

AS AMENDED IN THE SENATE

No. 9 of 2021

Second Session Twelfth Parliament Republic of
Trinidad and Tobago

SENATE

BILL

AN ACT to establish the Trinidad and Tobago Revenue
Authority and for related matters

THE TRINIDAD AND TOBAGO REVENUE
AUTHORITY BILL, 2021

Explanatory Note

(These notes form no part of the Bill but are intended only to indicate its general purport.)

This Bill seeks to provide for the establishment of the Trinidad and Tobago Revenue Authority (“the Authority”) to replace the Board of Inland Revenue and the Customs and Excise Division. Part I of the Bill would contain the preliminary clauses of the Bill. Clauses 1 and 2 would provide for the short title and commencement of the proposed Act, respectively. Clause 3 would provide for the definition of terms. By clause 4, the proposed Act would bind the State.

Part II of the Bill would provide for the establishment of the Authority. By clause 5, the Authority would be established as a body corporate and would be an agent of the State. By clause 6, the Authority would be responsible for (a) the assessment and collection of taxes under, and the administration and enforcement of, the revenue laws set out in the Schedule to the Bill (hereinafter referred to as the “revenue laws”); (b) border control; (c) the provision of revenue collection services to statutory and other public bodies; and (d) the facilitation of legitimate trade.

Part III of the Bill would provide for the establishment of a Board of Management for the Authority (hereinafter referred to as “the Board”). By clause 7, the Board would comprise a Chairman, a Vice-Chairman, a Permanent Secretary of the Ministry of Finance, the Director General of the Authority, a person nominated by the Tobago House of Assembly, an Attorney-at-law, a chartered accountant and two other persons. All members would be appointed by the Minister. Clause 7 would also specify the criteria for the selection and disqualification of the members of the Board.

By clause 8, the functions of the Board would include the implementation of management policies with respect to the monitoring of the performance of the Authority, finances, the procurement of goods and services, human resources, service standards, performance targets, employees’ codes of conduct, strategic plans, budgets and annual reports and internal audit. The Board would also be responsible for ensuring that the Authority is managed in accordance with modern corporate governance

procedures and practice. The Board would not be responsible for the administration and enforcement of the revenue laws. The Director General would be responsible for the administration of the revenue laws and responsibility of the enforcement of the revenue laws would be divided between the Director General and the Deputy Director General—Enforcement. The Board would not have power to give specific directions to the Director General or any officer or employee of the Authority with respect to the enforcement of the revenue laws. The Board would also be prohibited from having access to information held by the Authority in respect of individuals, companies or firms for the purposes of the administration and enforcement of the revenue laws. The Board would also not have access to information pertaining to legal actions by or against the Authority in connection with the administration and enforcement of the revenue laws.

Clause 9 would provide for the disclosure of interests by Board members.

Clause 10 would make provision with respect to the tenure and other terms and conditions of office of the members of the Board.

Clause 11 would provide for the resignation and removal of Board members, other than the Permanent Secretary and the Director General. Provision would also be made for the filling of vacancies in the membership of the Board and the making of acting appointments to the Board.

Clause 12 would provide for the meetings of the Board. The Board would be required to meet at least once in every month. Meetings of the Board would be under the chairmanship of the Chairman or, in his absence, the Vice-Chairman or a member elected by the members who are present at the meeting. The Board would appoint an employee of the Authority to be its secretary.

Part IV of the Bill would provide for the staff of the Authority. By clause 13, the Director General and the Deputy Directors General, other than the Deputy Director General—Enforcement, would be appointed by the Minister by Notification subject to affirmative resolution of Parliament and they would be appointed for a term not exceeding five years. Provision would be made for the criteria for the selection and disqualification of the Director General and the Deputy Directors General. The Deputy Director General—Enforcement would be a public officer and the head of the Enforcement Division of the Authority. The salary and allowances payable to the Deputy Director General—Enforcement and his

other terms and conditions of service would be subject to review by the Salaries Review Commission.

By clause 14, the Director General would be responsible for the daily management and direction of the Authority, including the enforcement of the revenue laws by means of civil proceedings, and for advising the Minister in respect of the administration and enforcement of the revenue laws. The Director General would be subject to the general directions of the Board with respect to the daily management of the Authority. The Director General would also be subject to the general policy directions of the Minister in relation to the administration and enforcement of the revenue laws.

Clause 14 would also provide for the Deputy Director General—Enforcement who would be responsible for the daily management and direction of the administration of the Enforcement Division and the enforcement of the Customs laws, the Excise Act and other revenue laws. The Deputy Director General—Enforcement would be responsible for advising the Director General on any matter that could affect public policy, public finances and 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. The Deputy Director General—Enforcement would, in relation to the management of the Enforcement Division, be subject to the general directions of the Board which would be communicated to him through the Director General. With respect to the enforcement of the Customs laws, the Excise Act and other revenue laws, the Deputy Director General—Enforcement would be subject to the general policy directions of the Minister which would be communicated to him through the Director General.

The Enforcement Division would comprise the Deputy Director General—Enforcement and other public officers appointed by the Public Service Commission as well as employees appointed by the Board. The Deputy Director General—Enforcement and the other public officers would be authorized to exercise the powers, authorities and privileges conferred by Customs laws, the Excise Act or other revenue laws for the purposes of the enforcement of those revenue laws. The Public Service Commission would remove, transfer and exercise disciplinary control over the Deputy Director General—Enforcement and the other public officers of the Enforcement Division and the Board would remove, transfer and exercise disciplinary control over the other employees of the Enforcement Division.

Clause 15 would provide for the resignation and removal of the Director General and the Deputy Director General, other than the Deputy Director General—Enforcement. Clause 15 would also provide for the filling of vacancies in the office of Director General or Deputy Director General, other than the Deputy Director General—Enforcement, and for the making of acting appointments to any such office.

Clause 16 would provide for the employment of other officers and staff of the Authority by the Board.

Clause 17 would empower the Authority to enter into contracts for services.

Clause 18 would enable public service officers to exercise, within three months of the date of coming into force of the proposed Act, an option to voluntarily retire from the Public Service, to transfer to the Authority with the approval of the Public Service Commission, to be appointed on transfer by the Public Service Commission to a suitable public office in the Enforcement Division, or to remain in the Public Service provided that an office commensurate with the office held by the officer in the Public Service is available.

Clauses 19, 20 and 21 would provide for the preservation, accrual and payment of superannuation benefits where a person is granted approval by the Public Service Commission to transfer from the Public Service to the Authority.

Clause 22 would require the Board to establish a pension fund plan for the officers and employees of the Authority within two years of the coming into force of the proposed Act.

Part V of the Bill would make financial provisions. By clause 23, the funds of the Authority would include moneys appropriated to it by Parliament and would be kept in a financial institution approved by the Minister.

Clause 24 would empower the Authority to borrow money with the approval of the Minister.

Clause 25 would empower the Authority to invest monies not immediately required to be expended in meeting any obligation or discharging any function of the Authority, in securities approved by the Minister.

Clause 26 would require all public moneys collected by the

Authority to be paid into the Exchequer Account at such times and in such manner as the Minister may direct.

By clause 27, the Exchequer and Audit Act, Chap. 69:01, would apply to the Authority and the Director General would be a receiver of revenue for the purposes of that Act.

Clause 28 would exempt the Authority from the provisions of the Central Tenders Board Act, Chap. 71:91. The Board would, however, be required to make rules governing the award of tenders and contracts. These rules would be subject to the approval of the Minister and to negative resolution of Parliament.

Clause 29 would exempt the Authority from all taxation of every kind and description.

Clause 30 would provide for the annual preparation and submission of the Authority's strategic and operation plans which the Minister would be required to lay in Parliament within three months of their receipt.

Clause 31 would provide for the submission of annual estimates of expenditure and income to the Minister.

Clause 32 would provide for the keeping of proper accounts.

Clause 33 would provide for the auditing of the accounts of the Authority by the Auditor General.

Clause 34 would require the Director General to submit to the Board and to the Ministry a monthly report in respect of revenue collected.

Clause 35 would require the Board to submit an annual report to the Minister in respect of the Authority and the Minister would lay each annual report in Parliament.

Part VI of the Bill would make miscellaneous provisions with respect to (a) the administration of oaths or affirmations of secrecy to the members of the Board (clause 36); (b) the vesting of certain assets and liabilities in the Authority (clause 37); (c) the duty of care, immunity and indemnification of Board members (clause 38); (d) the saving of rights subsisting against the Board of Inland Revenue or the Comptroller of Customs and Excise and legal actions (clause 39); (e) consequential amendments to existing legislation (clause 40); (f) the making of regulations by the Minister to carry the proposed Act into effect (clause 41); and (g) the amendment of the Schedule by Order of the Minister subject to negative resolution of Parliament (clause 42).

THE TRINIDAD AND TOBAGO REVENUE
AUTHORITY BILL, 2021

Arrangement of Clauses

Clause

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3. Interpretation
4. Act binds the State

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5. Establishment and powers of the Authority
- 6. Functions of the Authority**

PART III

BOARD OF MANAGEMENT OF THE AUTHORITY

- 7. Establishment and constitution of the Board**
- 8. Functions and powers of the Board**
9. Disclosure of interests
10. Tenure of office and terms of appointment of members
11. Resignation and removal of members
12. Meetings of the Board

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- 13. Appointment of Director General and Deputy Directors General**
- 14. Functions of the Director General and the Enforcement Division**
15. Resignation and removal of Director General or Deputy Director General

16. Employment of staff
17. Employment for specific tasks
18. Options available to public officers
19. Preservation and accrual of superannuation benefits
20. Payment of superannuation benefits prior to the establishment of the pension fund plan
21. Payment of superannuation benefits by pension fund plan
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24. Power to borrow
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26. Payment of public moneys into Exchequer Account
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PART VI

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36. Oath or affirmation of secrecy
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SCHEDULE

BILL

AN ACT to establish the Trinidad and Tobago Revenue
Authority and for related matters

[, 2021]

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

PART I PRELIMINARY

1. This Act may be cited as the Trinidad and Tobago Short title
Revenue Authority Act, 2021.
2. This Act comes into force on such date as is fixed Commencement
by the President by Proclamation.

3. In this Act—

“annual report” means the annual report referred to in section 35;

“Authority” means the Trinidad and Tobago Revenue Authority established under section 5;

“Board” means the Board of Management of the Authority established under section 7;

“border control” means—

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

“Chairman” means the Chairman of the Board appointed under section 7(2);

“Customs laws” has the meaning assigned to it in section 2 of the Customs Act;

“Director General” means the person holding or acting in the post of Director General of the Authority established under section 13;

“Deputy Director General” means a person holding or acting in the post of Deputy Director General of the Authority established under section 13;

“Deputy Director General—Enforcement” means the public officer holding or acting in the post of Deputy Director General—Enforcement of the Authority established under section 13;

“enforcement”, in relation to the Customs laws, the Excise Act and other revenue laws, means the exercise of the powers, authorities and privileges conferred by those revenue laws;

“Enforcement Division” means the Division of the Authority referred to in section 14(3);

“Exchequer Account” has the meaning assigned to it by section 2 of the Exchequer and Audit Act; Chap. 69:01

“Excise Act” has the meaning assigned to it in section 3 of the Excise (General Provisions) Act; Chap. 78:50

“member” means a member of the Board;

“mentally ill” has the meaning assigned to it in section 2(1) of the Mental Health Act; Chap. 28:02

“Minister” means the Minister to whom responsibility for finance is assigned and “Ministry” shall have the corresponding meaning;

“public moneys” has the meaning assigned to it by section 2 of the Exchequer and Audit Act;

“registered medical practitioner” means a person registered under the Medical Board Act; Chap. 29:50

“revenue laws” means the written laws that are specified in the Schedule; Schedule

“strategic plan” means a strategic plan or a revised strategic plan referred to in section 30.

4. This Act binds the State.

Act binds the state

PART II

TRINIDAD AND TOBAGO REVENUE AUTHORITY

Establishment and
powers of the
Authority

5. (1) There is established as a body corporate, an authority to be known as “the Trinidad and Tobago Revenue Authority”.

(2) The Authority shall be an agent of the State.

Functions of the
Authority

6. (1) Subject to sections 8 and 14, the functions of the Authority are—

- (a) the assessment and collection of taxes under the revenue laws;
- (b) the administration of the revenue laws;
- (c) the enforcement of the revenue laws;
- (d) the enforcement of border control measures subject to any other written law;
- (e) subject to subsection (2), the provision of revenue collection services to any statutory or other body to collect public monies;
- (f) the facilitation of legitimate trade; **and**
- (g) to advise the Government on matters relating to taxation.**

(2) For the purposes of subsection (1)(e), a statutory or other body may, by way of Memorandum of Understanding, authorise the Authority to act as its agent with respect to the collection of public monies.

PART III

BOARD MANAGEMENT OF THE AUTHORITY

Establishment and
Constitution of the
Board

7. (1) There is established a Board Management of the Authority.

(2) The Board shall be appointed by the Minister and shall comprise nine members as follows:

- (a) a Chairman;
- (b) a Vice-Chairman;
- (c) a Permanent Secretary of the Ministry;

- (d) the Director General who shall be an *ex officio* member of the Board;
- (e) a person nominated by the Tobago House of Assembly;
- (f) an Attorney-at-law;
- (g) a chartered or certified accountant; and
- (h) two other persons **from the private sector**.

(3) The members shall be selected from among persons who—

- (a) have demonstrated the capacity to oversee, and have considerable experience in overseeing, the management of a large and diverse organisation; and
- (b) **have qualifications and experience in the areas of tax or customs administration, corporate management or areas such as accounting, economics, law, business, public administration, human resource management, industrial relations, project management or other relevant fields.**

(4) A person, other than the Permanent Secretary and the Director General appointed under subsection (2), is disqualified from appointment as a member, if he—

- (a) is not ordinarily resident in Trinidad and Tobago;
- (b) is a member of Parliament, the Tobago House of Assembly, or a municipal corporation;
- (c) is employed on a full-time basis as a public officer;
- (d) is an undischarged bankrupt or has compounded with his creditors;
- (e) has been convicted of an indictable offence or any offence involving dishonesty;

- (f) has, after being previously appointed as a member, been removed in accordance with this Act; or
- (g) has been certified by a registered medical practitioner to be medically unfit for duty.

Functions and
powers of the Board

8. (1) Subject to subsection (2), the Board shall be responsible for formulating, approving and ensuring the implementation of management policies in relation to—

- (a) the approval and review of the policy of the Authority;
- (b) the monitoring of the performance of the Authority in the carrying out of its functions;
- (c) the finances, real property and other assets and resources of the Authority, the securing of contracts, the procurement of goods and services and other administrative activities;
- (d) human resources, including those related to recruitment, remuneration, promotion, training and development, performance assessment, conditions of work, discipline, termination of employment and superannuation benefits;
- (e) service standards and performance targets;
- (f) a code of conduct for the employees of the Authority;
- (g) the strategic plan, annual budget, monitoring of operation plan and annual report of the Authority;**
- (h) the mandate for collective bargaining and approving collective agreements in relation to the terms and conditions of employment of persons employed by the Authority;
- (i) probity in the use and allocation of resources;

- (j) the principles of good corporate governance procedures and practice;
- (k) the internal audit of the Authority; **and**
- (l) enterprise risk management, other than risks associated with tax compliance.**

(2) In the exercise of its functions, the Board shall not be responsible for the functions of the Authority as specified in section 6 and shall not—

- (a) provide specific directions to the Director General or any employee of the Authority with respect to the functions of the Authority;
- (b) have access to any information concerning an individual or other person, whether or not incorporated, which may be obtained by the Authority as a result of the functions of the Authority; or
- (c) have access to any documents or other information concerning—
 - (i) legal actions instituted in the name of the Authority for the purpose of enforcing any of the revenue laws; or
 - (ii) legal actions brought against the Authority in relation to a function of the Director General under any of the revenue laws.

(3) The Minister may give to the Board such general policy directives with respect to the carrying out of its functions under this Act as he considers necessary or expedient and the Board shall give effect to such directives.

9. (1) A member shall disclose any direct or indirect ^{Disclosure of} interest in a matter being considered or about to be ^{interests} 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 the interest.

(2) Disclosure required by subsection (1) shall be made—

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

(3) Where a member has a direct or indirect interest in a matter and a decision on the matter is one that in the ordinary course of the business or activity of the Authority would not require approval by the Board, a member shall 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 the member becomes aware of the decision.

(4) A member referred to in this section shall recuse himself from participating in a matter in which he has an interest.

(5) A contract between the Authority and one or more members or between the Authority and another person of which a member is a director or an officer or in which a member has a direct or indirect interest, is neither 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 if the—

- (a) member disclosed the interest in accordance with subsection (2) or (3); and
- (b) contract was approved by the Board and it was reasonable and fair to the Authority at the time it was approved.

10. (1) The Chairman and Vice-Chairman shall be appointed for a term of five years. Tenure of office and terms of appointment of members

(2) A member, other than the Chairman, the Vice-Chairman, the Permanent Secretary and the Director General, shall be appointed for a term of three years.

(3) Subject to subsection (1) and (2), the appointment of a member, other than the Permanent Secretary and the Director General, shall be on such terms and conditions as may be determined by the Minister.

11. (1) This section applies to all members, other than the Permanent Secretary and the Director General appointed under section 7. Resignation and removal of members

(2) A member may at any time resign his office in writing under his hand addressed to the Minister.

(3) If a member dies, resigns, is removed from or otherwise vacates his office prior to the expiry of the term for which he has been appointed, the Minister shall appoint a person to hold or act in the vacant office of the member as soon as reasonably practicable.

(4) An appointment of a member under subsection (5) may be for the unexpired period of the term of office of the person in whose place he is appointed or for a new term of office.

(5) The Minister may appoint a person who is not a member to act as a member in the same capacity during any period when a member is absent from duty or from Trinidad and Tobago or is, for any other reason, unable to perform the duties of the office of member, and a person appointed to act during a vacancy shall not continue to act for more than six months.

(6) Where a person is acting as a member and the office becomes vacant while the person is so acting, that person may continue so to act until the Minister otherwise directs, the vacancy is filled or a period of six months from the date on which the vacancy occurred expires, whichever occurs first.

Meetings of the
Board

12. (1) The Board shall meet at least once every month at such place and time as may be designated by the Chairman.

(2) At every meeting of the Board, the Chairman shall preside except that in the absence of—

(a) the Chairman, the Vice-Chairman shall preside; and

(b) the Chairman and the Vice-Chairman, the members present shall elect from among themselves a person to preside.

(3) The quorum of the Board shall be five members.

(4) Subject to section 9(4), each member is entitled to vote on any matter before the Board.

(5) The Board shall take its decision by a majority vote of the members present and in the event of a tie, the person presiding shall have a casting vote.

(6) No act or proceeding of the Board shall be invalid by reason only of the existence of a vacancy among its members or of any defect in the appointment of a member.

(7) The Board shall appoint an employee of the Authority to be its secretary, who shall

(a) make preparations for and attend meetings of the Board;

(b) prepare and keep minutes of the proceedings of the Board; and

(c) carry out such other duties as may be determined by the Board.

(8) The Board may establish its own rules to govern the conduct of its affairs and the rules shall be subject to the approval of the Minister.

PART IV

STAFF OF THE AUTHORITY

13. (1) The Minister shall, by Notification subject to Appointment of
Director General and
Deputy Directors
General affirmative resolution of Parliament, appoint the Director General and such number of Deputy Directors General of the Authority as are required on terms and conditions determined by the Board, except that one Deputy Director General (hereinafter referred to as “the Deputy Director General—Enforcement”) shall be—

- (a) a public officer; and
- (b) the head of the Enforcement Division.

(2) The Director General and the Deputy Directors General shall be persons who have a **minimum of five years’** demonstrated skill and experience in the area of tax or customs administration, corporate management or areas such as accounting, economics, law, business, **public administration** or other relevant fields, and who have a capacity to manage and direct large and complex organisations and who have an understanding of the welfare of employees.

(3) A person is disqualified from appointment as the Director General or a Deputy Director General if he—

- (a) is a member of Parliament, the Tobago House of Assembly or a municipal corporation;
- (b) is an undischarged bankrupt or has compounded with his creditors;
- (c) has been convicted of an indictable offence or any offence involving dishonesty; or
- (d) has been certified by a registered medical practitioner to be mentally ill.

(4) The Director General and a Deputy Director General, other than the Deputy Director General—

Enforcement, shall be appointed for terms not exceeding five years and shall be eligible for reappointment.

(5) The salary and allowances payable to the Deputy Director General—Enforcement and his other terms and conditions of service shall be subject to review by the Salaries Review Commission.

Functions of the
Director General
and the Enforcement
Division

14. (1) Subject to subsection (2), the Director General shall be responsible for—

- (a) the daily management and direction of the administration of the Authority;
- (b) the daily management and direction of the functions of the Authority as specified in section 6, including the enforcement of the revenue laws by means of civil proceedings;
- (c) **advising the Minister, on his own initiative or at the request of the Minister, on revenue implications, tax administration and aspects of policy changes relating to all taxes referred to in the Schedule, any matter that could affect public policy or public finances and any other matter that the Minister considers could improve the effectiveness or efficiency of the administration or enforcement of the revenue laws; and**
- (d) **collecting and processing statistics needed to provide forecasts of tax receipts, studying the revenue laws and proposing to the Minister, such amendments as it considers appropriate thereto, so as to improve the administration of, and compliance with, such laws.**

(2) The Deputy Director General—Enforcement shall be responsible for—

- (a) the daily management and direction of the administration of the Enforcement Division;

- (b) the daily management and direction of the enforcement of the Customs laws, the Excise Act and other revenue laws;
- (c) advising the Director General on any matter that could affect public policy or public finances;
- (d) 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.

(3) The Enforcement Division of the Authority shall comprise—

- (a) the Deputy Director General—Enforcement and such other public officers who may, for the purposes of the enforcement of the Customs laws, the Excise Act or other revenue laws, exercise the powers, authorities and privileges conferred by those revenue laws; and
- (b) such other employees of the Authority as the Board thinks fit;

(4) The Public Service Commission shall appoint, remove, transfer and exercise disciplinary control over the Deputy Director General—Enforcement and the other public officers of the Enforcement Division and the Board shall appoint, remove, transfer and exercise disciplinary control over the other employees of the Enforcement Division.

- (5) In the performance of his functions under—
- (a) subsection (1)(a), the Director General is subject to the general directions of the Board;
 - (b) subsection (1)(b), the Director General is subject to the general policy directions of the Minister;

- (c) subsection (2)(a), the Deputy Director General - Enforcement is subject to the general directions of the Board which shall be communicated to him through the Director General; and
- (d) subsection (2)(b), the Deputy Director General - Enforcement is subject to the general policy directions of the Minister which shall be communicated to him through the Director General.

Resignation and
removal of Director
General or Deputy
Director General

15. (1) This section does not apply to the Deputy Director General—Enforcement.

(2) The Director General or a Deputy Director General may at any time resign his office by letter addressed to the Minister.

(3) The Minister, may, by Notification subject to affirmative resolution of Parliament, remove the Director General or the Deputy Director General from office—

- (a) if he becomes unable to perform the functions of his office;
- (b) if he is or has become disqualified from being appointed to his office under section 13(3);
- (c) if he brings the Authority into disrepute;
- (d) if he is declared or becomes bankrupt or insolvent;
- (e) if he is convicted of a criminal offence;
- (f) if he fails to fulfil the duties of his office;
- (g) if he fails to comply with section 9(1); or
- (h) for any other sufficient cause.

(4) If the Director General or Deputy Director General dies, resigns, is removed from or otherwise vacates his office prior to the expiry of the term for which he has been appointed, a person shall be appointed to hold or act in the vacant office, as soon as is reasonably practicable.

(5) An appointment of a person under subsection (4) may be for the unexpired period of the term of office of the person in whose place he is appointed or for a new term of office.

(6) The Minister may appoint a person to act as Director General or Deputy Director General during any period when the post is vacant or the holder of the office is absent from duty or from Trinidad and Tobago or is, for any other reason, unable to perform the duties of the office of member, and a person appointed to act during a vacancy shall not continue to act for more than six months.

(7) The Minister may terminate an appointment under subsection (6) at any time.

(8) Where a person is acting as the Director General or Deputy Director General and the office becomes vacant while the person is so acting, that person may continue so to act until the Minister otherwise directs, the vacancy is filled, or a period of six months from the date on which the vacancy occurred expires, whichever occurs first.

16. The Board may, on such terms and conditions as it Employment of staff may determine, employ such persons as the Authority may require.

17. The Board may enter into contracts for services Employment for specific tasks with persons for the performance of such tasks that the Board considers necessary for the due performance of its functions and exercise of its powers under this Act, on such terms and conditions as are agreed between the Authority and the person.

18. (1) This section applies to an officer who, on the Options available to public officers 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 Inland Revenue Division or Customs and Excise Division.

(2) A person to whom this section applies may, within three months of the coming into force of this Act, or within such extended period as the Minister may, by Order subject to negative resolution of Parliament allow, exercise one of the following options:

- (a) voluntarily retire from the Public Service on terms and conditions agreed between him or his appropriate recognised association and the Chief Personnel Officer;
- (b) transfer to the Authority with the approval of the appropriate Service Commission on terms and conditions which, taken as a whole, are no less favourable than those enjoyed by him in the Public Service;
- (c) 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 enjoyed by him in the Public Service on the date of the coming into force of this Act; or
- (d) 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.

Preservation and
accrual of
superannuation
benefits

Chap. 23:52

19. The superannuation benefits which have accrued to a person who exercises the option under section 18(2)(b) 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 up to the date of the establishment of the pension fund plan on the basis of salary applicable to the office which

he held immediately prior to his employment by the Authority under section 18.

20. (1) Where an employee of the Authority who exercises the option referred to in section 18(2)(b), 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 in section 19, the superannuation benefits payable to his estate or him shall be based on the higher salary.

Payment of superannuation benefits prior to the establishment of the pension fund plan

(2) The 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 referred to in section 19, shall be paid by the Authority.

21. (1) Where an employee of the Authority who exercises the option referred to in section 18(2)(b) retires or dies and is a member of the pension fund plan, he shall be paid superannuation benefits by the pension fund plan at the amount which when combined with the superannuation benefits payable under section 19 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 salary applicable to him on the date of his retirement or death.

Payment of superannuation benefits by pension fund plan

(2) For the purposes of subsection (1), “pensionable salary” has the meaning given to it by the pension fund plan.

22. (1) The Board shall, within two years of the coming into force of this Act, establish a pension fund for the benefit of all officers and employees of the Authority.

Establishment of pension fund

(2) Subject to subsection (1), the Board may, by Order subject to negative resolution of Parliament, extend the period for the establishment of the pension fund.

PART V FINANCIAL PROVISIONS

23. (1) The funds of the Authority shall comprise—

Funds of the Authority

- (a) such moneys as may be appropriated by Parliament for the purposes of the Authority;
- (b) with the approval of the Minister, moneys paid to the Authority by way of fees, fines, grants, rent, interest and other income derived from the investment of the Authority's funds or the disposal of its property; and
- (c) moneys borrowed by the Authority in accordance with this Act.

(2) The funds of the Authority shall be kept in such financial institutions as the Minister may approve.

(3) The funds of the Authority shall be applied in defraying the following expenditure:

- (a) the expenses incurred in carrying out the functions of the Authority as specified in section 6;
- (b) the remuneration, fees and allowances of members and of the persons appointed to committees established by the Board;
- (c) the emoluments, allowances, fees and superannuation benefits of employees of the Authority;
- (d) contributions to the pension fund referred to in section 19;
- (e) fees for the services of consultants;
- (f) capital and operating expenses, including expenses incurred in the maintenance and insurance of the property of the Authority;
- (g) the making and maintenance of investments of the Authority;
- (h) any other expenditure authorised by the Board in the discharge of the Authority's functions; and

(i) any sum authorised to be paid under a revenue law.

(4) The salaries and allowances payable to the holders of public offices in the Enforcement Division shall be a charge on the Consolidated Fund.

24. (1) The Authority may, with the approval of the Minister, borrow sums required for meeting any of its obligations under this Act. Power to borrow

(2) The Minister may guarantee in such manner and on such conditions as he thinks fit, the payment of the principal and interest in respect of any borrowing of the Authority under this section.

25. The Authority may invest moneys not immediately required to be expended in meeting any obligation or discharging any function of the Authority in securities approved by the Minister. Power to invest

26. All public moneys collected by the Director General under the revenue laws shall be paid into the Exchequer Account at such times and in such manner as the Minister may direct. Payment of public moneys into Exchequer Account

27. (1) The Exchequer and Audit Act applies to the Authority. Application of Exchequer and Audit Act, Chap. 69:01

(2) Notwithstanding section 2 of the Exchequer and Audit Act, the Director General shall be a receiver of revenue for the purposes of that Act.

28. (1) Subject to subsection (3), the Authority in pursuance of its functions, is exempt from the Central Tenders Board Act. Exemption from Central Tenders Board Act Chap. 71:91

(2) The Board shall, subject to the Minister's approval, make rules relating to the award of tenders and contracts and those rules shall govern the conduct of the award of tenders and related matters.

(3) Until rules are made under subsection (2), the Authority shall follow the procedures detailed in the Central Tenders Board Act.

(4) Rules made under this section shall be subject to negative resolution of Parliament.

(5) Rules made under this section shall be available to any person on request and on payment of the prescribed fee.

Exemption from taxes, etc.

29. The Authority, its assets, property, income and its operations and transactions authorised under any Act, shall be exempt from all taxation of every kind and description, including customs duties, corporation tax, value added tax, property tax, motor vehicle tax, stamp duty, business levy and green fund levy.

Strategic and operational plans

30. (1) Subject to subsections (2), (3) and (4), the Board shall prepare strategic and operational plans for the Authority.

(2) The first strategic plan shall be for a period of not less than three years and no more than five years beginning on a date no later than six months after the appointment of the first Board, and each subsequent strategic plan shall be for a period not exceeding three years beginning on the day following the expiry of the previous strategic plan.

(3) The Board shall submit a strategic plan to the Minister at least one month before the beginning of the period to which the plan relates.

(4) The Board shall prepare an operational plan for each financial year of the Authority and submit it to the Minister at least one month before the beginning of the relevant financial year.

(5) The Minister shall cause a strategic plan or an operational plan, as the case may be, to be laid in Parliament within three months of receiving it.

Budget proposals

31. In respect of each financial year, the Board shall prepare and submit to the Minister estimates of the Authority's—

(a) expected income, if any, arising from any source; and

(b) expected expenditure,

no later than three months before the commencement of the financial year.

32. The Board shall—

Board to keep proper accounts

(a) cause proper books, accounts and records to be maintained in accordance with internationally recognised accounting standards, principles and practices; and

(b) ensure that—

(i) all payments by the Authority are correctly made and properly authorised; and

(ii) adequate control is maintained over the management of assets and the incurring of liabilities.

33. (1) The accounts of the Authority shall be audited ^{Audit} annually by the Auditor General.

(2) The Auditor General shall have access to all books of accounts, records, documents, assets and information held with respect to the operations and activities of the Authority.

(3) Subject to section 8(1)(g), nothing in subsection (1) precludes the Auditor General from performing a management or comprehensive audit of the operations and activities of the Authority.

(4) On completion of any audit of the Authority, the Auditor General shall immediately draw the attention of the Minister and the Board to any irregularity disclosed by the audit which, in the opinion of the Auditor General, is of sufficient importance to justify doing so.

(5) The Auditor General shall submit to the Minister and the Board a report on the results of the annual audit.

Monthly report **34.** The Director General shall submit to the Board and to the Minister a monthly report, or such other time as the Minister may direct, in respect of the revenue collected.

Annual report **35.** (1) The Board shall, within sixty days after the submission of the Auditor General's Report, submit an annual report to the Minister in respect of the Authority.

(2) The Minister shall lay the annual report in Parliament within three months of receipt of the report.

PART VI

MISCELLANEOUS

Oath or affirmation of secrecy **36.** (1) Before commencing the duties of his office, a member shall take an oath, or make an affirmation of secrecy, to be administered by a Justice of the Peace, that he will faithfully and impartially exercise the functions of his office and that he will not, except in accordance with the provisions of the Integrity in Public Life Act, disclose any information received by him as a member.

Chap. 22:01

(2) A person who breaches the oath or affirmation of secrecy referred to in subsection (1)—

(a) commits an offence and is liable on summary conviction to a fine of five hundred thousand dollars and to imprisonment for five years; and

(b) is liable to have his contract of employment terminated.

Vesting of property **37.** All assets and liabilities of the Government that are immediately prior to the coming into force of this Act, existing in relation to the functions of the Board of Inland Revenue or the Customs and Excise Division, shall upon the coming into force of this Act and unless specifically designated by the Minister, be vested in the Authority.

Duty of care and indemnity

38. (1) A member or employee of the Authority shall—

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

(2) A member or employee of the Authority is not liable for breach of duty under subsection (1) where the member or employee relies, in good faith, on—

- (a) the financial statements of the Authority represented in a written report by the Auditor General or an officer or employee of the Authority, who is authorised to issue such a report as fairly reflecting the financial condition of the Authority; or
- (b) a report of an accountant, Attorney-at-law or other professional person whose profession lends credibility to a statement made by them.

39. (1) Subject to the provisions of this Act, any right ^{Savings} of any person, including a right of appeal, subsisting against the Board of Inland Revenue or the Comptroller of Customs and Excise immediately before the coming into force of this Act shall, on the coming into force of this Act, be treated as subsisting against the Director General in so far as that right relates to the duties of the Director General under any of the revenue laws.

(2) Any power, duty or function that, immediately before the coming into force of this Act, was vested in the Chairman of the Board of Inland Revenue or the Comptroller of Customs and Excise by virtue of any written law or under a contract, lease or other document, shall, on the coming into force of this Act, be transferred to the Authority.

(3) Any action, suit or other legal proceeding to which the Board of Inland Revenue or the Comptroller of Customs and Excise is a party that is pending in any

court immediately before the coming into force of this Act, may, on the coming into force of this Act, be continued by, or against the Director General.

Consequential
amendments

- 40.** (1) A reference in any written law to—
- (a) the Chairman of the Board of Inland Revenue or the Comptroller of Customs and Excise, however referred to, shall—
 - (i) with respect to the enforcement of the Customs laws, the Excise Act and other revenue laws, be construed as a reference to the Deputy Director General—Enforcement; and
 - (ii) with respect to any other matter, including the enforcement of revenue laws by means of civil proceedings, be construed as a reference to the Director General; and
 - (b) the Board of Inland Revenue or the Customs and Excise Division, however referred to, shall be construed as a reference to the Authority.

Chap. 75:01

- (2) Section 3 of the Income Tax Act is repealed.

Regulations

41. (1) The Minister may make regulations prescribing anything necessary or convenient for carrying out or giving effect to this Act.

(2) Regulations made under subsection (1) shall be subject to affirmative resolution of Parliament.

(3) Regulations made under this section may provide that the contravention of any regulation constitutes an offence and may prescribe penalties for any offence not exceeding a fine of five hundred thousand dollars and imprisonment for five years.

Amendment to
Schedule

42. The Minister may, by Order subject to negative resolution of Parliament, amend the Schedule.

43. The provisions of this Act shall be subject to ^{Review} review by the Minister who shall submit a report to Parliament every five years.

SCHEDULE

(Section 3 and 42)

REVENUE LAWS

1. Territorial Sea Act, Chap. 1:51
2. Coinage Offences Act, Chap. 11:15
3. Dangerous Drugs Act, Chap. 11:25
4. Proceeds of Crime Act, Chap. 11:27
5. Anti-Terrorism Act, Chap. 12:07
6. Firearms Act, Chap. 16:01
7. Explosives Act, Chap. 16:02
8. Cinematograph Act, Chap. 20:10
9. Registration of Clubs Act, Chap. 21:01
10. Quarantine Act, Chap. 28:05
11. Food and Drugs Act, Chap. 30:01
12. Pesticides and Toxic Chemicals Act, Chap. 30:03
13. Tobacco Control Act, Chap. 30:04
14. Trinidad and Tobago Post Act, Chap. 47:01
15. Trinidad and Tobago Postal Corporation Act, Chap. 47:02
16. Motor Vehicles and Road Traffic Act, Chap. 48:50
17. Airports Authority of Trinidad and Tobago Act, Chap. 49:02
18. Harbours Act, Chap. 50:06
19. Motor Launches Act, Chap. 50:08
20. Shipping Act, Chap. 50:10
21. Port Authority Act, Chap. 51:01
22. Pilotage Act, Chap. 51:02
23. Disposal of Uncleared Goods Act, Chap. 51:05
24. Exportation of Fruit Act, Chap. 63:53

25. Plant (Export Prohibition) Act, Chap. 63:54
26. Plant Protection Act, Chap. 63:56
27. Cocoa (Import and Export) Act, Chap. 64:21
28. Copra Products Control Act, Chap. 64:30
29. Limes Export Levy Act, Chap. 64:40
30. Forests Act, Chap. 66:01
31. Animals (Diseases and Importation) Act, Chap. 67:02
32. Control of Importation of Live Fish Act, Chap. 67:52
33. Beekeeping and Bee Products Act, Chap. 67:53
34. Financial Intelligence Unit of Trinidad and Tobago Act,
Chap. 72:01
35. Provisional Collection of Taxes Act, Chap. 74:01
36. Rates, Taxes and Licences (Payment by Cheque) Act,
Chap. 74:02
37. Rates and Charges Recovery Act, Chap. 74:03
38. Casual Revenue Act, Chap. 74:04
39. Income Tax Act, Chap. 75:01
40. Corporation Tax Act, Chap. 75:02
41. Unemployment Levy Act, Chap. 75:03
42. Petroleum Taxes Act, Chap. 75:04
43. Health Surcharge Act, Chap. 75:05
44. Value Added Tax Act, Chap. 75:06
45. Stamp Duty Act, Chap. 76:01
46. Stamp Duty (Special Provisions) Act, Chap. 76:03
47. Property Tax Act, 2009
48. Taxes Exemption Act, Chap. 76:50
49. Tax Information Exchange Agreements Act, Chap. 76:51
50. Miscellaneous Taxes Act, Chap. 77:01
51. Customs Act, Chap. 78:01
52. Customs Brokers and Customs Clerks Act, Chap. 78:03
53. Anti-dumping and Countervailing Duties Act, Chap. 78:05
54. Excise (General Provisions) Act, Chap. 78:50

55. Exchange Control Act, Chap. 79:50
56. Economic Sanctions Act, Chap. 81:05
57. Trinidad and Tobago Free Zones Act, Chap. 81:07
58. Standards Act, Chap. 82:03
59. Copyright Act, Chap. 82:80
60. Trade Marks Act, Chap. 82:81
61. Auctioneers Act, Chap. 84:03
62. Money Lenders Act, Chap. 84:04
63. Pawnbrokers Act, Chap. 84:05
64. Liquor Licences Act, Chap. 84:10
65. Fiscal Incentives Act, Chap. 85:01
66. Income Tax (In Aid of Industry) Act, Chap. 85:04
67. Tourism Development Act, Chap. 87:22
68. Brewery Act, Chap. 87:52
69. Spirits and Spirit Compounds Act, Chap. 87:54
70. Tax Information Exchange Agreements (United States of America) Act, 2017 (Act No. 4 of 2017)

Passed in the Senate this 17th day of September,
2021.

Clerk of the Senate

I confirm the above.

President of the Senate

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

Clerk of the House

I confirm the above.

Speaker

No. 9 of 2021

SECOND SESSION
TWELFTH PARLIAMENT
REPUBLIC OF
TRINIDAD AND TOBAGO

BILL

AN ACT to establish the Trinidad and
Tobago Revenue Authority and for
related matters

Received and read the

First time

Second time

Third time