council: Jurisdiction for administration
6. Meetings between Prime Minister and Chief Secretary
7. Tobago Island Government to act on behalf of the Government of Trinidad and Tobago
8. Powers of a Secretary
9. Chief Administrator
10. Administrators
11. Appointment on contract

### PART III

#### TOBAGO LEGISLATURE

12. Tobago Legislature constituted
13. Power to make law
14. Assumption
15. Time limit for swearing in
16. Publication of names of members
17. Remuneration of members
18. Appointment of certain Select Committees
19. Public Accounts Committee
20. Public Administration and Appropriations Committee
21. Exemption from jury service
22. House of Assembly is a public body
23. Members of House of Assembly as persons in public life
24. Establishment of the Tobago Legislature, Clerk and Deputy Clerk of the House of Assembly
25. Appointment of Clerk and Deputy Clerk of the House of Assembly
26. Salaries and allowances of Clerk and Deputy Clerk of the House of Assembly
27. Publication of Tobago Acts

### PART IV FINANCE

28. Establishment of Secretary of Finance as a corporation sole
29. Seal of corporation sole
30. Tobago allocation

31. Tobago Fund
32. Collection of revenues
33. Expenditure
34. Audits of accounts
35. Retention of monies
36. Surrender of surplus monies
37. Power to borrow
38. Power to invest
39. Financial Rules
40. Description of property
41. Tobago Appropriation Bills
42. Contingencies Fund
43. Fiscal Review Committee

## **PART V TRANSITIONAL PROVISIONS**

44. Assemblymen deemed to be elected Assembly Members
45. Continuation of matters and rules of the Tobago House of Assembly
46. Saving of employment
47. Staff of the Tobago Island Government
48. Continuation of association representation
49. Existing agreements
50. Continuation of collective agreements
51. Right of association
52. Transferral of monies credited to former Fund and appropriated to former Assembly
53. Vesting of powers, rights and property in the Tobago Island Government
54. Pending legal proceedings
55. Savings

## **PART VI GENERAL PROVISIONS**

56. Order to amend Schedules 1 and 2
57. Consequential amendments
58. Chap. 25:03 repealed
59. Chap. 3:01 amended
60. Chap. 3:02 amended
61. Written law amended

SCHEDULE 1- The List of Matters for Which the Tobago Executive Council Shall Have Exclusive Administrative Jurisdiction in Tobago

SCHEDULE 2- The List of Matters for Which the Tobago Legislature Shall Have Exclusive Law Making Powers in Tobago

**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

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

**PART I**

**PRELIMINARY**

Short title            **1.** This Act may be cited as the Tobago Island 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 -

                                 “Fiscal Review Committee” means the Fiscal Review Committee established under **section 43**;

                                 “former Assembly” means the Tobago House of Assembly established under the Constitution (Amendment) Act, 1996 and constituted under section 5 of the Tobago House of Assembly Act repealed by this Act;

Chap. 25:03

                                 “former Fund” means the Tobago House of Assembly Fund established under the Constitution (Amendment) Act, 1996;

                                 “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 sections 75A (1) of the Constitution;

                                 “Tobago Fund” means the Tobago Fund established under **section 31**;

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

“Tobago Legislature” means the Tobago Legislature established under section 141A 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. (1) No provision of this Act or of a Tobago Act shall be interpreted so as to -

- (a) authorise anything which is inconsistent with, or in derogation of the Constitution;
- (b) authorise the operation of a Tobago Act beyond the confines of Tobago;
- (c) authorise any convention, declaration, treaty, protocol, agreement or any international compact of any sort whatever between the Tobago Island Government and any foreign State; or
- (d) contradict any obligations of Trinidad and Tobago under any convention, declaration, treaty, protocol, agreement or any international compact of any sort whatever between Trinidad and Tobago and any foreign State.

(2) The Tobago Island Government shall not do or undertake any action contrary to any obligation of Trinidad and Tobago under any convention, declaration, treaty, protocol, agreement or any international compact of any sort whatever between Trinidad and Tobago and any foreign State.

(3) The Tobago Legislature shall not enact any law contrary to any obligation of Trinidad and Tobago under any convention, declaration, treaty, protocol, agreement or any international compact of any sort whatever between Trinidad and Tobago and any foreign State.

## **PART II**

### **TOBAGO ISLAND GOVERNMENT**

Tobago Executive Council:  
Jurisdiction for administration  
Schedule 1

5. (1) In accordance with the powers under section 75(A)(1)(b) of the Constitution, the Tobago Executive Council shall have exclusive jurisdiction for the administration within Tobago of the matters set out in Schedule 1.

(2) The exclusive administrative jurisdiction, conferred on the Tobago Executive Council by subsection (1) in relation to the list of matters set out in Schedule 1, shall extend to such part of the territorial sea of Trinidad and Tobago comprising those areas of the sea having as their inner limits the low watermark of Tobago and as their outer limits, a line measured seaward from that low watermark, every point of which is at a distance of eleven nautical miles from the nearest point of that low watermark.

Meetings between  
Prime Minister  
and Chief  
Secretary

**6.** (1) The Prime Minister and the Chief Secretary 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.

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

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

**7.** (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.

(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.

Powers of a  
Secretary

**8.** (1) Where a Secretary is assigned responsibility for a Division of the Tobago Island Government, he shall exercise general direction and control over that Division.

(2) Nothing in this Act shall affect mutual consultation between a Minister and a Secretary.

Chief  
Administrator

**9.** (1) There shall be assigned to the Tobago Island Government, a Chief Administrator who shall be a public officer for the purposes of section 121 of the Constitution.

(2) The Chief Administrator shall be an Accounting Officer who shall be responsible for such Division as may be assigned to him by the Chief Secretary.

Administrators

**10.** (1) Each Division of the Tobago Island Government shall be under the supervision of an Administrator who shall be the Accounting Officer of the Division under his supervision.

(2) The terms and conditions of service of an Administrator shall be equivalent to those of a Deputy Permanent Secretary.

Appointment on contract

**11.** Subject to the guidelines prescribed or issued by the Government in respect of the employment of persons on contract, the Tobago Island Government may appoint on contract such persons as it thinks fit.

### **PART III**

#### **TOBAGO LEGISLATURE**

Tobago  
Legislature  
constituted

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

Power to make  
law  
Schedule 2

**13.** In accordance with the powers under section 53 (2) of the Constitution, the Tobago Legislature may make laws with respect to the matters set out in the Schedule 2.

Assumption

**14.** (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.

(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

**15.** (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 his 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

**16.** 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.

Remuneration of members and pension scheme

**17.** (1) The salaries, allowances and other conditions of service of the Members of the House of Assembly shall 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 Chief Secretary 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 39**, 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) The Chief Secretary, Deputy Chief Secretary, Secretary, Assistant Secretary and the Presiding Officer shall not engage in any trade, business, occupation or other undertaking for profit or remuneration other than that of serving as Chief Secretary, Deputy Chief Secretary, Secretary, Assistant Secretary or Presiding Officer.

Appointment of certain Select Committees

**18.** (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 Schedules 1 and 2;

- (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 and the 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, conduct its sitting 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.

Public Accounts  
Committee

**19.** (1) There shall be a 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 18** (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.

Public  
Administration  
and  
Appropriations  
Committee

**20.** (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 Administration and Appropriations Committee shall be so constituted as to ensure, so far as is possible, that there is a balance of the parties and groups.

(4) Where no member of the Minority is willing to act as Chairman of the Public Administration 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 keep 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

**21.** 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

**22.** 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

**23.** Members of the House of Assembly are persons in public life for the purposes of the Integrity in Public Life Act.

Establishment of the Tobago Legislature, Clerk and Deputy Clerk of the House of Assembly

**24.** (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 terms and conditions of service of the Clerk of the House of Assembly shall be equivalent to those of an Administrator.

(4) 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.

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

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

(7) The Clerk of the House of 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.

(8) The Chief Secretary, 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.

Appointment of  
Clerk and  
Deputy Clerk of  
the House of  
Assembly

**25.** (1) The Public Service Commission shall have the power to appoint a person to the office of Clerk of the House of Assembly and the office of Deputy Clerk of the House of Assembly, in accordance with section 121(1) of the Constitution.

(2) Before the Public Service Commission makes an appointment to the office of Clerk of the House of Assembly and the Deputy Clerk of the House of Assembly, it shall consult the Chief Secretary.

(3) A person shall not be appointed to an office mentioned in subsection (1) if the Chief Secretary signifies to the Public Service Commission his objection to the appointment of that person to that office.

(4) The power to make an appointment on transfer to the offices mentioned in subsection (1) from one such office to another such office carrying the same salary and allowances shall vest in the Chief Secretary.

(5) 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.

(6) 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.

Salaries and allowances of Clerk and Deputy Clerk of the House of Assembly

**26.** (1) 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.

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

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

Publication of Tobago Acts

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

## PART IV

### FINANCE

Establishment of  
Secretary of  
Finance as a  
corporation sole

**28.** (1) The Secretary responsible for finance for the time being shall be a corporation sole by the name of the Secretary of Finance and all property transferred to and vested in the Secretary of Finance by a Tobago Act or otherwise acquired by the Secretary of Finance shall be held in trust for the Tobago Island Government.

(2) Upon and by virtue of the appointment of any person to be Secretary of Finance, the benefit of all Deeds, contracts, bonds, securities or things in action vested in his predecessor at the time of his predecessor ceasing to hold office shall be transferred to and vested in and enured for the benefit of the person so appointed in the same manner as if he had been contracted with instead of his predecessor and as if his name had been inserted in all such deeds, contracts, bonds or securities instead of the name of his predecessor.

Chap. 8:02

(3) Notwithstanding the provisions of the State Liability and Proceedings Act, the Secretary of Finance may sue or be sued in his corporate capacity but only with respect to any real or personal property for the time being vested in him.

Seal of corporation  
sole

**29.** (1) The Secretary of Finance as a corporation sole shall have a seal which shall be kept in his custody and shall be judicially noticed as such.

(2) The seal of the corporation sole may be affixed to documents and instruments in the presence of the Secretary of Finance and shall be attested by the signature of the Secretary of Finance, and the signature shall be sufficient evidence that the seal was duly and properly affixed and is the lawful seal of the corporation sole.

(3) All documents, other than those required by law to be under seal, made by, and all decisions of, the corporation sole may be signified under the hand of the Secretary of Finance.

Chap. 19:06  
Chap. 56:02

(4) Notwithstanding the provisions of the Registration of Deeds Act and the Real Property Act relating to the matters thereunder required to be performed and to the mode of their performance prior to the registration of a deed, document or other instrument, the affixing of the seal of the corporation sole and the signing by the Secretary of Finance in the manner set out in subsection (2) shall be, and shall be taken as, sufficient evidence for the purposes of those Acts of the due execution by the corporation sole of any deed, document or other instrument.

Tobago allocation	<p><b>30.</b> Parliament shall appropriate for the use of the 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 as may be determined by the Fiscal Review Committee under <b>section 43</b> and approved by the Parliament by Resolution.</p>
Tobago Fund	<p><b>31.</b> (1) There shall be a fund called “the Tobago Fund” which shall consist of –</p> <p style="padding-left: 40px;">(a) such monies as shall be appropriated by Parliament for the use of the Tobago Island Government; and</p> <p style="padding-left: 40px;">(b) such other monies as the Tobago Island Government may lawfully collect, borrow or be granted.</p> <p style="padding-left: 40px;">(2) Monies appropriated by Parliament for the service of the financial year of the House of Assembly shall be credited to the Tobago Fund in quarterly releases in advance <i>en bloc</i>.</p>
Collection of revenues	<p><b>32.</b> (1) Notwithstanding section 13 of the Exchequer and Audit Act, all revenue collected in Tobago on behalf of the Government and payable thereto in respect of activities undertaken or discharged in Tobago shall be paid into the Tobago Fund.</p> <p style="padding-left: 40px;">(2) Upon the coming into force of this Act, any company, financial institution or a person operating a business in Tobago shall pay in Tobago all taxes, fees, duties, levies and other imposts in respect of its operations in Tobago.</p> <p style="padding-left: 40px;">(3) Monies credited to the Tobago Fund in accordance with subsections (1) and (2) shall be set-off against the annual allocation appropriated by Parliament to the Tobago Fund.</p>
Expenditure	<p><b>33.</b> All expenditure incurred by the Tobago Island Government shall be paid out of the Tobago Fund.</p>
Audit of accounts	<p><b>34.</b> The accounts of the House of Assembly are public accounts of Trinidad and Tobago for the purposes of section 116 of the Constitution.</p>
Retention of monies	<p><b>35.</b> 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.</p>
Surrender of surplus monies	<p><b>36.</b> (1) Subject to subsection (2), where in any financial year, monies paid into the Tobago Fund in accordance with <b>section 31</b> exceed the quantum appropriated by Parliament to the Tobago Fund for that year, the Tobago Island Government shall retain fifty per cent or such larger portion as the Minister with responsibility for finance, may by Order specify in respect of that year, of such excess to be applied towards such projects as it considers fit.</p>

(2) The Tobago Island Government shall surrender the balance of the excess to the Consolidated Fund within the first quarter of the following financial year.

Power to borrow

**37.** (1) Subject to subsection (2), 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.

(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 purposes 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.

Power to invest

**38.** (1) The Tobago Executive Council may invest -

- (a) for any purpose relevant to its functions under any law;
- (b) for the purposes 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 one of its investment accounts to the Central Bank.

Financial Rules

**39.** The Secretary with responsibility for finance shall make Financial Rules as are necessary for the proper management of the finances of the Tobago Island Government which Rules shall be approved by the Tobago Legislature.

Description of property

**40.** In any civil or criminal proceedings in respect of any monies or other property whatsoever belonging to, or under the control of the Tobago Island

Government, it shall be sufficient to describe the same as being the monies or property of the Republic of Trinidad and Tobago.

Tobago  
Appropriation  
Bills

**41.** (1) The Secretary responsible for finance shall cause to be prepared and laid before the House of Assembly not later than thirty days after the monies which have been appropriated by Parliament for 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

**42.** (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.

Fiscal Review  
Committee

**43.** (1) There shall be established a Fiscal Review Committee 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 Committee shall serve for a period no less than two years and no more than five years.

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

- (a) determine and recommend to Parliament the sums required to be appropriated to Tobago in each financial year;
- (b) establish a mechanism for revenue sharing between the Tobago Island Government and the Government of Trinidad and Tobago;
- (c) 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;

- (d) to initiate special audits into any financial matter of the Tobago Island Government; and
- (e) 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 Committee 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 Committee shall be taken into consideration by Parliament in making an appropriation above 6.8 percent in any financial year.

## PART V

### TRANSITIONAL PROVISIONS

Assemblymen  
deemed to be  
elected Assembly  
Members

**44.** Notwithstanding **section 58**, the persons who were Assemblymen of the former Assembly immediately prior to the coming into force of this Act shall, on its coming into force, be deemed to have been elected as Assembly Members pursuant to section 141B of the Constitution, and 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.

Continuation of matters and rules of the Tobago House of Assembly

**45.** (1) 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.

(2) The rules and orders of the Tobago 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.

Saving of employment

**46.** (1) A person who was employed by an institution established under the Tobago House of Assembly Act, immediately before the date of the coming into force of this Act shall, on that date, be transferred to the Tobago Island Government and all the rights, privileges, tenure and other terms and conditions of service incidental to such employment shall continue in such employment subject to and in accordance with this Act and any other applicable laws regulating such employment.

(2) The superannuation benefits which have accrued to a person under subsection (1), who prior to the coming into force of this Act was employed by the former Assembly, shall be preserved at the date of his transfer to the Tobago Island Government, and such person shall continue to accrue superannuation benefits on the basis of the salary applicable to the office which he held immediately prior to his transfer to the Tobago Island Government.

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

(4) A person who immediately before the commencement of this Act was employed on contract by an institution established under the Tobago House of Assembly Act shall continue in such employment under this Act, until the expiration of the term of the contract.

Staff of the Tobago Island Government

**47.** (1) This section applies to an officer who, on the date of the coming into force of this Act-

(a) holds a permanent appointment to; or

(b) holds a temporary appointment to, and has served at least two continuous years in,

an office in the Public Service on the establishment of the Tobago House of Assembly.

(2) A person to whom this section applies may, within three months of the coming into force of this Act, exercise one of the following options:

- (a) voluntarily retire from the Public Service on terms and conditions agreed between him or his appropriate recognized association and the Chief Personnel Officer;
- (b) transfer to the Tobago Island Government with the approval of the appropriate Service Commission on terms and conditions no less favourable than those enjoyed by him in the Public Service; or
- (c) remain in the Public Service, provided that an office commensurate with the office held by him in the Public Service prior to the date of the coming into force of this Act, is available.

Continuation of association representation

**48.** Subject to any written law, a person transferred under **section 46** shall, for the purpose of collective bargaining, continue to be represented by the relevant representative association that formerly represented him.

Existing agreements

**49.** An agreement applicable to a person transferred under **section 46**, shall be valid and binding on the relevant representative association and the Tobago Island Government, and such agreement is deemed to be registered under the Industrial Relations Act.

Chap. 88:01

Continuation of collective agreements

**50.** Upon the commencement of this Act and subject to any written law a collective agreement or other agreement that immediately prior to the commencement of this Act affected a person transferred under **section 46**, shall continue to have effect in relation to such a person.

Right of association

**51.** Persons employed in the Tobago Island Government may form an association which may be registered as a trade union or may join a trade union.

Transferral of monies credited to former Fund and appropriated to former Assembly

**52.** Upon the coming into force of this Act-

- (a) all sums of monies credited to and all charges on the former Fund shall be transferred to the Tobago Fund; and
- (b) all sums of monies appropriated to the former Fund shall be appropriated to the Tobago Fund.

Vesting of powers,  
rights and property  
in the Tobago  
Island  
Government

**53.** Upon the coming into force of this Act-

- (a) all lands and other property of every kind located in Tobago vested in the State except the residences of the President and the Prime Minister are hereby vested in the Secretary of Finance who shall hold them in trust for the Tobago Island Government in right of the Republic of Trinidad and Tobago;
- (b) all lands and other property of every kind, including things in action, vested in the former Assembly are hereby vested in the Secretary of Finance who shall hold them in trust for the Tobago Island Government ; and
- (c) all the rights, privileges and benefits and all the liabilities and obligations that, immediately before the coming into force of this Act, the former Assembly was entitled or subject to, are hereby transferred to and conferred or imposed upon the Secretary of Finance.

Pending legal  
proceedings

**54.** Legal proceedings pending immediately before the coming into force of this Act by or against the former Assembly may, on the coming into force of this Act, be continued by or against the Tobago Island Government as the party to the proceedings instead of the former Assembly.

Savings

**55.** Notwithstanding the repeal of the Tobago House of Assembly Act by this Act, the Tobago House of Assembly Financial Rules, 1990 shall, until such time as Financial Rules are made and approved under **section 39** and come into force, remain in force and apply to the House of Assembly with such modifications as are necessary for conformity with this Act.

## PART VI

### GENERAL PROVISIONS

Order to amend  
Schedules 1 and 2

**56.** The President may by Order, subject to negative resolution of Parliament, amend Schedule 1 and Schedule 2 to add any other matter.

Consequential  
amendments

**57.** (1) A reference in any written law to the former Assembly shall be construed as a reference to the House of Assembly or the Tobago Island Government, as the case may be.

(2) A reference in any written law to Assemblyman shall be construed as a reference to Assembly Member.

Chap. 25:03  
repealed

**58.** The Tobago House of Assembly Act is repealed.

**59.** The Interpretation Act is amended in-

- (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” wherever it occurs, the words “or a Tobago Act”;
- (g) section 19, by inserting after the words “an Act” and “the Act”, the words “or a Tobago Act” and “or the Tobago Act”, respectively;
- (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 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 law” 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”.

**60.** 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 may be.”; 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 may be,”; 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 may be”;

(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 may be,”; and

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

Written law  
amended  
Council Paper  
No. 177 of 1898/  
M.P. No.  
4533/1898

**61.** Trinidad and Tobago Order in Council, 1898 is amended in clause 2 by deleting the words “, the Island of Tobago shall be a Ward of the Colony of Trinidad and Tobago; and”.

## **SCHEDULE 1**

(Section 5)

### **THE LIST OF MATTERS FOR WHICH THE TOBAGO EXECUTIVE COUNCIL SHALL HAVE EXCLUSIVE ADMINISTRATIVE JURISDICTION IN TOBAGO**

1. Agriculture
2. Community Development
3. Construction and maintenance of public buildings and the maintenance of the residences of the President and Prime Minister
4. Co-operatives
5. Culture and the Arts
6. Customs and Excise



7. Education, including Curriculum
  - Except-
    - National Accreditation System
8. Emergency Management Services
9. Finance, that is to say the collection of revenue and the meeting of expenditure incurred in the carrying out of the functions of the Tobago Island Government
  - Except-
    - Banking (Central and Commercial)
    - Financial Intelligence
    - Foreign Exchange and Exchange Control
    - Macro-economic policy
    - National Insurance
    - National Pension Scheme
    - Taxation
10. Fisheries
11. Food Production
12. Forestry
13. Health Services
14. Highways and Roads
15. Housing
16. Industrial Development
17. Infrastructure, including air and sea transport, wharves and airports and public utilities
18. Labour
19. Land and Marine parks
20. Library Services
21. Licensing
22. Marketing
23. Museums, archives, historical sites and historical buildings and Cemeteries
24. Office of the Chief Secretary
  - Except-
    - Commission of Enquiry
    - Constitutional Matters'
    - Protocols for State
    - Public Holidays
    - Children's Authority of Trinidad and Tobago
25. 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
    - Children's Attorney
    - Constitutional Reform
    - Construction of court facilities for the Judiciary
    - The Criminal Justice System

- Intellectual Property
- International Office of Child Rights
- Law Reform Commission
- Law Revision Commission
- Legal Service Complaints
- National Anti-Money Laundering and Counter Financing of  
Terrorism Committee
- National Biosafety
- Office of the Chief Parliamentary Counsel
- Office of the Chief State Solicitor
- Office of the Director of Public Prosecutions
- Office of the Solicitor General
- Registrar General
- Central Authority
- Council of Legal Education
- Environmental Commission
- Equal Opportunity Commission
- Equal Opportunity Tribunal
- Hugh Wooding Law School
- Industrial Court
- International Law and Human Rights Unit
- Legal Aid and Advisory Authority
- Sentencing Commission
- Tax Appeal Board
- 26. Planning and Development
  - Except-
    - National Framework for Sustainable Development
    - National Monitoring and Evaluation
    - National Statistics
    - National Trust
    - National Development Plan
    - National planning and development
- 27. Plant and Animal Quarantine
- 28. Postal services and collection of revenue therefrom
- 29. Public Utilities
  - Except-
    - Meteorological Services
- 30. Social Welfare
- 31. Sports
- 32. State Lands
- 33. Statistics and Information
- 34. Telecommunications
- 35. The Environment
  - Except-
    - Environmental Management Authority
    - National environmental conservation
- 36. The Tobago Legislature

37. Tourism, including amenities and levies
38. Town and Country Planning
39. Valuations
40. Works
41. Youth Development.
42. The Tobago Executive Council shall have exclusive administrative jurisdiction in relation to the list of matters set out above within Tobago and such part of the territorial sea of Trinidad and Tobago comprising those areas of the sea having as their inner limits the low watermark of Tobago and as their outer limits, a line measured seaward from that low watermark, every point of which is at a distance of eleven nautical miles from the nearest point of that low watermark.

## **SCHEDULE 2**

(Section 13)

### **THE LIST OF MATTERS FOR WHICH THE TOBAGO LEGISLATURE SHALL HAVE EXCLUSIVE LAW MAKING POWERS IN TOBAGO**

1. Agriculture, Plant and Animal Quarantine
2. Community Affairs and Cooperatives
3. Conservation (other than national environmental conservation)
4. Consumer Affairs
5. Culture and Entertainment
6. Economic Planning and Development (other than macro-economic policy, national planning and development)
7. Education, Library, Training and Skills development
8. Emergency Management Systems
9. Employment of persons who are not citizens
10. Financial matters, including borrowing, investment, revenue and other matters of the Tobago Island Government (other than Banking (Central and Commercial), Financial Intelligence, Foreign Exchange and Exchange Control, Macro-economic policy, National Insurance, National Pension Scheme and Taxation)
11. Forestry
12. Generation, Supply and Distribution of renewable energy
13. Health and Social Services (other than national pension)
14. Heritage and Historical sites
15. Housing

16. Industries, Trade and Businesses
17. 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
18. Matters related to the proceedings and operations of the Tobago Legislature
19. Prevention and control of fires
20. Restaurants, Bars, Casinos and other similar establishments
21. Sport
22. The Environment (other than the Environmental Management Authority)
23. Tourism, including amenities and levies
24. Transport, Roads and Highways.

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*