TOBAGO HOUSE OF ASSEMBLY ACT

CHAPTER 25:03

Act
40 of 1996
Amended by
4 of 2001
17 of 2006

Current Authorised Pages

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UNOFFICIAL VERSION

L.R.O.

UPDATED TO 31ST DECEMBER 2016

Note on Subsidiary Legislation

The following Subsidiary Legislation have been omitted:

A. The Tobago House of Assembly Standing Orders (LN 278/1997);

B. The Tobago House of Assembly Financial Rules (LN 183/1990); and

C. Guidelines for Contract Employment in the Tobago House of Assembly (LN 148/2000).

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TOBAGO HOUSE OF ASSEMBLY ACT

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CHAPTER 25:03

TOBAGO HOUSE OF ASSEMBLY ACT

40 of 1996.

An Act to repeal and replace the former Tobago House of Assembly Act, and to provide for the membership, powers and functions of the Tobago House of Assembly and its Executive Council and matters incidental thereto.

*[ASSENTED TO 9TH DECEMBER 1996]

PART I

PRELIMINARY

Short title.

1. This Act may be cited as the Tobago House of Assembly Act.

Commencement. [197/1996].

2. This Act came into operation on 10th December 1996.

Interpretation.

3. In this Act—

"Assembly" means the Tobago House of Assembly referred to in section 141A of the Constitution and, unless a contrary intention appears, includes the Executive Council;

"Assemblyman" means a person referred to in section 5(1)*(a)*;

"Assembly Law" means a law enacted pursuant to section 29;

"Chief Administrator" means the person holding or acting in the office established under section 71;

"Chief Secretary" means the person elected as such under section 8 and includes the Deputy Chief Secretary where the context so requires;

"Clerk" means the person holding or acting in the office established under section 72;

"Commission" means the Dispute Resolution Commission established under section 56;

"Councillor" means a Councillor appointed under section 9;

"Deputy Chief Secretary" means the person elected as such under section 8;

**See* section 2 for the date of commencement of this Act.

"Deputy Presiding Officer" means the person elected as such under section 10;

"Executive Council" means the Executive Council of the Assembly established under section 141C of the Constitution;

"former Assembly" means the Assembly established by the Tobago House of Assembly Act, 1980 repealed by this Act; 37 of 1980.

"Member" means an Assemblyman, Councillor or Presiding Officer;

"Presiding Officer" means the person elected as such under section 7 and includes the Deputy Presiding Officer where the context so requires;

"primary election" means the first election held under this Act and every election thereafter consequent upon the dissolution of the Assembly, but does not include a bye-election;

"State enterprise" means an enterprise that is controlled by or on behalf of the State;

"statutory authority" has the meaning assigned to it in section 2 of the Statutory Authorities Act; Ch. 24:01.

"Secretary", unless a contrary intention appears, means a member of the Executive Council to whom administrative responsibility is assigned.

4. No provision of this Act or of an Assembly Law shall be construed or interpreted so as to authorise— Application.

(a) anything which is inconsistent with, or contrary to or in derogation of the Constitution of the Republic of Trinidad and Tobago; or

(b) any operation of any Assembly Law beyond the confines of the island of Tobago and such part of the territorial sea of Trinidad and Tobago comprising those areas of the sea having as their inner limits the baselines of Tobago as determined in accordance with section 5 of the Territorial Sea Act, and as their outer limits, a line measured seaward from those baselines, every point of which is distant six nautical miles from the nearest point of those baselines unless the contrary is expressly stated therein; Ch. 1:51.

(c) any convention, declaration, treaty, protocol, agreement or any international compact of any sort whatever between the island of Tobago or the Assembly and any foreign State.

PART II

THE ASSEMBLY

MEMBERS OF THE ASSEMBLY

Body Corporate.

5. (1) The Assembly shall be a body corporate and consist of—

(a) twelve Assemblymen elected at an election held in accordance with the Representation of the People Act, but subject to section 15(1)*(b)*; Ch. 2:01.

(b) four Councillors appointed in accordance with section 9;

(c) a Presiding Officer who may or may not be an Assemblyman or a Councillor, who shall not be a member of the Executive Council, and who shall be elected in accordance with section 7.

(2) The Assembly shall have a common seal which shall be judicially noticed.

Swearing in of Assemblymen.

6. The President shall administer to the Assemblymen at a meeting held for the purposes of this section, not later than three days after the date of the primary election or as soon thereafter as the President may consider practicable, the oath of office set out in the First Schedule. First Schedule.

Election of Presiding Officer.

7. (1) The Assemblymen shall, upon the swearing in referred to in section 6, elect a Presiding Officer to whom the President shall administer the oath set out in the Second Schedule. Second Schedule.

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

Election of Chief Secretary and Deputy Chief Secretary.

8. Upon the election referred to in section 7, the Asemblymen shall elect from among their number, the Chief Secretary and the Deputy Chief Secretary in accordance with

section 11 and following such election, the President shall administer to the Chief Secretary and the Deputy Chief Secretary respectively, the oath of office set out in the Third Schedule. Third Schedule.

8A. Immediately after administering the oaths of office to the Chief Secretary and the Deputy Chief Secretary under section 8, the President shall appoint as Minority Leader the Assemblyman who, in his opinion, commands the support of the largest number of Assemblymen who do not support the Chief Secretary. Appointment of Minority Leader.

9. (1) Immediately after the appointment of the Minority Leader under section 8A, the Presiding Officer shall, acting in accordance with the advice of— Appointment of Councillors.

(a) the Chief Secretary, appoint three Councillors; and

(b) the Minority Leader, appoint one Councillor.

(2) The President shall administer to each Councillor the oath set out in the Fourth Schedule. Fourth Schedule.

10. Upon the appointments referred to in section 9, the members shall elect from among themselves, the Deputy Presiding Officer to whom the President shall administer the oath set out in the Second Schedule. Election of Deputy Presiding Officer. Second Schedule.

11. (1) In the case of elections held under sections 8 and 10, the Presiding Officer shall receive nominations of candidates from any Assemblyman or Councillor, as the case may be, who has been already sworn, except that no Assemblyman or Councillor shall nominate more than one candidate for the same office, whether as proposer or seconder. Election procedure.

(2) Where not more than one candidate is nominated for an office, the Presiding Officer shall declare that candidate duly elected, but where more than one is nominated, election shall be by secret ballot.

(3) The person elected to an office shall be the candidate receiving the highest number of votes, but where because of an equality of votes the election of a person is impossible, the ballot shall be retaken in respect of the relevant candidates.

(4) Where on the second ballot the equality of votes continues, the Presiding Officer shall exercise a casting vote.

Publication of names of Members.

12. Upon the appointment of the Councillors pursuant to section 9, the names of the Members shall be posted on the outer door of the Chamber of the Assembly and published in the *Gazette* and in at least one daily newspaper circulating in Trinidad and in Tobago.

Assumption of duty.

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

(2) The term of office of an Assemblyman commences on the day on which he is elected to office and the term of office of a Member, other than an Assemblyman, commences on the day on which he is administered the relevant oath of office.

Time limit for swearing in.

14. (1) Where a person elected or appointed to serve in the Assembly is not present at the meeting referred to in section 6, 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 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 Assembly 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) Any extension of time granted in accordance with subsection (3) shall be immediately notified by the Presiding Officer to the President.

Qualifications for membership.

15. (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, except that the residency requirement of paragraph *(c)* of that section shall not apply; and Ch. 2:01.

(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, or being a citizen if he—

(a) has been adjudged or otherwise declared bankrupt under any law in force in any country and has not been discharged;

(b) is a mentally ill person within the meaning of the Mental Health Act; Ch. 28:02.

(c) 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;

(d) is disqualified from being elected under sections 31 and 32 of the Representation of the People Act;

(e) holds, or is acting in, an office of the Assembly by virtue of Part VII, 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;

(f) is a member of the Senate or the House of Representatives or of a Municipal or Regional Corporation.

Remuneration of Members.

16. (1) The salary, allowances and other conditions of service of the Chief Secretary shall be equal to that of a Minister, except that the State shall provide the Chief Secretary with the following:

(a) an official residence in lieu of a housing allowance;

(b) an official car in lieu of a travelling allowance;

(c) appropriate security services.

(2) The salaries, allowances and other conditions of service of the Presiding Officer, the Deputy Presiding Officer, the Deputy Chief Secretary, other Secretaries and other Assemblymen and Councillors shall be reviewed by the Salaries Review Commission in accordance with section 141 of the Constitution.

(3) Every Assemblyman shall be entitled to a monthly allowance to defray the cost of rental of office accommodation in his district, employment of staff, telephone and electricity services.

(4) The allowance referred to in subsection (3) shall be determined by the Salaries Review Commission.

(5) The Assembly shall, in accordance with the Financial Rules made under section 52, establish a contributory pension scheme for Members.

(6) The salaries and allowances payable to the Chief Secretary, the Deputy Chief Secretary, Secretaries and other Members, the Presiding Officer and Deputy Presiding Officer, are a charge on the Fund referred to in Part IV.

(7) Section 3(5) of the Constitution applies to the offices of Chief Secretary, Deputy Chief Secretary, Secretary and Member.

(8) 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.

Tenure of office of Members.

17. (1) Subject to section 22, except in the case of a person whose seat becomes vacant under section 14 or 19, the term of office of a Member expires at the next dissolution of the Assembly.

(2) A person whose term of office as a Member has expired is eligible for re-election, unless that person is disqualified under section 15(2).

Exemption from jury service.

18. Notwithstanding any written law, a Member shall be exempt from jury service.

Seat of Member—how vacated.

19. (1) Subject to section 20, the seat of an Assemblyman becomes vacant where he—

(a) dies;

(b) 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);

(c) is without the leave of the Assembly continuously absent from Tobago for more than ninety days or from three consecutive ordinary meetings of the Assembly; or

(d) ceases to possess any of the qualifications required by section 15(1) or is or becomes disqualified from being a Member for any of the reasons set out in section 15(2).

(2) The President shall revoke—

(a) the appointment of a Councillor on the advice of the person or party which nominated him or by reason of any of the matters set out in subsection (1);

(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.

20. (1) The Assembly shall formally declare a vacancy in its membership—

(a) at the first meeting of the Assembly following the vacating of a seat by virtue of section 14(2) or section 19(1) and (2); or

(b) on the adoption of a motion of the Members based on the recommendation of a committee appointed for the purpose of section 19(1)*(d)*.

(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 Assembly and published in at least one daily newspaper circulating in Trinidad and in Tobago.

Filling of vacancies.

21. (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 Chief Secretary, 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 three months 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 Assembly is due to stand dissolved under section 22(1).

(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 Assembly next following the declaration of the vacancy.

(5) Where the appointment of a Councillor is revoked or vacated, the party that or persons who, as the case may be, nominated the Councillor shall nominate a person to be appointed thereto at the meeting of the Assembly next following the revocation or vacation of the appointment.

(6) A person elected or appointed to the 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 Assembly.

22. (1) The Assembly shall continue for four years from the date of its first sitting after any primary election, and shall then stand dissolved, unless the Assembly, by resolution, dissolves itself at an earlier date.

(2) The President, after consultation with the Prime Minister and the Chief Secretary, shall fix the date of a primary election, which date shall not be earlier than the expiration of two months after the disolution of the Assembly nor later than the expiration of three months after that dissolution.

Assembly is a public body. Ch. 11:11.

23. The Assembly is a public body for the purposes of the Prevention of Corruption Act.

Members as persons in public life. Ch. 22:01.

24. Members are persons in public life for the purposes of the Integrity in Public Life Act.

FUNCTIONS OF THE ASSEMBLY

Responsibility of the Assembly.

25. (1) Without prejudice to section 75(1) of the Constitution, the Assembly shall, in relation to Tobago, be responsible for the formulation and implementation of policy in respect of the matters set out in the Fifth Schedule.

Fifth Schedule.

(2) For the better performance of its functions, the Assembly is hereby empowered to do all such acts and take all such steps as may be necessary for, or incidental to the exercise of its powers or for the discharge of its duties and in particular the Assembly may—

(a) devise mechanisms to ensure the protection and security of property, buildings, or other assets under its control;

(b) enter into such contracts as it deems fit for the efficient discharge of its functions;

(c) obtain from international donors any grant, aid or technical assistance.

(3) Where a statutory authority or a State enterprise provides services in Tobago, that authority or enterprise shall, in exercising its duties in relation to those services, act in accordance with the policies or programmes of the Assembly and to this end may enter into a Memorandum of Understanding with the Assembly.

Responsibility of Government. Sixth Schedule.

26. (1) The Assembly shall not have responsibility for the matters set out in the Sixth Schedule.

(2) The Government or any statutory authority or State enterprise may, by way of Memorandum of Understanding, authorise the Assembly to act as agent of the Government, statutory authority or State enterprise, as the case may be, in respect of any of its responsibilities in Tobago.

(3) The Government or any relevant body, as the case may be, shall promote the delivery in Tobago of services to the public in relation to the matters set out in the Seventh Schedule, and in so doing shall give due consideration to the views of the Assembly.

Seventh Schedule.

Administration of certain services.

27. Where services fall within the responsibility of the Assembly pursuant to section 25(1) or where the Assembly acts as agent of the Government, statutory authority or State enterprise pursuant to section 26(2), the services shall be administered by the Assembly.

Assembly subject to Central Tenders Board. Ch. 71:91.

28. The Assembly, in pursuance of its functions, shall be subject to the Central Tenders Board Act until such time as there is in effect alternative provision therefor made by the Assembly under section 52.

Assembly Laws.

29. (1) In the exercise of its powers under this Act, the Assembly may propose and adopt Bills in relation to the matters for which it is responsible under section 25.

(2) Such Bills shall be debated in the Assembly in accordance with its Standing Orders and, if adopted, shall be transmitted by the Chief Secretary to the Secretary to Cabinet with a request for its introduction into Parliament for enactment into law in accordance with section 61 of the Constitution.

(3) Upon the decision of Cabinet for the purpose a Bill that is so adopted shall be introduced into Parliament with a view to its enactment in accordance with the relevant Standing Orders.

(4) A Bill adopted by the Assembly shall not seek to abrogate, suspend, repeal, alter, override or be contrary to any written law of the Republic of Trinidad and Tobago or impose any direct or indirect taxation whatsoever.

(5) When passed by Parliament such a law shall be known as an Assembly Law and shall be so designated in its Short Title.

Attendance of Chief Secretary at Cabinet meetings.

30. The Chief Secretary may, if invited by the Prime Minister so to do, attend meetings of Cabinet in order that the Chief Secretary may—

(a) apprise Cabinet of decisions taken by the Assembly in the exercise of its powers under this Act; or

(b) represent the interest of Tobago in any matter having or likely to have an adverse effect on Tobago,

but the Chief Secretary shall not have the right to vote on any matter before the Cabinet.

Prime Minister and Chief Secretary to hold discussions.

31. The Prime Minister and the Chief Secretary shall hold regular discussions with a view to formulating administrative and legislative mechanisms for the promotion of harmony in the affairs of Trinidad and Tobago.

Annual Report.

32. (1) On or before 30th April in each year, the Chief Secretary shall present to the Prime Minister, a report reviewing the activities of the Assembly during the year ended 31st December immediately preceding.

(2) Within one month of the receipt of the report, the Prime Minister shall cause a copy of the report to be laid before Parliament.

PART III

EXECUTIVE COUNCIL OF THE ASSEMBLY

Composition of the Executive Council. [17 of 2006].

33. (1) The Executive Council shall comprise—

(a) the Chief Secretary;

(b) the Deputy Chief Secretary;

(c) such other Secretaries, not being more than seven, selected from among the Members of the Assembly as the President acting in accordance with the advice of the Chief Secretary may appoint.

(2) The Chief Secretary shall consult with Members before he advises the President in accordance with subsection (1)*(c)*.

Third Schedule.

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

Duties and powers of the Executive Council.

34. (1) The Executive Council shall be responsible for the carrying out of the functions of the Assembly and the Chief Secretary may, for that purpose, undertake or assign to a Secretary, responsibility for any such function.

(2) In the exercise of their powers, the Members of the Executive Council shall be individually and collectively responsible to the Assembly.

(3) Subject to subsection (2), decisions of the Executive Council may be implemented without the prior approval of the Assembly.

(4) The Executive Council shall continue to discharge its functions during any period that the Assembly stands dissolved.

Motions of no confidence.

35. Where the Assemblymen pass a resolution declaring that they have no confidence in the Chief Secretary or the Deputy Chief Secretary and the Chief Secretary or the Deputy Chief Secretary, as the case may be, does not within two days of the passing of such a resolution resign, the President shall revoke the appointment of the Chief Secretary or the Deputy Chief Secretary, as the case may be.

Tenure of office.

36. (1) The Chief Secretary shall vacate his office—

(a) where for any reason other than a dissolution of the Assembly he ceases to be a Member; or

(b) immediately before the administering of the oath under section 8 to himself if he is re-elected or to his successor.

(2) Subsection (1) applies to the Deputy Chief Secretary as it applies to the Chief Secretary.

(3) A Secretary, other than the Chief Secretary or the Deputy Chief Secretary, shall vacate his office—

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

(b) where for any reason other than a dissolution of the Assembly he ceases to be a Member;

(c) where his appointment is revoked by the President acting in accordance with the advice of the Chief Secretary.

Powers of a Secretary.

37. (1) Where a Secretary is assigned responsibility for a Division of the Assembly, 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.

Executive Council subject to powers of the Ombudsman.

37A. Section 93 of the Constitution applies to the Executive Council and the Divisions of the Assembly.

Assistant Secretaries.

37B. (1) The President may, on the advice of the Chief Secretary, appoint a Member to the office of Assistant Secretary.

(2) The salaries, allowances and other conditions of service of an Assistant Secretary shall be reviewed by the Salaries Review Commission in accordance with section 141 of the Constitution.

(3) The President shall administer to an Assistant Secretary the oath set out in the Third Schedule. Third Schedule.

PART IV

FINANCE

Definitions.

38. In this Part—

"financial institution" has the meaning assigned to it by the Financial Institutions Act; Ch. 79:09.

"financial year" has the meaning assigned to it by section 3 of the Constitution;

"Fund" means the Tobago House of Assembly Fund established under section 141D of the Constitution;

"former Fund" means the Tobago House of Assembly Fund established under the former Tobago House of Assembly Act, 1980 repealed by this Act;

"Secretary" means the Secretary to whom responsibility for finance is assigned;

"Minister" means the Minister to whom responsibility for finance is assigned.

Expenditure.

39. All expenditure incurred by the Assembly shall be paid out of the Fund.

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

40. 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 Fund;

(b) all sums of monies appropriated to the former Fund shall be appropriated to the Fund.

Estimates.

41. (1) The Secretary shall in each financial year submit to the Assembly for its approval, draft estimates of revenue and expenditure respecting all functions of the Assembly for the next financial year.

(2) The Assembly shall approve the draft estimates submitted in accordance with subsection (1), with such modifications as it thinks fit.

(3) The Chief Secretary shall transmit for consideration and approval by Cabinet, the draft estimates approved by the Assembly in accordance with subsection (2).

(4) Upon the coming into force of this Act, draft estimates shall be submitted to the Cabinet in accordance with subsection (3) before the expiration of three months from the date of the first meeting of the Assembly held in accordance with section 62.

(5) All draft estimates, capital and recurrent, subsequent to those referred to in subsection (4) shall be submitted to the Cabinet in accordance with subsection (3) before the end of the third quarter of each financial year.

Late submission of estimates.

42. (1) Where the Assembly fails to complete consideration of its draft estimates in time to allow the Chief Secretary to proceed in accordance with section 41(3), (4) and (5), there shall be allowed an extension for a period of one week.

(2) Where the Chief Secretary is unable to submit the estimates within the period referred to in subsection (1), the Minister shall proceed to prepare such draft estimates as he thinks fit and may take into account any draft estimates subsequently submitted by the Assembly.

Cabinet to consider certain needs.

43. In considering the estimates as submitted by the Chief Secretary, Cabinet shall 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:

(a) physical separation of Tobago by sea from Trinidad and Tobago's distinct identity;

(b) isolation from the principal national growth centres;

(c) absence of the multiplier effect of expenditures and investments (private and public) made in Trinidad;

(d) restricted opportunities for employment and career fulfilment;

(e) the impracticability of participation by residents of Tobago in the major educational, cultural and sporting facilities located in Trinidad.

Assembly may refer allocation to Commission.

44. Where the Assembly is dissatisfied with the allocation or any part thereof referred to in section 43 it may refer the matter to the Commission in accordance with the provisions of Part V.

Annual statement of accounts.

45. No later than the end of the fourth month of each financial year, the Secretary shall submit to the Assembly, a statement of accounts showing the monies paid into, and the expenditure met from the Fund in respect of the functions of the Assembly during the previous financial year, and the Chief Secretary shall, as soon as possible after the submission referred to in this section, submit a copy of the statement to the Cabinet.

Audit of accounts.

46. The accounts of the Assembly are public accounts of Trinidad and Tobago for the purposes of section 116 of the Constitution.

Quarterly releases.

47. Monies appropriated by Parliament for the service of the financial year of the Assembly shall be credited to the Fund in quarterly releases in advance *en bloc*.

Retention of monies. Ch. 69:01.

48. Notwithstanding section 42 of the Exchequer and Audit Act, monies appropriated by Parliament to the Fund for the service of a financial year which remain unexpended at the end of that financial year shall be retained in the Fund and utilised for the purposes of capital investment.

Collection of revenues.

49. (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 Fund.

(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.

(3) Monies credited to the Fund in accordance with subsections (1) and (2) shall be set-off against the annual allocation appropriated by Parliament to the Fund.

Surrender of surplus monies.

50. (1) Subject to subsection (2), where in any financial year, monies paid into the Fund in accordance with section 49 exceed the quantum appropriated by Parliament to the Fund for that year, the Assembly shall retain fifty per cent or such larger portion as the Minister may by Order specify in respect of that year, of such excess to be applied towards such projects as it considers fit.

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

Power to borrow.

51. The Secretary may—

(a) with the approval of the Assembly, borrow by way of overdraft, such sums as the Assembly considers fit for the discharge of its functions; or

(b) with the approval of the Minister, borrow sums by way of term loans for the purposes of capital investment.

Financial Rules.

52. Within two months of the coming into force of this Act, the Assembly shall, subject to the approval of the President, make such Financial Rules as are necessary for the proper management of its finances and such Rules shall, when made, be laid in Parliament.

Description of property.

53. In any civil or criminal proceedings in respect of any monies or other property whatsoever belonging to, or under the control of the Assembly, it shall be sufficient to describe the same as being the monies or property of the Republic of Trinidad and Tobago.

Vesting of powers, rights and property in the Assembly.

54. 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 Assembly 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 Assembly;

(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 Assembly.

Continuation of legal proceedings.

55. 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 Assembly as the party to the proceedings instead of the former Assembly.

PART V

THE DISPUTE RESOLUTION COMMISSION

Establishment of Dispute Resolution Commission.

56. There is established a body to be known as the Dispute Resolution Commission which shall undertake to resolve disputes between the Assembly and the Government on budgetary allocations to the Assembly and matters in connection therewith.

Composition of Commission.

57. (1) The Commission shall comprise of the Ombudsman, or such other person with judicial or quasi-judicial experience as may be agreed to by the Government and the Assembly, as Chairman and four other members, two of whom shall be appointed by the Government and two by the Assembly.

(2) With the exception of the Chairman, the membership of the Commission shall be reconstituted in respect of each dispute.

Dispute to be referred to Cabinet.

58. (1) A dispute referred to in section 56 shall, before it is submitted to the Commission, be referred to the Prime Minister who shall, as soon as practicable, refer the matter to the Cabinet for its consideration.

(2) The Cabinet shall, as soon as possible after consideration of the dispute, convey its position to the Assembly in writing.

Referral of dispute to Chairman.

59. (1) Where a dispute submitted to the Cabinet pursuant to section 58 remains unresolved, the Assembly or the Government may, in writing, refer the dispute to the Chairman within one month after the Cabinet has complied with section 58(2) and the Chairman shall forthwith invite the parties to the dispute to appoint the members referred to in section 57.

(2) The Commission shall meet to consider a dispute on such date and at such place as the Chairman may fix.

Recommendation for resolution of dispute.

60. A recommendation for the resolution of a dispute shall be arrived at by consensus of the members of the Commission.

Communication of recommendation.

61. A recommendation under section 60 shall be communicated by the Chairman in writing to the Prime Minister and the Chief Secretary and the Prime Minister shall cause the recommendation to be laid in Parliament and the Chief Secretary shall cause the recommendation to be laid before the Assembly.

PART VI

MEETINGS AND PROCEEDINGS OF THE ASSEMBLY

First meeting.

62. The first ordinary meeting of the Assembly after the meeting referred to in section 6 shall be held within fifteen days after that meeting.

Presiding Officer to have casting vote.

63. The Presiding Officer shall preside at all meetings of the Assembly at which he is present and may exercise the right of a casting vote only, except that where he is an Assemblyman or a Councillor, he shall retain the right to vote and may also exercise the right of a casting vote.

Absence of Presiding Officer.

64. (1) Where the Presiding Officer is unable to attend a meeting of the Assembly, the Deputy Presiding Officer shall preside with the same powers and authority as the Presiding Officer, except that he shall retain the right to vote and may also exercise the right of a casting vote.

(2) Where both the Presiding Officer and Deputy Presiding Officer are unable to attend a meeting of the Assembly, the Members present shall elect one of their number, not being a

member of the Executive Council, to preside at that meeting and the Member so elected shall retain the right to vote and may also exercise the right of a casting vote.

Meetings.

65. (1) The Assembly shall hold an ordinary meeting as often as its business may require and at least once every month.

(2) The Presiding Officer shall convene a special meeting of the Assembly—

(a) at the written request of the Chief Secretary; or

(b) at the written request of not less than one-third of the members.

(3) A request for a special meeting shall be directed through the Clerk to the Presiding Officer.

(4) All meetings of the Assembly shall be open to the public except that the Presiding Officer may order the removal of any person or persons for disorderly conduct or obstruction of the proceedings of the Assembly.

Notice of meetings.

66. (1) The Clerk shall give each member at least three clear days written notice of any ordinary meeting and the notice shall specify the business of the meeting.

(2) The Clerk shall give each member at least twenty-four hours written notice of any special meeting and the notice shall specify the business of the meeting.

Record of proceedings.

67. The Clerk shall keep, in proper form, a record of the proceedings of each meeting of the Assembly.

Quorum.

68. At a meeting of the Assembly, other than the meeting referred to in section 6, nine members shall constitute a quorum.

Rules and Standing. Orders.

69. (1) Subject to this Act, the Assembly shall make Rules and Standing Orders to provide for—

(a) the safe custody and use of the Seal;

(b) the regulation and conduct of the proceedings and meetings of the Assembly including records of proceedings of the Assembly;

(c) the maintenance of order in the Chamber of the Assembly;

(d) the conduct of debates in the Assembly;

(e) the suspension of members;

(f) such other matters as the Assembly considers fit.

(2) Rules and Standing Orders of the Assembly may be made by a simple majority of members.

(3) The Rules and Standing Orders of the Assembly may provide that the records of the proceedings of any meeting, shall, when copies thereof have been circulated to members, be taken as read.

Privileges and immunities.

70. (1) Subject to the Rules and Standing Orders of the Assembly, there shall be freedom of speech in the Chamber of the Assembly.

(2) 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 Assembly or a committee thereof.

(3) In other respects, the powers, privileges and immunities of the Assembly, Members and committees of the 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.

PART VII

STAFF AND RELATED MATTERS

Chief Administrator.

71. (1) There shall be assigned to the Assembly, a Chief Administrator who shall be a public officer for the purposes of section 121 of the Constitution.

(2) Upon the coming into force of this Act, all the rights, privileges and conditions of service incidental to the office of Clerk of the former Assembly shall be transferred to the office of Chief Administrator without any break in service.

(3) 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.

(4) Prior to consultation with the Public Service Commission on the appointment of the Chief Administrator, the Prime Minister shall consult with the Chief Secretary.

Clerk of the Assembly.

72. (1) There shall be assigned to the Assembly, a Clerk who shall be responsible for the efficient discharge of such functions as fall to be discharged by him under the Rules and Standing Orders of the Assembly or as may be assigned to him by the Presiding Officer.

(2) Upon the coming into force of this Act, all rights, privileges and conditions of service incidental to the office of Secretary of the former Assembly shall be transferred to the office of Clerk of the Assembly without any break in service.

Supervision of Divisions.

73. Each Division of the Assembly shall be under the supervision of an Administrator who shall be of a level no lower than that of a Chief Technical Officer and who shall be the Accounting Officer of the Division under his supervision.

Other offices.

74. Except for those offices, the responsibility for which is to be retained by the Government under this Act, the offices on the establishment of the former Assembly and of the Central Administrative Services, Tobago, and persons holding those offices, immediately before the date of the coming into force of this Act shall, on that date, be transferred to the Assembly and all rights, privileges and conditions of service incidental to such offices shall be retained under this Act.

Appointment on contract.

75. Subject to the guidelines prescribed by the Government in respect of the employment of persons on contract, the Assembly may appoint on contract such persons as it thinks fit.

Transfer and secondment.

76. (1) A person in the employ of a statutory authority may, with the approval of the appropriate Service Commission, be transferred to the staff of the Assembly, and any such transfer shall be on such terms and conditions of service as are acceptable to the statutory authority, the Assembly and the person transferred.

(2) The Chief Administrator and the appropriate Service Commission, or other appropriate authority, may make arrangements for the transfer on secondment of any employee of a statutory authority, the University of the West Indies or other body to the staff of the Assembly or of any officer of the Assembly to the service of a statutory authority, the University of the West Indies or other body.

(3) Where a transfer on secondment is effected under subsection (2), such arrangements as are necessary to preserve the rights of the person so transferred to any pension, gratuity or other allowance, for which he would have been eligible had he not been transferred, shall be made.

(4) A period of transfer on secondment shall not exceed five years in the first instance.

PART VIII

MISCELLANEOUS PROVISIONS

Transitional.

77. (1) Notwithstanding section 78, 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 Assemblymen pursuant to section 5(1)*(a)*.

(2) Notwithstanding section 22(1), the first Assembly constituted under this Act shall, unless by resolution it dissolves itself at an earlier date, stand dissolved on the fourth anniversary of the date on which the persons mentioned in subsection (1) were elected to the former Assembly.

Repeal and saving. 37 of 1980. 183/1990.

78. (1) Notwithstanding the repeal and replacement of the former Tobago House of Assembly Act, 1980 by this Act, the Tobago House of Assembly Financial Rules, 1990 (made under the said former Tobago House of Assembly Act) shall, until such time as Financial Rules made under section 52 come into force, remain in force and apply to the Assembly with such modifications as are necessary for conformity with this Act.

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

(Section 6).

FIRST SCHEDULE

OATH (OR AFFIRMATION) OF OFFICE FOR ASSEMBLYMEN

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.

(Section 7).

SECOND SCHEDULE

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

I, ..., having been elected Presiding Officer/Deputy Presiding Officer of the Tobago 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.

THIRD SCHEDULE

(Sections 8, 33 and 37B).

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

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 Chief Secretary/Deputy Chief Secretary/Secretary/Assistant Secretary and do right to all manner of people without fear or favour, affection or ill-will.

FOURTH SCHEDULE

[Section 9(2)].

OATH (OR AFFIRMATION) OF OFFICE FOR COUNCILLORS

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.

[Section 25(1)].

FIFTH SCHEDULE

AREAS OF RESPONSIBILITY OF THE ASSEMBLY

1. Finance, that is to say the collection of revenue and the meeting of expenditure incurred in the carrying out of the functions of the Assembly;
2. State Lands;
3. Land and marine parks;
4. Museums, archives, historical sites and historical buildings;
5. Public buildings and the maintenance of the residences of the President and the Prime Minister;
6. Tourism;
7. Sports;
8. Culture and the Arts;
9. Community Development;
10. Co-operatives;
11. Agriculture;
12. Fisheries;
13. Food Production;
14. Forestry;
15. Town and Country Planning;
16. Infrastructure, including air and sea transportation, wharves and airports and public utilities;
17. Telecommunications;
18. Highway and Roads;
19. Industrial Development;
20. The Environment;
21. Customs and Excise;
22. Licensing;
23. Health Services;
24. Library Services;

25. Education including Curriculum;
26. Social Welfare;
27. Marketing;
28. Valuations;
29. Postal services and collection of revenue therefrom;
30. Statistics and Information;
31. Housing;
32. Plant and Animal Quarantine;
33. Such other matters as the President may, by Order, assign to the Assembly.

SIXTH SCHEDULE

[Section 26(1)].

MATTERS FOR WHICH THE ASSEMBLY SHALL NOT BE RESPONSIBLE

1. The President;
2. National Security;
3. Foreign Affairs;
4. Civil Aviation;
5. Meteorology;
6. Immigration;
7. Legal Affairs including the registration of legal documents;
8. Judiciary;
9. Auditor General;
10. Ombudsman;
11. Service Commissions.

[Section 26(3)].
[4 of 2001].

SEVENTH SCHEDULE

SERVICES TO BE PERFORMED OR DELIVERED IN TOBAGO

Services of—

1. the Supreme Court;
2. all Service Commissions;
3. the Ombudsman;
4. the Treasury, Comptroller of Accounts and Pensions Division;
5. the Government Printery;
6. the Registrar General;
7. the Probate Registry;
8. the Director of Public Prosecutions;
9. the Chief Parliamentary Counsel;
10. the Telecommunications Authority in respect of the issuing of concessions and licences;
11. the National Training Board;
12. the Ministry responsible for Industry and Commerce in respect of the granting of licences;
13. the Ministry responsible for Agriculture in respect of the granting of licences;
14. CARIRI;
15. the Bureau of Standards;
16. the National Lotteries Control Board;
17. the Ministry responsible for National Security in respect of the issuance of police certificates of good character, forensic science, work permits and residency applications;
18. the Ministry of Health in respect of laboratory tests that are unable to be performed in Tobago;
19. the Food and Drugs Division, Ministry of Health in respect of inspection and analysis of food and drugs;
20. the Lands and Surveys Department in respect of compulsory acquisitions and applications under the Real Property Act, Ch. 56:02.