

**LEGISLATIVE PROPOSAL**  
**to**  
**repeal and replace**  
**the**  
**Central Tenders Board Act**

## THE NATIONAL TENDERS BOARD BILL, 1997

### EXPLANATORY NOTE

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

The Bill, which would repeal and replace the Central Tenders Act, Chap. 71:91 seeks to provide for the establishment of a National Tenders Board (hereinafter called "the Board") for the Government of Trinidad and Tobago and certain statutory bodies and for the establishment of a Parliamentary Commission to monitor the activities of the Board.

By clause 4, the proposed legislation would apply to acquisitions by the Government, the Tobago House of Assembly, municipal corporations and the statutory bodies mentioned in Schedule 1, of goods or constructions or services incidental thereto. Exceptions thereto would be, in the case of acquisitions resulting from an agreement for technical or other co-operation between the Government and a foreign state, the occurrence or anticipation of natural disasters, contracts between the Government and a fully State-owned company and certain acquisitions for the purposes of the Defence Force and the protective services.

In Part II of the Bill, clauses 5 and 6 provide for the establishment and functions of the Board. Clause 7 provides for the composition of the Board and for eligibility for appointment to the Board. Clause 8 provides for the tenure of office of the members of the Board and clause 9 for the remuneration of members.

Clauses 12 to 14 make special provision with respect to committees of the Board and give those committees power to award procurement contracts not exceeding one hundred and fifty thousand dollars in value.

Clause 15 requires members of the Board and committees to declare their interest in any tender that is the subject of consideration by the Board or committee and imposes a fine of ten thousand dollars on those who fail to so comply unless they prove that they did not know that they had an interest in the tender.

With the repeal of the Central Tenders Board Act, the Director of Contracts and Deputy Director of Contracts will go out of office and provision is made in clause 16(1) to appoint them as Administrative Head and Deputy of the Board. By clause 16(3) the staff of the Central Tenders Board would on the commencement of the proposed legislation become members of staff of the Board without any change in their terms and conditions of service.

Part III of the Bill provides for procurement proceedings which include the making of a request by a procuring entity for invitation of tenders. In clause 18, provision is made for making of regulations relating to invitation for tenders and for matters connected therewith.

Part IV of the Bill provides for the establishment of a Parliamentary Commission to monitor the award and implementation of procurement contracts. This Commission will have power to investigate written complaints and is required to submit its findings to Parliament.

Part V of the Bill provides *inter alia* for the imposition of criminal penalties for attempting to mislead the Commission or any other person, the making of regulations and the repeal of the Central Tenders Board Act, Chap. 71:91.

# NATIONAL TENDERS BOARD BILL, 1997

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*Clause*

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## BILL

AN ACT to provide for the establishment of a National Tenders Board for the Government of Trinidad and Tobago and certain statutory bodies, for the establishment of a Parliamentary Commission to monitor the activities of the procurement, for the repeal of the Central Tenders Board Act, Chap. 71:91 and for matters incidental thereto

### PART I PRELIMINARY

- Short title                    1. This Act may be cited as the National Tenders Board Act, 1997.
- Commencement                2. This Act comes into effect on such day as the President may appoint by Proclamation.
- Interpretation                3. In this Act -
- “Board” means the National Tenders Board established under section 5;
- “Central Tenders Board” means the Central Tenders Board established under section 4 of the Central Tenders Board Act, Chap. 71:91, repealed by this Act;
- “Chairman”, unless the context otherwise requires, means the Chairman of the Board appointed under section 7(1)(a);
- “Chief State Solicitor” means the public officer holding, or acting in, the office of Chief State Solicitor;
- “Commission” means the Parliamentary Commission established under section 20;
- “Commissioner” means a member of the Commission and includes a person acting for or in place of such member for the time being;
- “Committee” means a Committee of the Board established under section 12;
- “Commonwealth” means the countries which for the time being are included in the British Commonwealth of Nations;

“construction” means all work associated with the construction, reconstruction, demolition, repair or renovation of a building or structure and includes works such as site preparation, excavation, erection, building installation of equipment or materials, decoration and finishing, drilling, mapping, satellite photography, seismic investigations, engineering works of all kinds including soil testing, geotechnical survey and other activities incidental to such works;

“Defence Force” means the body of military forces established by section 5 of the Defence Act;

“Deputy Chairman” means the Deputy Chairman of the Board appointed under section 7(3);

“Director of Contracts” means the public officer holding, or acting in, the office of Director of Contracts;

“goods” includes raw materials, products, equipment and other physical objects of every kind and description, whether in solid, liquid or gaseous form, and electricity and includes vehicles, machinery, computer hardware and software and electrical products;

“Government” means the Government of Trinidad and Tobago;

“legal entity” means a body corporate, firm, partnership, statutory body or unincorporated body;

“Minister” means the Prime Minister;

“procurement” means the acquisition by any means, including by purchase, rental, lease or hire purchase of goods or of construction including the acquisition of services incidental to the supply of the goods or to the construction and other services including janitorial, security, catering and consultancy;

“procurement contract” means a contract entered into between the Board/procuring entity and a legal entity or a person as a result of proceedings under this Act;

- Schedule 1 “procuring entity” means the Government of Trinidad and Tobago, the Tobago House of Assembly, municipal corporations or statutory bodies set out in Schedule 1;
- Schedule 2 “protective services” means the services listed in Schedule 2;
- “Public officer” means the holder of an office of emolument in the service of the Government of Trinidad and Tobago or of the Tobago House of Assembly;
- “relative” in relation to a person means a spouse, parent, grandparent, and brother, sister, child, stepchild and the spouse of such person;
- “service” means any kind of procurement other than supply of goods or undertaking of construction and includes consultancy services;
- “Supplier or contractor” means according to the context any potential party or the party to a procurement to contract with the Board or a procuring entity;
- “tender security” means a security provided to the procuring entity to secure the fulfilment of any obligation and includes such arrangements as bank guarantees, surety bonds, stand-by letters of credit, cheques on which a bank is primarily liable, cash deposits, promissory notes and bills of exchange.

Application 4.(1) Subject to subsection (2), this Act applies to procurements by a procuring entity.

(2) This Act does not apply where -

- (a) as a result of an agreement for technical or other co-operation between the Government and the Government of a foreign state, the latter designates a company to supply goods or to undertake construction or any services incidental thereto;
- (b) as a result of the occurrence or anticipation of flooding, hurricane, landslide, earthquake or other natural disasters, the Minister is of the opinion that an emergency situation has arisen in any part of



Trinidad and Tobago, the abatement, prevention or alleviation of which necessitates the obtaining of goods or the undertaking of immediate construction or services incidental thereto by the Government;

(c) the Government enters into a contract with a company which is wholly owned by the State for the supply of goods or for the undertaking of construction or services incidental thereto; and

Schedule 3

(d) goods and services referred to in Schedule 3 are approved by the Minister as being required for the purposes of the Defence Force or for the protective services.

(3) Where the Government acts in pursuance of subsection (2)(b), the Minister shall report such action to Parliament within thirty days of the Government taking the decision so to act or at the first sitting thereafter, and shall cause a report of the expenditure incurred in relation to the procurement necessary for the abatement, prevention or alleviation of the emergency, to be laid in Parliament within thirty days of such completion of the procurement.

(4) The President may make Rules governing the award of contracts for goods and services referred to in Schedule 3.

(5) The President may, by Order, amend Schedule 1, 2 or 3.

## **PART II THE NATIONAL TENDERS BOARD**

Establishment  
of the Board

5. There is established for the purposes of this Act a Board to be known as "the National Tenders Board".

Functions of  
the Board

6.(1) Subject to the provisions of section 12, the Board shall have the sole and exclusive authority in accordance with this Act to-

(a) act for, in the name of and on behalf of, a procuring entity in inviting, considering and accepting or rejecting offers for the supply of goods or for the undertaking of construction or services, necessary for carrying out the functions of the procuring entity; and

(b) dispose of surplus or unserviceable goods, building and other structures belonging to a procuring entity.

(2) The Board shall have such other functions as the President may by Order prescribe from time to time.

(3) In the exercise of its functions, the Board shall use its best judgment to achieve the following objectives:

- (a) maximizing economy and efficiency in procurements;
- (b) fostering and encouraging participation in procurement proceedings by potential suppliers and contractors;
- (c) promoting of international trade by permitting, where the Board considers it appropriate, participation by potential suppliers and contractors regardless of nationality;
- (d) promoting competition among potential suppliers and contractors for the award of procurement contracts;
- (e) providing fair and equitable treatment of all potential suppliers and contractors;
- (f) promoting the integrity of and fairness and public confidence in the procurement process; and
- (g) achieving of transparency in procurement proceedings.

Composition of the Board

7.(1) The Board shall consist of nine members appointed by the President comprising of -

- (a) a Chairman, who shall be a person who has held, or is qualified to hold, office as a Judge of the Supreme Court and appointed subject to the provisions of subsection (2), provided that such person shall not be ineligible for appointment by reason only of his age;
- (b) the Chief State Solicitor;
- (c) the Director of Contracts;
- (d) two public officers; and
- (e) four persons appointed subject to the provisions of subsection (2).

(2) No person shall be eligible to be appointed a member of the Board under subsection (1)(a) or (e) who -

- (a) is a member of the Senate or of the House of Representatives;
- (b) is an undischarged bankrupt; or

(c) has been convicted of an offence involving dishonesty or moral turpitude.

(3) The President shall appoint one of the four public officers referred to in subsection (1)(b) to (d) to be Deputy Chairman of the Board.

Tenure of office

8.(1) Subject to subsection (2), members of the Board, other than the Chief State Solicitor and the Director of Contracts, shall hold office for a period of two years, but shall be eligible for reappointment.

(2) A member of the Board, other than the Chief State Solicitor and the Director of Contracts, vacates his office -

(a) by written notice of resignation addressed to the President;

(b) if he is outside of Trinidad and Tobago for more than thirty days without the leave of the Minister or remains outside of Trinidad and Tobago after the expiration of such leave without the permission of the Minister; and

(c) if he fails without the leave of the Minister, or without reasonable excuse, the sufficiency of which shall be determined by the Minister, to attend three consecutive regular meetings of the Board.

(3) A member of the Board who vacate his office under subsection (2) shall be eligible for reappointment.

Remuneration of board members

9. The members of the Board shall be paid such remuneration as the President may determine.

Filling of vacancies

10. Where, by reason of death, illness, absence, resignation or otherwise of a member, other than the Chief State Solicitor or the Director of Contracts, a vacancy occurs in the membership of the Board, the President shall appoint some other person to fill such vacancy for the unexpired term of such member, but so long as a quorum is present at any meeting, the Board shall be deemed to be duly constituted notwithstanding any vacancy in the membership of the Board.

Leave of absence and acting appointments

11.(1) For the purposes of section 8(2)(b) and (c), the Minister may grant leave of absence to any such member of the Board.

(2) Except in the case of the Chief State Solicitor and the Director of Contracts, the President may appoint a person to act in place of any member of the Board who is temporarily outside of Trinidad and Tobago or unable to perform his duties by reason of illness or some other cause.

Establishment  
of Committees  
of the Board

12.(1) There shall be established such Committees of the Board to be in charge of one or more statutory bodies or types of procurement as the Minister may consider appropriate.

(2) The Minister shall appoint to each Committee a Chairman who shall be a member of the Board and four other persons, one of whom shall be a public officer who is also a member of the Board.

(3) Members of the Committees other than two members of the Board may be appointed for a period of two years, but shall be eligible for reappointment.

(4) A Committee may be requested by the Board to consider offers made in response to requests for procurement and shall make recommendations to the Board for its acceptance or rejection of such offers.

(5) Except where a Committee is authorized by this Act to make decisions in respect of procurement involving limited values, the Board may accept or reject any of its recommendations or make its own decision.

Financial limits  
of Committee

13. A Committee may act for the Board where the value of the goods to be supplied or the construction or services to be undertaken does not exceed one hundred and fifty thousand dollars, but no Committee shall, for the purpose of purporting to give itself authority to act under this provision, subdivide the quantity of goods to be supplied or the construction or the services to be undertaken into two or more portions so that the value of each portion does not exceed one hundred and fifty thousand dollars.

Meetings of the  
Board and  
Committees  
Schedule 4

14.(1) Part I of the Rules set out in Schedule 4 shall apply to meetings of the Board.

(2) Part II of the Rules set out in Schedule 4 shall apply to meetings of Committees.

Declaration of  
interest

15.(1) A member of the Board or a Committee who is –

- (a) a shareholder, partner or member of a legal entity;
- (b) in the employment of a person or legal entity;
- (c) a relative of a person; or
- (d) a relative of a person who is in the employment of a legal entity,

who or which has submitted an offer for the supply of goods or for the undertaking of construction or services which is the subject of consideration

by the Board or the Committee, has an interest in the offer, shall disclose that fact in writing to the members of the Board or the Committee and shall not take part in the consideration or discussion of, or vote on, any question relating to such offer.

(2) A person who fails to comply with the provisions of subsection (1) commits an offence and is liable on summary conviction to a fine of ten thousand dollars unless he proves that he did not know that he had an interest in the offer.

Staff of the Board

16.(1) There shall be appointed a Director of Contracts and a Deputy Director of Contracts to function as the Administrative Head and Deputy thereof who shall be in charge of day to day affairs of the Board.

(2) The President may appoint such officers and other staff of the Board as are necessary for the proper carrying out of the provisions of this Act.

(3) Persons who were officers or other members of the staff of the Central Tenders Board immediately prior to the commencement of this Act shall, with the commencement of this Act be transferred to the staff of the Board without change in the terms and conditions of service.

### **PART III PROCUREMENT PROCEEDINGS**

Request for  
procurement

17.(1) Where a procuring entity requires any procurement, the procuring entity shall submit a written request to the Board to invite on its behalf tenders for the supply of the goods or for the undertaking of the construction or services, as the case may be.

(2) The request referred to in subsection (1) shall contain sufficient description of the goods, construction or services to be supplied or undertaken.

Procurement

18.(1) On receipt of a request made under section 17(1), the Board shall within three months thereof, undertake procurement of such goods, construction or services in accordance with the regulations made under this Act.

(2) The regulations so made may be amended from time to time as may be necessary or expedient for the purposes of carrying out the provision of this Act.

(3) Regulations made or amended shall be subject to a negative resolution of Parliament.

Tax clearance

19. The Board shall not accept a tender from an individual or legal

entity, resident in Trinidad and Tobago unless it is accompanied by a valid –

- Chap. 75:01 (a) tax clearance certificate issued under the Income Tax Act; and
- Chap. 75:06 (b) clearance certificate issued under the Value Added Tax Act.

#### **PART IV PARLIAMENTARY COMMISSION**

Parliamentary Commission 20.(1) There is established for the purposes of this Act a Parliamentary Commission.

(2) The Commission shall comprise three Commissioners appointed by the President after consultation with the Prime Minister and the Leader of the Opposition one of whom shall be appointed as the Chairman, by the President.

(3) The Chairman of the Commission shall be a person who has held the office of a Judge in a court of superior record in Trinidad and Tobago or any other Commonwealth country.

(4) The Commissioners shall hold office for a period of four years but shall be eligible for reappointment for one further term or part thereof.

Functions of the Commission 21.(1) Subject to the provision of this Act, the Commission shall on behalf of Parliament be responsible for -

- (a) monitoring the award and implementation of procurement contracts with a view to ensuring that -
- (i) such contracts are awarded impartially and on merit;
  - (ii) the circumstances in which each contract is awarded or terminated, as the case may be, do not involve impropriety or irregularity; and
  - (iii) without prejudice to the functions of any public body in relation to any contract, the implementation of each such contract conforms to the terms, conditions and other provisions thereof; and

- (b) investigating written complaints concerning procurement proceedings and making such orders under this Act and the Regulations and reporting its findings to Parliament.

(2) For the purpose of the discharge of its functions under this Act, the Commission shall be entitled -

- (a) to be advised of the award and, where applicable, the variation of any procurement contract by the Board;
- (b) subject to section 33(1), to have access to all books, records, documents, stores or other property belonging to a procuring entity;
- (c) to have access to any premises or location where work on a procurement contract has been, is being or is to be carried out; and
- (d) to inspect or cause to be inspected any books, documents or records pertaining to the procurement contract and to request or take copies thereof.

(3) For the purposes of subsection (2), the Commission shall have power to require the Board or any procuring entity to furnish in such manner and at such times as may be specified by the Commission, information with regard to the award of any procurement contract and such other information in relation thereto as the Commission considers desirable.

Removal from office

22.(1) A Commissioner may be removed by the President during his term of office only for -

- (a) inability to discharge the functions of his office, whether arising from infirmity of body or mind or any other cause;
- (b) misbehaviour; or
- (c) trading directly or indirectly with a procuring entity.

(2) For the purposes of this section, a Commissioner is deemed to be trading with a procuring entity if while holding office as such he becomes a party to or is a partner in a firm or a director or manager of a company or is married to a person who becomes a party to a contract with a procuring entity.

Disqualification

23.(1) No person shall be qualified to be appointed a Commissioner who -

- (a) is a member of the Senate or of the House of Representatives;
- (b) is an undischarged bankrupt;
- (c) has been convicted of an offence involving dishonesty or moral turpitude; or
- (d) is a party to or a partner in a firm or a director or manager of a company or is married to a person who is a party to a procurement contract unless prior to his appointment he has disclosed to the President the nature of such contract and his interest or the interest of such firm or company or person.

(2) A Commissioner shall vacate his office if, while being a Commissioner, he becomes disqualified under any of the circumstances referred to in subsection (1).

Restriction on employment

24. The Chairman of the Commission shall devote his full time to the appointment and shall not accept paid employment in any other capacity during the period in which he holds office as Chairman.

Vacancies

25.(1) The President may designate some one to act as Chairman of the Commission or as Commissioner during a vacancy in the membership of the Commission until such time as an appointment is made.

(2) Where by reason of illness, absence, resignation or other sufficient cause, a person appointed to the Commission is unable to perform the functions of his office, the President may appoint a person to act in his place for such period as the inability continues.

Remuneration

26.(1) The Chairman of the Commission shall receive such remuneration and be subject to such other terms and conditions as may from time to time be prescribed by a resolution of the House of Representatives, such remuneration being not less than the remuneration which may from time to time be payable to a Judge of the High Court.

(2) The remuneration of the Chairman of the Commission and his terms and conditions of service shall not be altered to his disadvantage during the period of his appointment or reappointment, as the case may be.

(3) The Commissioners, other than the Chairman of the Commission, shall receive such allowances as may be determined by the President.



(4) The remuneration and allowances for the time being payable to the Commissioners shall be charged to and paid out of the Consolidated Fund.

Appointment of officers

27. The President may, on such terms and conditions as may be recommended by the Minister, appoint such officers as the Minister considers necessary to assist the Commission in the performance of its functions under this Act.

Oath of Secrecy

28. The Commissioners and all officers appointed to assist the Commission by virtue of this Act shall take and subscribe an oath to be administered in the form set out in Schedule 5.

Schedule 5

### **Investigations by Commission**

Scope of investigations

29. The Commission may conduct an investigation into all or any of the following matters:

- (a) the tender procedures applied in procurement contracts;
- (b) the award of any procurement contract; and
- (c) the implementation of the terms of any procurement contract.

Initiation of investigation

30. An investigation pursuant to section 29 may be undertaken by the Commission on its own initiative or as a result of representations made to the Commission.

Procedure in respect of investigations

31.(1) The Commission may with the approval of the Minister make rules governing its procedure and subject to the provisions of this Act may obtain information from such persons and in such manner and make such inquiries as it thinks fit.

Chap. 19:01

(2) Until rules are made under subsection (1), the Commission shall conduct a hearing into a matter as if it were a Commission acting pursuant to a reference under the Commissions of Inquiry Act.

(3) Notwithstanding any provision in any other law the hearing shall be *in camera* and no publication shall be made or take place in connection therewith without the authority of a resolution of the House of Representatives.

(4) A witness who attends for purposes of a hearing shall be entitled to be paid such expenses or compensation as he would be entitled to if he had attended as a witness before the High Court.

32.(1) Subject to the provisions of subsection (5) and section 33(1), the Commission may at any time, require any officer or member of the Board or of a committee or of a public body or any other person who, in its opinion, is able to give any assistance in relation to the investigation of any matter pursuant to this Act, to furnish such information and produce any document or thing in connection with such matter as may be in the possession or under the control of that officer, member or other person.

(2) Subject as aforesaid, the Commission may summon before it and examine on oath -

- (a) any person who has made representations to it; or
- (b) any officer, member or employee of a public body or any other person who, in the opinion of the Commission, is able to furnish information relating to the investigation,

and such examination shall be deemed to be a judicial proceeding within the meaning of section 4 of the Perjury Act.

Chap. 11:14

(3) For the purposes of an investigation under this Act, the Commission shall have the same powers as a Judge of the Supreme Court in respect of the attendance and examination of witnesses and the production of documents.

(4) Any obligation to maintain secrecy or any restriction on the disclosure of information or the production of any document or paper or thing imposed on any person by or under any law shall not apply in relation to the disclosure of information or the production of any document or thing by that person to the Commission for the purpose of an investigation and accordingly, no person shall be liable to prosecution or to any civil proceedings by reason only of his compliance with a requirement of the Commission under this section.

(5) No person shall, for the purpose of an investigation, be compelled to give any evidence or produce any document or thing which he could not be compelled to give or produce in proceedings in any court of law.

Restriction on disclosure of certain matters

33. (1) Where the Secretary to the Cabinet at the direction of Cabinet -

(a) gives notice that the disclosure by the Commission of any document or information specified in the notice, or any class of document or information so specified, would -

(i) involve the disclosure of the deliberations or proceedings of the Cabinet, or any committee thereof, relating to matters of a secret or confidential nature and is likely to be injurious to the public interest;

(ii) prejudice the relations of Trinidad and Tobago with the Government of any other country or with any international organization; or

(iii) prejudice the detection of offences,

the Commission or any member of its staff shall not communicate to any person for any purpose any document or information specified in the notice or any document or information of a class so specified;

(b) certifies that the giving of any information or the answering of any question or production of any document or thing would prejudice the security or defence of Trinidad and Tobago, the Commission shall not further require such information or answer to be given or such document or thing to be produced.

(2) Except as provided in subsection (1), no law which authorizes or requires the refusal to answer any question or the withholding of any information or document or thing on the ground that the answering of the question or the disclosure of the information, document or thing would be injurious to the public interest, shall apply in respect of any investigation by or proceedings before a Commission.

Procedure after investigation

34.(1) At the conclusion of an investigation, conducted under this Act, the Commission shall, in writing, inform the Board or the principal officer of the public body concerned and the Minister shall have responsibility therefore of the result of such an investigation and make such orders and recommendations as it considers necessary in respect of the matter which was investigated.

(2) If in any report the Commission has come to an adverse finding against any person the Commission shall, so far as practicable, inform such person of the substance of its findings.

Disciplinary action  
against officers

35. If the Commission finds, during the course of its investigations or on the conclusion thereof that there is evidence of a breach of duty or misconduct or criminal offence on the part of an officer or member of the Board or of a committee or of a public body, it shall refer the matter to the person or persons competent to take such disciplinary or other proceeding as may be appropriate against that officer or member and in all such cases shall lay or cause to be laid a special report before Parliament.

Proceedings of  
Commission not void  
for want of form

36. The proceedings of the Commission shall not be rendered void for want of form.

Privileges

37.(1) Except in the case of proceedings for an offence under section 43, no proceedings whatsoever shall lie against the Commission or any person concerned with the administration of this Act, for anything he may do or report or say in the performance of his functions under this Act.

(2) Anything said or information supplied or any document or thing produced by any person for the purpose or in the course of any investigation by or proceedings before the Commission under this Act, shall be absolutely privileged in the same manner as if the investigation or proceedings were proceedings in a court of law.

(3) For the purposes of any law relating to defamation, any report made by the Commission under this Act and any fair comment thereon shall be deemed to be privileged and no civil or criminal proceedings may be brought in respect of such report or comment

Secrecy of  
information

38.(1) The Commission and every person concerned with the administration of this Act shall regard as secret and confidential all documents, information and things disclosed to them in the execution of any of the provisions of this Act, except that no disclosure –

Chap. 11:14

- (a) made by the Commission or any such person in proceedings for an offence under section 43 or under the Perjury Act, by virtue of section 32(2); or
- (b) which the Commission thinks necessary to make in the discharge of its function or for the purpose of executing any of the provisions of sections 34, 35 and 42,

shall be deemed inconsistent with any duty imposed by this subsection.

(2) Neither a Commissioner nor any person referred to in subsection (1) shall be called upon to give evidence in respect of, or produce, any document, information or thing disclosed to him in the execution of any of the provisions of this Act in any proceedings other than proceedings referred to in subsection (1).

(3) Nothing in this section shall prevent disclosure by any person of information furnished to him pursuant to section 34.

Performance of  
Commission functions  
by staff

39.(1) Without prejudice to the provision of section 25(2), the functions of the Commission, except those under sections 34, 35, 41(2) and 42, may be performed by any member of its staff authorized for that purpose by the Commission.

(2) Nothing in subsection (1) shall be construed as affecting the responsibility of the Commission for functions performed on its behalf pursuant to subsection (1).

Funding

40. The funds of the Commission shall consist of -

- (a) such sums as may from time to time be appropriated by Parliament for the purposes of the office of the Commission; and
- (b) all other moneys which may in any manner become payable to or vested in the Commission in respect of any matter incidental to its functions.

Accounts, etc.

41.(1) The accounts and financial transactions of the office of the Commission shall be audited annually by the Auditor General and a statement of accounts so audited shall form part of the annual report referred to in section 42.

(2) The Commission shall, before a date specified by the Minister -

- (a) submit to the Minister a statement of accounts in a form satisfactory to the Minister and audited in accordance with the provisions of subsection (1); and
- (b) submit to the Minister for approval estimates of revenue and expenditure for the ensuing financial year.

(3) Reports under this section shall be submitted to the Minister responsible for finance.

Reports

42.(1) The Commission may at any time be required by Parliament to submit a report to Parliament in respect of any matter being investigated by it.

(2) The Commission shall submit to Parliament an annual report relating generally to the execution of its functions and may at any time submit a report relating to any particular matter or matters investigated, or being investigated by it which, in its opinion, require the special attention of Parliament.

(3) Reports under this section shall be submitted to the Speaker of the House of Representatives and the President of the Senate who shall, as soon as possible, have them laid on the Table of the appropriate House.

(4) The Commission may, in the public interest, from time to time publish in such manner as it thinks fit, reports relating to such matters as are mentioned in subsection (2) and in any case which is the subject of a special report under section 35, but no such report shall be published until after it has been laid pursuant to subsection (3).

(5) No civil proceedings shall be taken in any Court against any person in respect of a report laid in either the Senate or in the House of Representatives pursuant to this Act or in respect of any matter contained therein.

**PART V  
MISCELLANEOUS**

Offences

43. Every person who -

(a) wilfully makes any false statement to mislead or misleads or attempts to mislead the Commission or any other person in the execution of his functions under this Act; or

(b) without lawful justification or excuse -

(i) obstructs, hinders or resists the Commission or any other person in the execution of its functions under this Act; or

(ii) fails to comply with any lawful requirement of the Commission or any other person under this Act; or

- (c) deals with documents, information or things mentioned in subsection 38(1) in a manner inconsistent with his duty under that subsection,

Commits an offence and shall be liable on summary conviction to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding twenty-four months or to both such fine and imprisonment.

Remedy under any other provision unaffected

44.(1) The Commission may initiate or continue any investigation and report thereon pursuant to this Act notwithstanding any legal proceedings pending relating to the subject matter of the investigation.

(2) Nothing in subsection (1) shall be construed as preventing a court from ordering the Commission not to publish a report or part thereof if the court is of opinion that such publication is likely to prejudice any proceedings pending before the court.

(3) No such order shall be made to prevent a report or part thereof being laid in either House of Parliament unless the House of Representatives grants leave to seek such an order.

Regulations

45. The Minister may make regulations to provide for such matters as may be necessary or expedient for the better carrying into effect of the provisions of this Act, and, without prejudice to the generality of the foregoing, such regulations may provide for -

- (a) any matter required by this Act to be prescribed; and
- (b) the circumstances in which and the manner in which information relating to *procurement contracts* shall be furnished to the Commission.

Application of oaths of office  
Chap. 7:03

46. The Oaths of Office Act shall apply to the Commissioners and officers appointed under this Act.

Repeal

47. The Central Tenders Board Act, Chap. 71:91 is repealed.

## SCHEDULE 1

(Section 3)

### **Statutory Bodies to which this Act applies**

The Central Water Distribution Authority

The Marketing Board

The Cocoa Board

The Cocoa Industry Board

The Sugar Industry Board

The Sugar Industry Labour Welfare Committee

## SCHEDULE 2

(Section 3)

### **Protective Services**

1. The Police Service established by section 3 of the Police Service Act, Chap. 15:01.

2. The Prison Service established by section 3 of the Prison Service Act, Chap. 13:01.

3. The Rural Police and Estate Police established by section 3 of the Supplemental Police Act, Chap. 15:02.

4. The Special Reserve Police established by section 3 of the Special Reserve Police Act, Chap. 15:03.

5. The Trinidad and Tobago Fire Service established by section 3 of the Fire Service Act, Chap. 35:50.



### SCHEDULE 3

(Section 4(2)(d))

#### **Goods and Services required for the purposes of the Trinidad and Tobago Defence Force and the Protective Services**

1. Arms and ammunition.
2. Repair and maintenance of aircraft and Coast Guard vessels.
3. Security equipment including scanners, detectors and safe fax machines.
4. Uniforms and protective gear.
5. Aircraft, marine craft and parts thereof.
6. Wireless equipment and spares including radar system.

SCHEDULE 4

(Section 14)

**Rules of the Board and Committees**

PART I  
MEETINGS OF THE BOARD

Chairman to  
preside

1. (1) Meetings of the Board shall be presided over by the Chairman.

(2) The Deputy Chairman shall in the absence or inability of the Chairman, perform all of the functions of the Chairman and shall perform such other functions as may be required of him by the Board.

Meetings

2. (1) The Board shall meet as often as may be necessary or expedient for transacting its business but shall meet at least once in every month.

(2) Except in such cases as may be determined by the Chairman, notices of meetings together with agendas shall be circulated to members at least forty-eight hours before the time fixed for such meetings.

(3) Minutes of each meeting in proper form shall be kept by the Board and shall be confirmed by the Board and certified by the Chairman at the next succeeding meeting.

(4) Copies of such minutes certified by the Chairman shall be forwarded by the Chairman to the Minister.

(5) The Board shall furnish the Minister with all information or documents which the Minister may from time to time require.

Quorum

3. At any meeting of the Board or for the purpose of voting on papers circulated, five members shall constitute a quorum.

Decisions of  
Board

4. (1) Decisions of the Board shall be taken at meetings or in cases where the Chairman shall direct, by the circulation of papers among the members.

(2) Where papers are circulated among the members the Chairman may direct that the papers shall not be circulated to any member who through illness, interest, absence from the State or otherwise is in the opinion of the Chairman incapacitated from voting.

(3) The decisions of the Board shall be by a majority of votes and for that purpose the Chairman shall have both an original and a casting vote.

Methods of recording decisions of the Board

5. Any document purporting to record a decision of the Board and signed by the Chairman and any notification in the *Gazette* purporting to record a decision of the Board are admissible in evidence as *prima facie* proof of the decision recorded.

## PART II MEETINGS OF COMMITTEES

Meetings of Committees

6. (1) Subject to the limitation set out in section 13, each Committee shall meet as often as is necessary or expedient for the transaction of its business.

(2) Minutes of each meeting in proper form shall be kept by the Chairman of the Committee and shall be confirmed by the Committee at its next succeeding meeting.

(3) The decisions of the committees shall be by a majority vote and for that purpose the Chairman shall have both an original and casting vote.

Quorum

7. At any meeting of a Committee or for the purpose of voting on papers circulated three members shall constitute a quorum.

## SCHEDULE 5

(Section 28)

### **Oath of Secrecy**

I, \_\_\_\_\_ do swear that I will faithfully perform any functions assigned to me under the National Tenders Board Act, 1997 and I will not on any event at any time whatsoever, except in so far as the provisions of the Act authorize, directly or indirectly reveal any information of the nature or contents of any document communicated to me in the performance of any functions assigned to me by virtue of that Act.

Passed in the House of Representatives this                      day of                      , 1997.

*Clerk of the House*

I confirm the above.

*Speaker*

Passed in the Senate this                      day of                      , 1997.

*Clerk of the Senate*

I confirm the above.

*President of the Senate*