



THE PARLIAMENT OF
TRINIDAD AND TOBAGO

BILL ESSENTIALS

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BILL ESSENTIALS NO. 1 2021–2022

2ND SESSION, 12TH PARLIAMENT

The Trinidad and Tobago Revenue Authority Bill, 2021

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Date Introduced: September 10, 2021

House: Senate

Minister: Minister of Finance

Senate Bill No. 9 of 2021

Links: The links to the Bill, and its progress can be found on the Bill's home page through the Parliament's Website

<http://www.ttparliament.org/publications.php?mid=28&id=923>

BACKGROUND

1. **The Trinidad and Tobago Revenue Authority Bill, 2021¹ (“the Bill”)** was introduced in the Senate by the Minister of Finance on September 10, 2021.
2. The Bill seeks to provide for the establishment of the Trinidad and Tobago Revenue Authority (hereinafter called “**the Authority**”) to replace the existing Board of Inland Revenue and Customs and Excise Division and to provide for other related matters.
3. The main objectives of the Bill are to:
 -  Provide for the establishment of the Authority;
 -  Provide for the functions and powers of the Authority;
 -  Provide for the establishment of a Board of Management of the Authority;
 -  Provide for the staffing of the Authority and various financial provisions for the funds of the Authority.
4. The Bill will come into force on such date as fixed by the President by Proclamation.

JOINT SELECT COMMITTEE HISTORY

5. Pursuant to resolutions of the House of Representatives on Friday September 28, 2018 and the Senate on Friday, October 19, 2018, a Joint Select Committee was established to consider and report by December 31, 2018 on the **Trinidad and Tobago Revenue Authority Bill, 2018**.
6. The Committee held several meetings throughout the Third and Fourth Sessions of the Eleventh Parliament and presented several Interim Reports on the status of its considerations.
7. The Committee received written submissions from several key stakeholders, as well as members of the public, namely:
 -  The Inland Revenue Division, Ministry of Finance;
 -  The Customs and Excise Division, Ministry of Finance;
 -  The Central Bank of Trinidad and Tobago (CBTT);
 -  The Financial Intelligence Unit of Trinidad and Tobago (FIUTT);
 -  The Customs Clerks and Customs Brokers Association of Trinidad and Tobago;
 -  The Institute of Chartered Accountants of Trinidad and Tobago (ICATT);
 -  National Union of Government and Federated Workers (NUGFW);
 -  Service Commissions Department;
 -  The American Chamber of Commerce;
 -  The Couva/Point Lisas Chamber of Commerce;
 -  The Energy Chamber of Trinidad and Tobago;
 -  The Tobago House of Assembly;
 -  University of the West Indies, Faculty of Social Sciences (Dr. Shelly-Ann Wilson); and

¹ <http://www.ttparliament.org/legislations/b2021s09.pdf>

 The Joint Trade Union Movement.

8. The Committee held several stakeholder consultations with several entities from the list above, in addition to:
 -  the Public Service Association (PSA);
 -  the Tobago House of Assembly (THA);
 -  the Service Commissions Department; and
 -  the National Trade Union Centre (NATUC).
9. The Committee completed its clause-by-clause examination of the Bill and directed that specific amendments be drafted.
10. In its Final Report of the Fourth Session of the Eleventh Parliament which was laid in the House of Representatives on May 13, 2019 and the Senate on May 15, 2019, the Committee recommended that the Parliament agree with its proposals for amendments to the Bill and further recommended that the Parliament consider and adopt the Bill, as amended.
11. On September 27, 2019, the **Trinidad and Tobago Revenue Authority Bill, 2018** was withdrawn from the House of Representatives and was introduced in the Senate on November 26, 2019 to reflect the amendments that were proposed by the Joint Select Committee. The Bill was passed in the Senate on May 01, 2020 with 24 votes for, 6 votes against and 0 abstentions. Thereafter, it was sent to the House of Representatives and the Bill was read a first time in the House on May 08, 2020 but lapsed with the dissolution of the Eleventh Parliament on July 03, 2020.
12. On September 10, 2021 the **Trinidad and Tobago Revenue Authority Bill, 2021** was introduced in the Senate, most notably removing the requirement for the special majority of three-fifths of the Members of each House due to the Bill previously being inconsistent with **Sections 4** and **5** of the **Constitution of the Republic of Trinidad and Tobago**.

KEY FEATURES OF THE BILL

PART I – PRELIMINARY

Interpretation

13. **Clause 3** of the Bill proposes to introduce the definitions of certain terms used in the Bill, *inter alia*:-

 “border control” –

- (a) the regulation of exports and imports of goods from or into Trinidad and Tobago;
- (b) the regulation of conveyances and travellers entering or departing from Trinidad and Tobago; and
- (c) the patrolling, surveillance and protection of the borders of Trinidad and Tobago.

-  “*customs laws*” - includes the Customs Act and any written law relating to the Customs.²
-  “*exchequer account*” - the account with such bank or banks as the Treasury shall from time to time determine.³ Such revenue paid into the Exchequer Account shall form the Consolidated Fund.
-  “*excise act*” - the Brewery Act⁴, the Spirits and Spirit Compounds Act⁵, the Liquor Licences Act⁶, and any other Act, Regulation, Order or Resolution having the force of law relating to excisable goods.⁷
-  “*mentally ill*” - a person who is suffering from such a disorder of mind that he requires care, supervision, treatment and control, or any of them, for his own protection or welfare or for the protection or welfare of others.⁸
-  “*Minister/Ministry*” - the Minister of Finance and the Ministry of Finance.
-  “*public moneys*” - includes— (a) revenue or (b) any trust or other moneys held, whether temporarily or otherwise, by an officer in his official capacity either alone or jointly with any other person, whether an officer or not.⁹
-  “*registered medical practitioner*” – person registered under the Medical Board Act.¹⁰

Act binds the State

14. **Clause 4** expressly provides that this Act binds the State.

PART II – TRINIDAD AND TOBAGO REVENUE AUTHORITY

Establishment and Powers of the Authority

15. **Clause 5** provides for the establishment of a body corporate known as the Trinidad and Tobago Revenue Authority, which shall be an agent of the State.

Functions of the Authority

16. **Clause 6** delineates the functions of the Authority which are:

-  the assessment and collection of taxes under the revenue laws;
-  the administration of the revenue laws;
-  the enforcement of the revenue laws;
-  the enforcement of border control measures subject to any other written law;
-  the provision of revenue collection services to any statutory or other body to collect public monies; and

² Section 2 of the **Customs Act Chap. 78:01** - <https://agla.gov.tt/downloads/laws/78.01.pdf>

³ Section 2 and 12 of the **Exchequer and Audit Act Chap. 69:01** - <https://agla.gov.tt/downloads/laws/69.01.pdf>

⁴ **Chap. 87:52**: <https://agla.gov.tt/downloads/laws/87.52.pdf>

⁵ **Chap. 87:54**: <https://agla.gov.tt/downloads/laws/87.54.pdf>

⁶ **Chap. 84:10**: <https://agla.gov.tt/downloads/laws/84.10.pdf>

⁷ Section 3 of the **Excise (General Provisions) Act Chap. 78:50** - <https://agla.gov.tt/downloads/laws/78.50.pdf>

⁸ Section 2 of the **Mental Health Act Chap. 28:02** - <https://agla.gov.tt/downloads/laws/28.02.pdf>

⁹ Section 2 of the **Exchequer and Audit Act Chap. 69:01** - <https://agla.gov.tt/downloads/laws/69.01.pdf>

¹⁰ **Chap. 29:50** - <https://agla.gov.tt/downloads/laws/29.50.pdf>

 the facilitation of legitimate trade.

PART III – BOARD OF MANAGEMENT OF THE AUTHORITY

Establishment and Constitution of the Board

17. **Clause 7** provides for the establishment and constitution of the Board of Management of the Authority. According to **Clause 7(2)** the Board shall comprise nine (9) members including the Chairman and Vice-Chairman, the Permanent Secretary of the Ministry with responsibility for Finance; a nominee from the Tobago House of Assembly; an attorney-at-law; and a chartered or certified accountant.
18. **Clause 7(3)** speaks to the eligibility requirements to be selected to the Board. Members shall:
-  have demonstrated the capacity to oversee, and have considerable experience in overseeing, the management of a large and diverse organization; and
 -  have qualifications and experience in the area of tax or customs administration, corporate management or areas such as accounting, economics, law, business or other relevant fields.
19. **Clause 7(4)** outlines the grounds for which a Member may be disqualified from the Board. A Member is disqualified if he:
-  is not ordinarily resident in Trinidad and Tobago;
 -  is a member of Parliament, the Tobago House of Assembly, or a municipal corporation;
 -  is employed on a full-time basis as a public officer;
 -  is an undischarged bankrupt or has compounded with his creditors;
 -  has been convicted of an indictable offence or any offence involving dishonesty;
 -  has been removed in accordance with this Act, after being previously appointed as a member; or
 -  has been certified by a registered medical practitioner to be medically unfit for duty.

Functions and Powers of the Board

20. **Clause 8** establishes the responsibility of the Board for formulating, approving and ensuring the implementation of management policies relating to:-
-  approval and review of the Authority's policy;
 -  monitoring of the Authority's performance in carrying out its functions;
 -  finances, real property and other assets/resources of the Authority, securing of contracts, procurement of goods and services and other administrative activities;
 -  human resources including recruitment, remuneration, promotion, training and development, performance assessment, work conditions, discipline, termination of employment and superannuation benefits;
 -  service standards and performance targets;

-  code of conduct for the Authority's employees;
-  strategic plan, budget and annual report of the Authority;
-  mandate for collective bargaining and approving collective agreements relating to the terms and conditions of employment of employees of the Authority;
-  probity in the use and allocation of resources;
-  principles of good corporate governance procedures and practice; and
-  internal audit of the Authority.

21. **Clause 8** also provides that in exercising such functions the Board shall not be responsible for the functions of the Authority and shall not:-

-  Provide specific directions to the Director General or other employee of the Authority relating to the functions of the Authority;
-  Have access to any information concerning an individual or other person, whether or not incorporated, which may be obtained by the Authority in carrying out its functions;
-  Have access to any documents or other information concerning legal proceedings instituted in the Authority's name to enforce any of the revenue laws or brought against the Authority relating to a function of the Director General under any of the revenue laws.

22. **Clause 8** also allows for the Minister to give to the Board such general policy directives in relation to carrying out its functions under this Act as deemed necessary or expedient, which the Board shall give effect to.

Disclosure of Interests

23. **Clause 9** requires a member to disclose any direct/indirect interest in any matter currently being considered or about to be considered by the Board by writing to the Board or by requesting to have entered in the minutes of the Board, the nature and extent of such interest. Such member is required to recuse himself from participating in any matter in which he has an interest.

24. **Clause 9(2)** provides that such disclosure shall be made:

-  at the meeting of the Board at which such matter is first considered;
-  if the member did not then have an interest in the matter, then at the first meeting of the Board after the member becomes interested;
-  if the member becomes interested after the decision is made, then at the first meeting of the Board after the member becomes interested; or
-  if the member was interested in the matter before becoming a member, then at the first meeting of the Board after becoming a member.

25. **Clause 9(3)** provides that any member that has a direct or indirect interest in any matter and a decision on such matter is one that in the ordinary course of business or activity of the Authority would not typically require approval by the Board, then such member is nevertheless required to

disclose in writing to the Authority or request to have entered in the minutes of a meeting of the Board the nature and extent of his interest as soon as he becomes aware of such decision.

26. Lastly, **Clause 9(5)** provides that any contract between the Authority and one or more members or any contract between the Authority and another person of which a member is a director or an officer of or in which a member has a direct or indirect interest in, shall not be void nor voidable by reason only of that relationship or by reason only that a member with a direct or indirect interest in the contract is present at, or is counted to determine the presence of a quorum at a meeting of the Board that authorised the contract provided that such member disclosed such interest and the contract was approved by the Board and it was deemed reasonable and fair to the Authority at the time of approval.

Tenure of Office and Terms of appointment of Members

27. **Clause 10** establishes the tenure and terms and conditions of such office of Board Members. The Chairman and Vice-Chairman shall only be appointed for a term of five (5) years. However, any member other than the Chairman, Vice-Chairman, Permanent Secretary and the Director General, shall only be appointed for a term of three (3) years.
28. Moreover, the appointment of any member other than the Permanent Secretary and Director General shall be on such terms and conditions as determined by the Minister of Finance.

Resignation and Removal of Members

29. **Clause 11** provides that any member other than the Permanent Secretary and Director General can resign his office at any time addressed to the Minister in writing. If any member dies, resigns, is removed from or vacates his office, prior to the expiry of the term for which he has been appointed, then the Minister shall appoint a person to temporarily hold or act in the vacant office of such member, as soon as reasonably practicable.
30. Any person who is not a member may be appointed to act temporarily by the Minister, as a member in the same capacity during any period when such substantive member is absent from duty or out of the jurisdiction or is, for any other reason, unable to perform the duties of such office. However, such person appointed to act during a vacancy shall not continue to act for more than six (6) months and such appointment shall be for the unexpired period of the term of office of the person in whose place he is appointed or for a new term.
31. Lastly, if any person is acting as a member and such office becomes vacant while the person is so acting, then that person may continue to act until the Minister of Finance otherwise directs, or until the vacancy of such office is filled or for a period of six (6) months from the date on which the vacancy occurred expires, whichever occurs first.

Meetings of the Board

32. **Clause 12** establishes that the Board shall meet at least once every month at such place and time as designated by the Chairman with the quorum of the Board being five (5) members. Moreover,

the Chairman shall preside at every meeting of the Board except where absent, in which case the Vice-Chairman shall preside but where the Chairman and Vice-Chairman are both absent then the members present shall elect from among themselves a person to preside.

33. Each member is entitled to vote on any matter before the Board and any decision taken by the Board shall be by a majority vote of all members present. However, in the event of a tie then the person presiding shall have a casting vote.
34. **Clause 12(6)** provides that any act or proceedings of the Board shall not be invalidated due to the existence of a vacancy among its members or due to any defect in the appointment of a member.
35. **Clause 12(7)** grants the Board the power to appoint an employee of the Authority to be its Secretary with responsibility for making preparations for and attending meetings of the Board, preparing and keeping minutes of the Board's proceedings and carrying out such other duties as determined by the Board.
36. Lastly, the Board is empowered to establish its own rules to govern the conduct of its affairs and such rules shall be subject to the approval of the Minister of Finance.

PART IV – STAFF OF THE AUTHORITY

Functions of the Director General and the Enforcement Division

37. **Clause 14** establishes the responsibility of the Director General as follows:-

-  daily management and direction of the administration of the Authority;
-  daily management and direction of the functions of the Authority as specified including the enforcement of the revenue laws by means of civil proceedings; and
-  advising the Minister of Finance on his own initiative or at the request of the Minister, on any matter that could affect public policy or public finances and any other matter which the Minister considers could improve the effectiveness or efficiency of the administration or enforcement of the revenue laws.

38. **Clause 14(2)** also establishes the responsibility of the Director General - Enforcement as follows:-

-  daily management and direction of the administration of the Enforcement Division;
-  daily management and direction of the enforcement of the Customs laws, the Excise Act and other revenue laws;
-  advising the Director General on any matter that could affect public policy or public finances; and
-  advising the Director General on any matter that could improve the effectiveness or efficiency of the administration of the Enforcement Division or the enforcement of the Customs laws, the Excise Act and other revenue laws.

39. **Clause 14(4)** provides that the Public Service Commission has the power to appoint, remove, transfer and exercise disciplinary control over the Deputy Director General –Enforcement and

other public officers of the Enforcement Division but the Board shall appoint, remove, transfer and exercise disciplinary control over the other employees of the Enforcement Division.

Resignation and Removal of Director General or Deputy Director General

40. **Clause 15** establishes that the Director General or Deputy Director General may resign his office at any time in writing and addressed to the Minister of Finance.
41. The Minister of Finance can by Notification and subject to affirmative resolution of Parliament, remove the Director General or the Deputy Director General from office if he *inter alia*:-
-  becomes unable to perform the functions of his office;
 -  is or has become disqualified from being appointed to his office;
 -  brings the Authority into disrepute;
 -  is declared or becomes bankrupt or insolvent;
 -  is convicted of a criminal offence;
 -  fails to fulfil the duties of his office; or
 -  for any other sufficient cause.
42. If the Director General or Deputy Director General dies, resigns, is removed from or vacates his office, prior to the expiry of the term for which he has been appointed, then a person shall be appointed to hold or act in the vacant office of such member, as soon as reasonably practicable. Such appointment of a person shall be for the unexpired period of the term of office of such person in whose place he is appointed or for a new term of office.
43. Any person may be appointed to act as Director General or Deputy Director General temporarily by the Minister, during any period when the post is vacant or the office holder is out of the jurisdiction or is, for any other reason, unable to perform the duties of such office. However, such person appointed to act during a vacancy shall not continue to act for more than six (6) months. However, the Minister of Finance is empowered to terminate such appointment at any time.
44. Lastly, if any person is acting as Director General or Deputy Director General and such office becomes vacant while the person is acting then that person may continue to act until the Minister of Finance otherwise directs, or until the vacancy of such office is filled or for a period of six (6) months from the date on which the vacancy occurred expires, whichever occurs first.

Employment of Staff

45. **Clause 16** allows the Board to employ such persons as required by the Authority on such terms and conditions as determined.

Employment for Specific Tasks

46. **Clause 17** allows the Board to enter into contracts for services with persons for the performance of such tasks deemed necessary by the Board for the performance of its functions and exercise of

its powers under this Act, on such terms and conditions agreed between the Authority and the person.

Options available to Public Officers

47. **Clause 18** enables any officer who, on the date of the coming into force of this Act holds a permanent appointment to or holds a temporary appointment to, and has served at least two (2) continuous years in any office in the Public Service on the establishment of the Inland Revenue Division or Customs and Excise Division.
48. Such person can exercise one of the following options within three (3) months of the coming into force of this Act, or within such extended period as the Minister may, by Order and subject to negative resolution of Parliament allow:
-  voluntarily retire from the Public Service on agreed terms and conditions between him or his appropriate recognised association and the Chief Personnel Officer;
 -  transfer to the Authority with the approval of the Public Service Commission on terms and conditions which, taken as a whole are no less favourable than those currently enjoyed in the Public Service;
 -  be appointed on transfer by the Public Service Commission to a suitable public office in the Enforcement Division on terms and conditions which, taken as a whole, are no less favourable than those currently enjoyed in the Public Service on the effective date of this Act; or
 -  remain in the Public Service provided that an office equal with the office held by him in the Public Service is available, prior to the effective date of this Act.

Preservation and Accrual of Superannuation Benefits

49. **Clause 19** provides that any superannuation benefits accrued to a person who exercises the option (to transfer to the Authority from the Public Service with the approval of the Public Service Commission) shall be preserved at the date of his employment by the Authority, and such person shall continue to accrue superannuation benefits under the **Pensions Act**¹¹ up to the date of the establishment of the pension fund plan based on the salary applicable to the office which he held immediately prior to his employment by the Authority.

Payment of Superannuation Benefits prior to Establishment of the Pension Fund Plan

50. **Clause 20** provides that any employee of the Authority who exercises the option (to transfer to the Authority from the Public Service with the approval of the Public Service Commission) but dies or retires prior to the establishment of the pension fund plan, and at the date of death or retirement was in receipt of a salary higher than that referred to, then the superannuation benefits payable to his estate or him shall be based on the higher salary.

¹¹ Chap. 23:52: <https://agla.gov.tt/downloads/laws/23.52.pdf>

51. **Clause 20(2)** requires that difference between the superannuation benefits payable on the basis of the higher salary and those payable under the Pensions Act on the basis of the salary shall be paid by the Authority.

Payment of Superannuation Benefits by Pension Fund Plan

52. **Clause 21** provides that any employee of the Authority who exercises the option (to transfer to the Authority from the Public Service with the approval of the Public Service Commission) but such person retires or dies and is a member of the pension fund plan, then he shall be paid superannuation benefits by the pension fund plan at the amount which when combined with the payable superannuation benefits is the equivalent to the benefits based on his pensionable service in the Public Service combined with his service in the Authority and calculated at the pensionable salary¹² applicable to him on the date of retirement or death.

Payment of Superannuation Benefits by Pension Fund Plan

53. **Clause 22** establishes the pension fund. The Board is required to establish a pension fund for all officers and employees of the Authority within two (2) years of the Act coming into force. The Board can extend the time for creating the pension fund, by an Order that would be subject to negative resolution of Parliament.

PART V – FINANCIAL PROVISIONS

Funds of the Authority

54. **Clause 23** provides that the funds of the Authority will comprise of moneys that is:

-  appropriated to the Authority by Parliament;
-  paid to the Authority by way of fees, fines, grants, rent interest and other income from the investment of the Authority's funds or the disposal of the Authority's property; and
-  borrowed by the Authority in accordance to the Act.

The funds will be kept in a financial institution approved by the Minister.

55. **Clause 23 (3)** provides that the funds will be applied in defraying the expenditure of the Authority for:

-  the expenses incurred in carrying out the functions of the Authority¹³;
-  the remuneration, fees, and allowances of members and of the persons appointed to committees established by the Board;
-  the emoluments, allowances, fees and superannuation benefits of employees of the Authority;
-  contributions to the pension fund;
-  fees for services of consultations;
-  capital and operating expenses;

¹² The meaning attributable under the pension fund plan.

¹³ See functions under Clause 6

-  the making and maintenance of investments of the Authority;
-  any other expenditure authorized by the Board in the discharge of the Authority's functions; and
-  any sum authorised to be paid under a revenue law.

Power to Borrow

56. **Clause 24** empowers the Authority to borrow money in order to meet any of its obligations under the Act with the approval of the Minister. The Minister can also guarantee the payment of the principal and interest for the money borrowed by the Authority.

Power to Invest

57. **Clause 25** allows the Authority to invest money that is not immediately required to be spent in meeting the obligations or discharging any function of the Authority in securities that are approved by the Minister.

Payment of Public Moneys into Exchequer Account

58. **Clause 26** creates the requirement that all public money collected by the Director General under revenue laws must be paid into the Exchequer Account as directed by the Minister.

Application of Exchequer and Audit Act Chap. 69:01

59. **Clause 27** states that the Exchequer and Audit Act will apply to the Authority. Despite the provisions of the section 2 of the Exchequer and Audit Act, the Director General shall be a receiver of revenue¹⁴ for the purposes of the Exchequer and Audit Act.

Exemption from Central Tenders Board Act Chap. 71:91

60. **Clause 28** would exempt the Authority from the provisions of the Central Tenders Board Act. The Board would be required to make rules governing the award of tenders and contracts. These rules would be subject to the approval of the Minister and the negative resolution of Parliament.

Exemption from Taxes

61. **Clause 29** provides that the Authority, its assets, property, income and its operations and transactions authorised under any Act will be exempt from all taxation of every kind.¹⁵

Strategic and Operational Plan

62. **Clause 30** provides for the annual preparation and submission of the Authority's strategic and operation plans that the Minister would be required to lay in Parliament within three (3) months of receiving them.

¹⁴ Section 2 of the Exchequer and Audit Act provides that a "receiver of revenue" means an officer appointed by the Treasury for the collection of, and for the accounting for, such items of revenue as the Treasury may specify.

¹⁵ This includes being exempt from customs duties, corporation tax, value added tax, property tax, motor vehicle tax, stand duty, business levy and green fund levy.

Strategic and Operational Plan

63. **Clause 31** states that the Board must prepare and submit to the Minister the estimates of the Authority's expected annual income and expected annual expenditure for each financial year. These estimates must be submitted no later than three (3) months before the start of the financial year.

Board to Keep Proper Accounts

64. **Clause 32** mandates that the Board must keep proper books, accounts and records that must be maintained according to internationally recognised accounting standards, principles and practices. The Board must also ensure that all payments made by the Authority are correctly made and properly authorised and that adequate control is maintained over the management of assets and the incurring of liabilities.

Audit

65. **Clause 33** mandates for the accounts of the Authority to be audited annually by the Auditor General. The Auditor General must have access to all of the books, accounts, documents, assets, and information of the operations and activities of the Authority. The Auditor General is required to submit the results of the annual audit to the Minister and the Board.

Monthly Report

66. **Clause 34** requires the Director General to submit a monthly report in respect of the revenue collected to the Board and the Minister. The Minister may direct for a report to be submitted outside of the monthly period.

Annual Report

67. **Clause 35** provides that the Board must submit an annual report of the Authority to the Minister within sixty (60) days after the submission of the Auditor General's Report. The Minister must lay the report in Parliament within three (3) months of receiving the report.

PART VI – MISCELLANEOUS

Oath or Affirmation of Secrecy

68. **Clause 36** requires a member of the board to take an oath or an affirmation of secrecy. The oath or affirmation taken would be that as members of the Board, that they would faithfully and impartially exercise the functions of their office and will not disclose any information received by him as a member, except when required by the Integrity of Public Life Act.

69. Any person who breaches the oath or affirmation can have their contract of employment terminated and also commits an offence where they would be liable on summary conviction to a fine of five hundred thousand (\$500,000.00) dollars and imprisonment for five (5) years.

Vesting of Property

70. **Clause 37** provides that certain assets and liabilities currently vested in the Board of Inland Revenue or the Customs and Excise Division will become vested in the Authority when the Act comes into force, unless otherwise designated by the Minister.

Duty of Care and Indemnity

71. **Clause 38** sets the duty of care required for members and employees of the Authority. It also provides for the indemnification of members of the Authority. **Clause 38** provides that the members and employees of the Authority must:

-  act honestly and in good faith, with a view to the best interests of the Authority; and
-  exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

72. Members and employees of the Authority are not liable for a breach of their duty of care if a member or employee in good faith relies on:

-  The financial statements of the Authority in a report by the Auditor General or another authorised personnel who can report fairly to reflect the financial condition of the authority; or
-  A report of an accountant, Attorney-at-law or other professional person whose profession lends credibility to a statement made by them.

Savings

73. **Clause 39** allows for any right of appeal subsisting against the Board of Inland Revenue or Comptroller of Customs and Excise before the Act came into force, would be treated as subsisting against the Director General when the Act comes into force.

74. This Clause also sets out that any power, duty or function that was vested in the Chairman of the Board Inland Revenue or the Comptroller of Customs and Excise would be transferred to the Authority when the Act comes into force.

75. Furthermore, any action, suit or other legal proceedings that the Board of Inland Revenue or the Comptroller of Customs and Excise is a party that is pending in court on the coming into force of the Act, would be continued by or against the Director General.

Consequential Amendments

76. **Clause 40** provides that in written laws that refer to:

-  The Chairman of the Board of Inland Revenue or Comptroller of Customs and Excise, regarding the enforcing Customs laws, the Excise Act and other revenue laws, would now be construed as a reference to the Deputy Director General – Enforcement. For other matters, including the enforcement of revenue; laws through civil proceedings, be construed as a reference to the Director General;
-  The Board of Inland Revenue or the Customs and Excise Division would now be construed as a reference to the Authority.

Regulations

77. **Clause 41** provides that the Minister has the authority to make regulations when needed to give effect to the Act. The regulations made would be subject to the affirmative resolution of Parliament.

78. The regulations can provide that breaching the regulations would constitute an offence that carries a penalty of a fine no more than five hundred thousand (\$500,000.00) dollars and imprisonment for five (5) years.

Amendment to Schedule

79. **Clause 42** allows for the amendment of the Schedule by an Order of the Minister which would be subject to the negative resolution of Parliament. This would allow for the list of the revenue laws in the Schedule to be amended

REFERENCES

KEY LEGISLATION

-  **Customs Act Chap. 78:01**
<https://agla.gov.tt/downloads/laws/78.01.pdf>
-  **Exchequer and Audit Act Chap. 69:01**
<https://agla.gov.tt/downloads/laws/69.01.pdf>
-  **Brewery Act Chap. 87:52**
<https://agla.gov.tt/downloads/laws/87.52.pdf>
-  **Spirits and Spirit Compounds Act Chap. 87:54**
<https://agla.gov.tt/downloads/laws/87.54.pdf>

**Liquor Licences Act Chap. 84:10**

<https://agla.gov.tt/downloads/laws/84.10.pdf>

**Excise (General Provisions) Act Chap. 78:50**

<https://agla.gov.tt/downloads/laws/78.50.pdf>

**Mental Health Act Chap. 28:02**

<https://agla.gov.tt/downloads/laws/28.02.pdf>

**Medical Board Act Chap. 29:50**

<https://agla.gov.tt/downloads/laws/29.50.pdf>



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