

8 June, 2021

THE CONSTITUTION (AMENDMENT) (TOBAGO SELF-GOVERNMENT) BILL, 2021

Explanatory Notes

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

This Bill seeks to amend the Constitution to confer self-government on Tobago by providing for the creation of a Tobago Island Government. To give effect to this change, the Bill thus will provide for a legislature body to be called the House of Assembly, which will have the power to make laws, and an executive body to be called the Tobago Executive Council, which will have executive authority in the Island of Tobago. However, this law making power would be restricted to the matters listed in Schedule 3 to the companion Bill, the Tobago Island Government Bill, 2021; and similarly, the executive authority would be restricted to the matters listed in Schedule 1 of the said Bill.

This Bill contains twenty-one clauses and requires a special majority vote pursuant to section 54(3), that is, not less than three-fourths of all the members of the House of Representatives and two-thirds of all the members of the Senate.

Clause 1 of the Bill contains the short title of the Act for which this is the Bill.

Clause 2 of the Bill would provide for the commencement of the Act on Proclamation by the President.

Clause 3 of the Bill would provide for the alteration of the Constitution.

Clause 4 of the Bill seeks to amend the preamble of the Constitution, to introduce for the recognition of the right to self-determination of the people of Trinidad and Tobago, and the equality of status between the people of both Islands.

Clause 5 of the Bill seeks to amend section 3 of the Constitution to introduce certain new definitions to the interpretation provision, including a definition of Tobago but for very limited purposes.

Clause 6 of the Bill seeks to amend section 5 of the Constitution to include the Tobago Legislature in subsection (2).

Clause 7 of the Bill seeks to amend section 52 of the Constitution to provide that the High Court shall have jurisdiction to hear disputes in relation to the election or appointment of members of the House of Assembly and its presiding officers, and the decision of the Court of Appeal would be final in relation to such proceedings.

Clause 8 of the Bill seeks to amend section 53 of the Constitution to confer legislative powers on the Tobago Legislature and to address cases of inconsistency between national laws and laws passed by the Tobago Legislature.

Clause 9 of the Bill seeks to amend section 52 of the Constitution to provide for the entrenchment of the new Chapter 11A which deals with the Tobago Legislature.

Clause 10 of the Bill seeks to amend section 61 of the Constitution to provide the manner in which the Tobago Legislature would exercise its legislative making power.

Clause 11 of the Bill seeks to amend section 75 of the Constitution so that Cabinet would not have responsibility for the matters prescribed in relation to Tobago, unless there is an emergency or unforeseen circumstance.

Clause 12 of the Bill seeks to insert after section 75 of the Constitution four new sections (sections 75A, 75B, 75C and 75D) to provide for the Tobago Executive Council and its powers and jurisdiction; its composition; and for the appointment of Secretaries and Assistant Secretaries by the President on the advice of the Chief Secretary.

Clause 13 of the Bill seeks to amend section 80 of the Constitution to extend the power of the President to act in accordance with the advice of or after consultation with the Tobago Executive Council.

Clause 14 of the Bill seeks to insert after section 81 of the Constitution a new section (section 81A) to provide that the Chief Secretary must keep the President informed about matters concerning the Tobago Island Government.

Clause 15 of the Bill seeks to amend section 120 of the Constitution to increase the composition of the Public Service Commission by providing for two additional members to be appointed from persons ordinarily resident in Tobago.

Clause 16 of the Bill seeks to amend section 121 of the Constitution to provide that in making specified appointments in Tobago, the Public Service Commission must consult the Chief Secretary, and the Chief Secretary will have the power to transfer an Administrator.

Clause 17 of the Bill seeks to amend section 124 of the Constitution to increase the composition of the Teaching Service Commission by providing for two additional members to be appointed from persons ordinarily resident in Tobago.

Clause 18 of the Bill seeks to amend section 129 of the Constitution to provide that the Public Service quorum must include at least one member from Tobago when it deals with matters in relation to Tobago.

Clause 19 of the Bill seeks to repeal Chapter 11A of the Constitution and substitute a new Chapter 11 A which would contain the following sections 141A to 141R:

Section 141A would provide for the establishment and powers of the Tobago Legislature.

Section 141B would provide for the composition of the House of Assembly.

Section 141C would provide for the powers, privileges and immunities of the House of Assembly.

Section 141D would provide for the swearing-in of members of the House of Assembly, not later than three days after their appointment or election.

Section 141E would provide for the election of the Presiding Officer and the Deputy Presiding Officer, and when any vacancy arises, for the filling such vacancies in both offices.

Section 141F would provide for the appointment of the Chief Secretary and the Deputy Chief Secretary.

Section 141G would provide for filling any vacancy in the office of Chief Secretary and Deputy Chief Secretary.

Section 141H would provide for the appointment of Secretaries and Assistant Secretaries by the President on the advice of the Chief Secretary.

Section 141I would provide for the appointment of the Minority Leader, including any vacancy in this office.

Section 141J would provide for the appointment of Councillors.

Section 141K would provide for the temporary appointments of Councillors in specified circumstances.

Section 141L would provide for a motion of no confidence in the Chief Secretary.

Section 141M would provide for qualification and disqualification for membership of the House of Assembly.

Section 141N would provide the circumstances which can render vacant the seat of an Assembly Member.

Section 141O would provide for when the Presiding Officer may declare the vacancy of the seat of an Assembly Member.

Section 141P would provide for the filling of a vacant seat of an Assembly Member.

Section 141Q would provide for the dissolution of the Tobago Legislature and when a primary election of the House of Assembly is to be held.

Section 141R would provide for the jurisdictional limit of the powers of the House of Assembly and the Tobago Executive Council.

Clause 20 of the Bill seeks to insert after section 143 of the Constitution two new sections (section 144 and 145) as follows:

Section 144 would provide that where there is dispute between the Government of Trinidad and Tobago and the Tobago Island Government, both parties shall make efforts to resolve it before approaching the Court.

Section 145 would provide for the establishment, composition and powers of a Dispute Resolution Committee, and the decision of the Court of Appeal shall be final in relation to any challenge to the decision of the Committee.

Clause 21 seeks to amend the First Schedule of the Constitution to provide for Oaths (or Affirmation) of Office for Assembly Members, the Presiding Officer and Deputy Presiding Officer, Chief Secretary, Deputy Chief Secretary and Assistant Secretary, Minority Leader and Councillors.

**THE CONSTITUTION (AMENDMENT)
(TOBAGO SELF-GOVERNMENT) BILL, 2021**

ARRANGEMENT OF CLAUSES

Clause

1. Short title
2. Commencement
3. Alteration of Constitution
4. Preamble amended
5. Section 3 amended
6. Section 5 amended
7. Section 52 amended
8. Section 53 amended
9. Section 54 amended
10. Section 61 amended
11. Section 75 amended
12. Sections 75A, 75B, 75C and 75D inserted
13. Section 80 amended
14. Section 81A inserted
15. Section 120 amended
16. Section 121 amended
17. Section 124 amended
18. Section 129 amended
19. Chapter 11A repealed and substituted
20. Section 144 and 145 inserted
21. First Schedule amended

BILL

AN ACT to amend the Constitution of the Republic of Trinidad and Tobago to accord self-government to Tobago and for related matters

Preamble WHEREAS it is enacted by subsection (1) of section 54 of the Constitution that Parliament may alter any of the provisions thereof:

And whereas it is provided in subsection (3) of the said section 54 that insofar as it alters certain provisions of the Constitution a Bill for an Act of Parliament under the said section 54 shall not be passed by Parliament unless the final vote thereon in the House of Representatives, it is supported by the votes of not less than three-fourths of all the members of the House and in the Senate, it is supported by the votes of not less than two-thirds of all members of the Senate:

And whereas it is intended by this Act to alter the Constitution:

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

Short title **1.** This Act may be cited as the Constitution (Amendment) (Tobago Self-Government) Act, 2021.

Commencement **2.** This Act comes into operation on such date as is fixed by the President by Proclamation.

Alteration of Constitution **3.** This Act shall be construed as altering the Constitution.

Preamble amended **4.** The Preamble of the Constitution is amended by inserting after paragraph (c), the following paragraph:

“ (ca) recognise-

(i) the right to self-determination of the people of Trinidad and Tobago, including the right of the people of the Island of Tobago to determine in Tobago their political status and freely pursue their economic, social and cultural development; and

(ii) the equality of status between the people of the Island of Trinidad and the people of the Island of Tobago, enabling them to access a fair share of the resources and opportunities available to all the people of the Nation of Trinidad and Tobago;”.

Section 3
amended

5. Section 3 of the Constitution is amended –

(a) in subsection (1)-

(i) in the definition of “public service”, by deleting the words “Tobago House of Assembly established by section 3 of the Tobago House of Assembly Act, in a civil capacity” and substituting the words “Tobago Island Government, in a civil capacity”; and

(ii) by inserting in the appropriate alphabetical sequence, the following definitions:

““House of Assembly” means the House of Assembly of the Tobago Legislature referred to in section 141A;

“Tobago Act” means a law passed by the Tobago Legislature in relation to Tobago;

“Tobago Executive Council” means the Tobago Executive Council established under section 75A (1);

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

“Tobago Legislature” means the Tobago Legislature established under section 141A (1)”; and

(b) by inserting after subsection (9), the following subsection:

“(10) For the purposes of sections 53, 75, 75A and Chapter 11A, a reference to “Tobago” means the Island of Tobago, Little Tobago, St. Giles Island, Marble Island, Goat Island, Sisters Island and the internal and inland waters of Tobago.”.

Section 5
amended

6. Section 5(2) of the Constitution is amended in the *chapeau*, by inserting after the word “Parliament”, the words “or the Tobago Legislature”.

Section 52
amended

7. Section 52 of the Constitution is amended-

(a) by inserting after subsection (1), the following:

“(1A) Any question whether-

- (a) any person has been validly appointed as a member of the House of Assembly;
- (b) any member of the House of Assembly has vacated his seat or is required, under section 141L(2), to cease to exercise any of his functions as a member of the House of Assembly; or
- (c) any person has been validly elected as Presiding Officer or Deputy Presiding Officer of the House of Assembly in accordance with section 141E,

shall be determined by the High Court.”; and

- (b) in subsection (2), by inserting after the words “subsection (1)”, the words “and subsection (1A)”.

Section 53
amended

8. Section 53 of the Constitution is amended by renumbering that section as section 53(1) and inserting the following subsections:

“(2) Subject to subsections (1) and (3), the Tobago Legislature may make laws for the peace, order and good government of Tobago with respect to the matters as prescribed.

(3) The power of the Tobago Legislature to make laws shall not extend to-

- (a) altering the provisions of this Constitution; or
- (b) any of the matters set out in Chapter 1 of this Constitution.

(4) Where a Tobago Act is inconsistent with an Act passed by Parliament, the Act passed by Parliament shall prevail to the extent of the inconsistency.

(5) Subject to subsection (6), the power of Parliament to make laws having effect in Tobago shall not extend to any of the matters as prescribed under subsection (2).

(6) At any time when it is expressly declared in any Act passed by Parliament that a provision in that Act,

being a provision that relates to a matter prescribed under subsection (2) is required to have effect in Tobago-

- (a) in the interests of external affairs;
- (b) in the interests of national security;
- (c) in relation to a state of public emergency;
or
- (d) in relation to a national financial crisis,

that provision shall accordingly have effect in the island of Tobago, and where there is any inconsistency between that provision and the provision of a Tobago Act, the provisions of the Act passed by Parliament shall prevail to the extent of the inconsistency.

(7) Where there is an inconsistency under subsection (4) or (6), the inconsistency shall, where possible, be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring the Tobago Act into conformity with the Act passed by Parliament.”.

Section 54
amended

9. Section 54(3)(b) of the Constitution is amended by inserting after the word “139”, the words “, 141A to 141R”.

Section 61
amended

10. Section 61 of the Constitution is amended-

- (a) by repealing subsection (1) and inserting the following subsection:

“(1) Subject to the provisions of this Constitution-

- (a) the power of Parliament to make laws shall, except where otherwise authorised by statute, be exercised by Bills passed by the House of Representatives and the Senate and assented to by the President; and
- (b) the power of the Tobago Legislature to make laws shall, except where otherwise authorised by statute, be exercised by Bills passed by the

House of Assembly and assented to by the President.”;

(b) in subsection (2), by inserting after the words “a Bill”, the words “, including a Bill passed by the House of Assembly,”;

(c) in subsection (3), by inserting after the words “A Bill”, the words “, including a Bill passed by the House of Assembly,”; and

(d) in subsection (4), by inserting –

(i) after the words “of Parliament”, the words “or House of Assembly”; and

(ii) after the words “that Parliament”, the words “or House of Assembly, as the case may be”.

Section 75
amended

11. Section 75 of the Constitution is amended-

(a) by repealing subsection (1) and substituting the following subsection:

“(1) There shall be a Cabinet for Trinidad and Tobago which shall have–

(a) the general direction and control of the Government of Trinidad and Tobago and shall be collectively responsible therefor to Parliament; and

(b) in relation to Tobago, no responsibility for the matters as prescribed under section 75A(1)(b), unless there is an emergency or unforeseen circumstance requiring the intervention of the Cabinet.”; and

(b) by inserting after subsection (2), the following subsections:

“(3) In determining whether there is an emergency or unforeseen circumstance requiring its intervention under subsection (1)(b), the Cabinet shall consider the following matters:

- (a) there is an expressed request or invitation from the Tobago Executive Council;
- (b) where a request under paragraph (a) has not been received within a reasonable period in the circumstances, Cabinet through a Minister shall endeavor to consult with the Tobago Executive Council; or
- (c) due to the urgency of the circumstances, consultation under paragraph (b) has not been possible and is not practicable.

(4) Where Cabinet has intervened under subsection (1)(b), the Tobago Island Government shall co-operate with the Cabinet in the management of the emergency or unforeseen circumstance.

(5) Subsection (3) shall not apply where a state of public emergency has been declared pursuant to section 8.”.

Sections 75A, 75B
75C and 75D
inserted

12. The Constitution is amended by inserting after section 75, the following sections:

“Tobago
Executive
Council

75A. (1) There shall be a Tobago Executive Council which shall have-

- (a) the general direction and control of the Tobago Island Government and shall be collectively responsible therefor to the Tobago Legislature; and
- (b) subject to section 75(1)(b), exclusive jurisdiction for the administration within Tobago of the matters as prescribed.

(2) The Tobago Executive Council shall continue to discharge its functions during any period that the Tobago Legislature is dissolved.

Composition
of Tobago
Executive
Council

75B. (1) The Tobago Executive Council shall comprise-

- (a) the Chief Secretary;

(b) the Deputy Chief Secretary; and

(c) such number of other Secretaries, selected from among the Assembly Members appointed by the President, acting in accordance with the advice of the Chief Secretary.

(2) One of the Secretaries appointed under subsection (1)(c) shall be the Secretary of Legal Affairs who shall be an Attorney-at-law admitted to practise in Trinidad and Tobago.

Secretaries of
the Tobago
Island
Government

75C. (1) The President, acting in accordance with the advice of the Chief Secretary, may, by directions in writing, assign to a Secretary responsibility for any business of the Tobago Island Government, including the administration of any Division of the Tobago Island Government.

(2) Where a Secretary is incapable of performing his functions by reason of his absence from Trinidad and Tobago or by reason of illness, the President, acting in accordance with the advice of the Chief Secretary, may appoint another person to act in the office of such Secretary during such absence or illness.

(3) Where any Secretary has been assigned responsibility for any Division of the Tobago Island Government, he shall exercise general direction and control over that Division and, subject to such direction and control, the Division shall be under the supervision of an Administrator whose office shall be a public office.

(4) For the purposes of this section –

(a) two or more Divisions of the Tobago Island Government may be placed under the supervision of one Administrator; or

(b) two or more Administrators may supervise any Division of the Tobago Island Government assigned to a Secretary.

Assistant
Secretaries of
the Tobago
Island
Government

75D. The President shall, on the advice of the Chief Secretary, appoint a Member of the House of Assembly to the office of Assistant Secretary.”.

Section 80
amended

13. Section 80 of the Constitution is amended by repealing subsection (1) and substituting the following subsection:

“(1) In the exercise of his functions under this Constitution or any other law, the President shall act in accordance with the advice of –

(a) the Cabinet or a Minister acting under the general authority of the Cabinet, in relation to matters under the Government of Trinidad and Tobago; or

(b) the Tobago Executive Council or a Secretary acting under the general authority of the Tobago Executive Council, with respect to matters in Tobago as prescribed under section 75A(1),

except in cases where other provision is made by this Constitution or such other law, and, without prejudice to the generality of this exception, in cases where by this Constitution or such other law, he is required to act-

(i) in his discretion;

(ii) after consultation with any person or authority other than the Cabinet and the Tobago Executive Council; or

(iii) in accordance with the advice of any person or authority other than the Cabinet and the Tobago Executive Council.”.

Section 81A
inserted

14. The Constitution is amended by inserting after section 81, the following section:

“President to be
informed
concerning
matters of
Tobago Island
Government

81A. The Chief Secretary shall keep the President fully informed concerning the general conduct of the Tobago Island Government and shall furnish the President with such information as he may request with respect to any particular matter relating to the Tobago Island Government.”.

Section 120
amended

15. Section 120 of the Constitution is amended –

- (a) in subsection (1), by deleting the words “two nor more than four other members”, and inserting the words “four nor more than six other members, two of whom shall be ordinarily resident in Tobago”; and
- (b) by deleting subsection (2) and substituting the following;

“(2)The members of the Public Service Commission-

- (a) other than the members ordinarily resident in Tobago, shall be appointed by the President, after consultation with the Prime Minister and the Leader of the Opposition; and
- (b) ordinarily resident in Tobago, shall be appointed by the President after consultation with the Chief Secretary and the Minority Leader.”.

Section 121
amended

16. Section 121 of the Constitution is amended-

- (a) by inserting after subsection (5), the following subsection:

“(5A) Before the Public Service Commission makes any appointment in Tobago to the office of Chief Administrator, Administrator, to a head of a department in a Division and to a chief professional advisor in a Division, it shall consult the Chief Secretary.”; and

- (b) by inserting after subsection (6), the following subsection:

“(6A) Power to make appointments on transfer to the office of Administrator, from one such office to another such office carrying the same salary and allowances, shall vest in the Chief Secretary.”.

Section 124
amended

17. Section 124 of the Constitution is amended-

- (a) in subsection (1), by deleting the words “four other members”, and inserting the words “six other members, two of whom shall be ordinarily resident in Tobago”; and
- (b) by deleting subsection (2) and substituting the following:

“(2)The members of the Teaching Service Commission-

(a) other than the members ordinarily resident in Tobago, shall be appointed by the President, after consultation with the Prime Minister and the Leader of the Opposition; and

(b) ordinarily resident in Tobago, shall be appointed by the President after consultation with the Chief Secretary and the Minority Leader.”.

Section 129
amended

18. Section 129 of the Constitution is amended by inserting after subsection (2), the following subsection:

“(2A) Notwithstanding subsection (2), where a Service Commission meets, in the exercise of its power in relation to a matter in Tobago, the quorum shall include at least one member appointed from Tobago.”.

Chapter 11A
repealed and
substituted

19. Chapter 11A of the Constitution is repealed and the following Chapter is substituted:

“CHAPTER 11A

TOBAGO LEGISLATURE

Establishment
of the Tobago
Legislature

141A. (1) There shall be a Tobago Legislature which shall consist of the President and the House of Assembly.

(2) Subject to sections 5 and 53(2) and subsections (3) and (4), the Tobago Legislature shall have power to make laws for the peace, order and good government of Tobago.

(3) A law in force before the coming into force of this section shall continue to apply to Tobago, until such time as it is replaced by a Tobago Act and until any existing law in relation to matters for Tobago is replaced by a Tobago Act, the existing law shall apply in accordance with the powers and functions of the Tobago Legislature.

(4) Subject to the provisions of this Constitution, the Tobago Legislature shall have such other powers and functions in relation to Tobago as may be prescribed.

(5) A Tobago Act shall have effect in Tobago.

(6) Except on the recommendation or with the consent of the Tobago Executive Council, the House of Assembly shall not –

(a) proceed upon any Bill, including any amendment to a Bill which, in the opinion of the person presiding, makes provision for any of the following purposes:

(i) for imposing or increasing any charge on the revenues or other funds of Tobago or for altering any such charge otherwise than by reducing it; or

(ii) for compounding or remitting any debt due to Tobago;

(b) proceed upon any motion, including any amendment to a motion, the effect of which, in the opinion of the person presiding, would be to make provision for any of the purposes aforesaid; or

(c) receive any petition which, in the opinion of the person presiding, requests that provision be made for any of the purposes aforesaid.

(7) In this section, a public Bill which, in the opinion of the Presiding Officer in the Tobago Legislature, contains only provisions dealing with all or any of the following matters, namely:

(a) the imposition, for the payment of debt or other financial purposes, of charges on public money or the variation or repeal of any such charges;

(b) the grant of money to Tobago or to any

authority or person, or the variation or revocation of any such grant;

(c) the appropriation, receipt, custody, investment, issue or audit of accounts of public money;

(d) the raising or guarantee of any loan or the repayment thereof, or the establishment, alteration, administration or abolition of any sinking fund provided in connection with any such loan; or

(e) subordinate matters incidental to any of the matters referred to in this subsection,

shall be referred to as a “Money Bill”.

Composition
of the House
of Assembly

141B. The House of Assembly shall consist of –

- (a) fifteen Assembly Members elected at an election held in accordance with the Representation of the People Act and who are qualified to be electors under section 12 of the Representation of the People Act, or such other number of Assembly Members as corresponds with the number of electoral districts as provided for by an Order made by the President;
- (b) five Councillors appointed by the President, acting in accordance with the advice of the Chief Secretary;
- (c) three Councillors appointed by the President, acting in accordance with the advice of the Minority Leader;
- (d) two Councillors appointed by the President in his discretion from outstanding persons, resident in Tobago, from economic or social or community organisations and other major fields of endeavour; and

(e) a Presiding Officer who may or may not be an Assembly Member, who shall not be a-

(i) Secretary or an Assistant Secretary; or

(ii) person appointed under paragraph (d).

Powers,
privileges and
immunities

141C. (1) The House of Assembly shall have the power to regulate its procedures, including the power to make Standing Orders.

(2) Subject to the rules and Standing Orders of the House of Assembly, there shall be freedom of speech in the Chamber of the House of Assembly.

(3) No civil or criminal proceedings may be instituted against any member or other person for words spoken before, or written in a report of, the House of Assembly or a committee thereof.

(4) In other respects, the powers, privileges and immunities of the House of Assembly, Members of the House of Assembly and committees of the House of Assembly, shall be such as may from time to time be prescribed by the Tobago Legislature and until so defined shall be those that apply to the House of Representatives and to its members and committees.

Swearing in
of
members of
the House of
Assembly

141D. The President shall administer the oath of office set out in the First Schedule to the members of the House of Assembly at a meeting held for such purpose, not later than three days after the date of the election or appointment, as the case may be.

Election of
Presiding
Officer and
Deputy
Presiding
Officer

141E. (1) When the House of Assembly first meets after the election and before it proceeds to the dispatch of any other business, it shall elect a person to be the Presiding Officer of the House of Assembly, and if the office of Presiding Officer falls vacant at any time before the next dissolution, the House of Assembly shall, as soon as practicable, elect another person to that office.

(2) When the House of Assembly first meets after the election and before it proceeds to the dispatch of

any other business except the election of the Presiding Officer, the House of Assembly shall elect a person to be the Deputy Presiding Officer of the House of Assembly who is not a Secretary, an Assistant Secretary, an Administrator or a person appointed by the President under section 141B.

(3) Where the office of the Deputy Presiding Officer falls vacant at any time before the next dissolution, the House of Assembly shall, as soon as practicable, elect another person to that office.

(4) Where any person who is not a member of the Tobago Legislature is elected to be a Presiding Officer of the House of Assembly he shall, by virtue of holding office of Presiding Officer, be a member of the House of Assembly in addition to the Assembly Members and Councillors.

(5) The President shall administer the oath set out in the First Schedule to the Presiding Officer whenever the occasion arises.

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

(7) A person shall vacate the office of Presiding Officer or Deputy Presiding Officer –

- (a) in the case of a Presiding Officer elected from among the Assembly Members or in the case of the Deputy Presiding Officer where he ceases to be a member of the House of Assembly, so however that the Presiding Officer shall not vacate his office by reason only that he has ceased to be a member of the House of Assembly on a dissolution of the Tobago Legislature, until the House of Assembly first meets after that dissolution; and
- (b) in the case of a Presiding Officer elected from among persons who are not members of the House of Assembly–
 - (i) when the House first meets after any dissolution of the Tobago Legislature;

(ii) where he ceases to be a citizen of Trinidad and Tobago; or

(iii) where any circumstances arise that would cause him to be disqualified for election as a member of the House by virtue of section 141L or any law.

(8) Where the office of Presiding Officer is vacant or the Presiding Officer is for any reason unable to perform any function conferred upon him, that function may be performed by the Deputy Presiding Officer.

Appointment
of Chief
Secretary and
Deputy Chief
Secretary

141F. (1) Where there is occasion for the appointment of a Chief Secretary, the President shall appoint as Chief Secretary-

(a) the Assembly Member who is the leader of the party who commands the support of the majority of Assembly Members; or

(b) where it appears to him that that party does not have an undisputed leader or that no party commands the support of such a majority, the Assembly Member who, in his judgment, is most likely to command the support of the majority of Assembly members,

and who is willing to accept the office of Chief Secretary.

(2) Where there is occasion for the appointment of a Deputy Chief Secretary, the President shall appoint as Deputy Chief Secretary an Assembly Member, on the advice of the Chief Secretary.

(3) The President shall administer to the Chief Secretary and Deputy Chief Secretary, respectively, the oath set out in the First Schedule, whenever the occasion arises.

Vacancy in
office of Chief
Secretary
and Deputy
Chief
Secretary

141G. (1) Whenever the position of Chief Secretary becomes vacant in accordance with this Constitution, the Deputy Chief Secretary shall assume office of Chief Secretary until a new Chief Secretary is appointed.

(2) If the office of Chief Secretary becomes vacant in circumstances in which the office of the Deputy Chief Secretary is also vacant in accordance with this Constitution, the functions of the office of Chief Secretary shall, until such time as a new Chief Secretary or Deputy Chief Secretary assumes office in accordance with section 141F, be performed by a Secretary who is an Assembly Member appointed by the President on the advice of the Tobago Executive Council.

(3) Whenever the Chief Secretary is absent from Trinidad and Tobago or is unable to perform the functions of Chief Secretary by reason of illness or any other cause, the President may authorise—

(a) the Deputy Chief Secretary; or

(b) during any period when there is no Deputy Chief Secretary, some other member of the Tobago Executive Council,

to discharge such of the functions of the office of Chief Secretary as the President may specify, and the Deputy Chief Secretary or other member of the Tobago Executive Council may discharge those functions until his authority is revoked by the President.

(4) Where the Deputy Chief Secretary is unable to perform the function of Chief Secretary for any reason, the discharge of the function of the office of Chief Secretary shall be performed by a Secretary who is also an Assembly Member, and who shall be elected by the Assembly Members from among their number, as the Chief Secretary and following such election, the President shall administer to the Chief Secretary the oath of office set out in the First Schedule.

(5) Whenever the position of Deputy Chief Secretary becomes vacant in accordance with this Constitution, the function of the office of Deputy Chief Secretary shall be performed by a Secretary who is also an Assembly Member, and who shall be elected by the Assembly Members from among their number, as the Deputy Chief Secretary and

following such election, the President shall administer to the Deputy Chief Secretary the oath of office set out in the First Schedule.

Appointment
of Secretaries
and Assistant
Secretaries

141H. The President shall appoint Secretaries and Assistant Secretaries on the advice of the Chief Secretary and administer to them the oath set out in the First Schedule.

Appointment
of Minority
Leader

141I. (1) There shall be an office of Minority Leader and appointments thereto shall be made by the President.

(2) Immediately after administering the oaths of office to the Chief Secretary and the Deputy Chief Secretary, the President shall, if the person concerned is willing to be appointed, appoint as Minority Leader the Assembly Member who, in his judgment is best able to command the support of the greatest number of Assembly Members who do not support the Chief Secretary.

(3) The office of Minority Leader shall become vacant –

(a) when he resigns his office;

(b) where the holder thereof ceases to be a member of the House of Assembly for any cause other than a dissolution of the House of Assembly; or

(c) when the House of Assembly first meets after a dissolution of the House of Assembly.

(4) Where the office of Minority Leader is vacant, whether because there is no member of the House of Assembly so qualified for appointment or because no one qualified for appointment is willing to be appointed, or because the Minority Leader has resigned his office or for any other reason, any provision in this Constitution requiring consultation with the Minority Leader shall, in so far as it requires such consultation, be of no effect.

(5) The President shall administer to the Minority Leader the oath set out in the First Schedule whenever the occasion arises.

Appointment
of Councillors

141J. Immediately after the appointment of the Minority Leader under section 141I, the President shall administer to each Councillor the oath set out in the First Schedule.

Temporary
appointments

141K. (1) Where a Councillor is incapable of performing his functions as a member of the House of Assembly by reason of-

- (a) his absence from Trinidad and Tobago; or
- (b) illness,

the President may appoint a person qualified for appointment as a Councillor to be temporarily a member of the House of Assembly during such absence or illness.

(2) In the exercise of the powers conferred upon him by this section the President shall act-

- (a) in accordance with the advice of the Chief Secretary in relation to a Councillor appointed under section 141B (b);
- (b) in accordance with the advice of the Minority Leader in relation to a Councillor appointed under section 141B (c); and
- (c) in accordance with his own judgment in relation to a Councillor appointed by him under section 141B (d).

Motion of No
Confidence in
Chief Secretary

141L. (1) Where the Assembly Members pass a resolution, supported by the votes of a majority of Assembly Members, declaring that they have no confidence in the Chief Secretary and the Chief Secretary does not, within seven days of the passing of such a resolution, either resign or advise the President to dissolve the Tobago Legislature, the President shall revoke the appointment of the Chief Secretary.

(2) The Chief Secretary shall also vacate his office-

(a) when, after any dissolution of the Tobago Legislature, he is informed by the President that the President is about to reappoint him as Chief Secretary or to appoint another person as Chief Secretary; or

(b) where for any reason other than a dissolution of the Tobago Legislature, he ceases to be an Assembly Member.

(3) The Deputy Chief Secretary and Secretary shall vacate their office when any person is appointed or reappointed as Chief Secretary.

(4) The Deputy Chief Secretary or a Secretary shall vacate their office where an appointment as the Deputy Chief Secretary or Secretary, respectively, is revoked by the President acting in accordance with the advice of the Chief Secretary.

(5) Where, at any time, the Chief Secretary is required under section 141M (1) to cease to perform his functions as a member of the House of Assembly, he shall cease during such time to perform any of his functions as Chief Secretary.

(6) Where, at any time, a Secretary is required under section 141N (1) to cease to perform his functions, he shall cease during such time to perform any of his functions as Secretary.

Qualification
and
disqualification
for
membership

141M. (1) Subject to subsection (2), a person is qualified to be elected as an Assembly Member in a primary election or a bye-election or as a Presiding Officer or appointed as a Councillor if that person –

(a) is a citizen of the Republic of Trinidad and Tobago;

(b) is qualified to be an elector under section 12 of the Representation of the People Act; and

(c) resides in Tobago.

(2) A person, not being a citizen of the Republic of Trinidad and Tobago, is disqualified from being elected or appointed as a member of the House of Assembly, or being a citizen, if he –

- (a) is a citizen of a country other than Trinidad and Tobago having become such citizen voluntarily, or is under a declaration of allegiance to such a country;
- (b) has been adjudged or otherwise declared bankrupt under any law in force in any country and has not been discharged;
- (c) is a mentally ill person within the meaning of the Mental Health Act;
- (d) is under sentence of death imposed on him by a Court in any country or is serving sentence of imprisonment, by whatever name called, exceeding twelve months imposed on him by such a Court or substituted by competent authority for some other sentence imposed on him by such a Court or is under such a sentence of imprisonment, the execution of which has been suspended;
- (e) is disqualified from being elected under sections 31 and 32 of the Representation of the People Act;
- (f) holds, or is acting in, an office of the House of Assembly as may be prescribed, but a person is not disqualified by reason only of receiving, or being entitled to receive, payment by way of travelling or subsistence allowances or a refund of out-of-pocket expenses;
- (g) is a member of the Senate or the House of Representatives or of a Municipal or

Regional Corporation;

- (h) is disqualified for membership of the House of Representatives by virtue of any law in force in Trinidad and Tobago by reason of his having been convicted of any offence relating to elections; or
- (i) is not qualified to be registered as an elector at a Parliamentary election under any law in force in Trinidad and Tobago.

(3) The House of Assembly may provide that, subject to such exceptions and limitations, if any, as may be prescribed, a person may be disqualified for membership of the House of Assembly by virtue of-

- (a) his holding or acting in any office or appointment (either individually or by reference to a class of office or appointment);
- (b) his belonging to any of the armed forces of the State or to any class of person that is comprised in any such force; or
- (c) his belonging to any police force or to any class of person that is comprised in any such force.

(4) For the purposes of subsection (2)(d)-

- (a) two or more sentences of imprisonment that are required to be served consecutively shall be regarded as separate sentences if none of those sentences exceeds twelve months, but if any one of such sentences exceeds that term they shall be regarded as one sentence; and

- (b) no account shall be taken of a sentence of imprisonment imposed as an alternative to or in default of the payment of a fine.

Vacancy of
office of a
member of the
House of
Assembly

141N. (1) Subject to section 141O, the seat of an Assembly Member becomes vacant where he –

- (a) submits a written resignation to the Presiding Officer or, in the case of the Presiding Officer, where he submits a written resignation to the President or his appointment as Presiding Officer is revoked in accordance with subsection (2);
- (b) is absent from ordinary sittings of the House of Assembly for such period and in such circumstances as may be set out in the Standing Orders of the House of Assembly; or
- (c) ceases to possess any of the qualifications required by section 141M(1) or is or becomes disqualified from being a member of the House of Assembly for any of the reasons set out in section 141M (2).

(2) The President shall revoke –

- (a) the appointment of a Councillor on the advice of the person who nominated him or by reason of any of the matters set out in subsection (1); and
- (b) the appointment of the Presiding Officer following a vote of no confidence against him supported by a majority of the members of the House of Assembly.

Declaration of
vacancy

141O. (1) The Presiding Officer shall formally declare a vacancy in the House of Assembly –

- (a) at the first meeting of the House of Assembly following the vacating of a seat by virtue of section 141N or 141M(4); or

(b) on the adoption of a motion of the members of the House of Assembly based on the recommendation of a committee appointed for the purpose of section 141N (1)(c).

(2) A vacancy pursuant to subsection (1) shall have effect from the date on which it is so declared.

(3) The notice of a declaration of vacancy shall be signed by the Clerk and sent forthwith to the President and a copy thereof shall be posted up in a prominent position on the outer door of the Chamber of the House of Assembly and published in the *Gazette* and in at least one daily newspaper circulating in Trinidad and Tobago and may be published electronically or by any other means.

Filling of
vacancies

141P. (1) Where the President is notified that the seat of an Assembly Member has become vacant, the President shall, subject to subsections (2) and (3), issue a writ addressed to the Returning Officer of the corresponding electoral area for the holding of a bye-election for the election of an Assembly Member to fill the vacancy.

(2) The President shall, after consultation with the Chief Secretary, fix the date of a bye-election for the election of an Assembly Member, which date shall not be earlier than the expiration of two months after the declaration of the vacancy nor later than the expiration of three months after that declaration.

(3) No bye-election for the election of an Assembly Member shall be held within a period of one year prior to the holding of a primary election and the President may decline to issue a writ under subsection (1) if the vacancy is declared within one year from the date on which the House of Assembly is due to stand dissolved.

(4) Where the office of the Presiding Officer or Deputy Presiding Officer is declared vacant, an election to fill that vacancy shall be held at the meeting of the House of Assembly next following the declaration of the vacancy.

(5) A person elected or appointed to the House of Assembly to fill a vacancy shall be administered the relevant oath of office by the President.

Dissolution of the
Tobago
Legislature

141Q. (1) The Tobago Legislature shall be dissolved-

- (a) four years from the date of its first meeting after any primary election;
- (b) by a resolution supported by a majority of two thirds of the Assembly Members; or
- (c) by the President, acting in accordance with section 141L (1).

(2) A primary election for the House of Assembly shall be held on the -

- (a) second Monday after the date of the fourth anniversary of the last primary election; or
- (b) fourth Monday after the date of any dissolution in accordance with subsection (1)(b) or (c).

(3) Where the date specified under subsection (2) is a public holiday or the date of a general election, the primary election of the House of Assembly shall be held on the Monday of the following week.

Jurisdictional
limit

141R. The powers of the House of Assembly and the Tobago Executive Council under section 53, 75A, 75B, 75C, 75D and this Chapter and any other law shall have effect within Tobago.”.

New sections 144
and 145 inserted

20. The Constitution is amended by inserting after section 143, the following sections:

“Resolution
of dispute

144. Where there is a dispute between the Government of Trinidad and Tobago and the Tobago Island Government, both parties to the dispute shall make every reasonable effort to resolve the dispute by means of mechanisms and procedures provided or adopted for that purpose, and shall exhaust such mechanisms and procedures before it approaches a Court to resolve the dispute.

Dispute
Resolution
Committee

145. (1) A Dispute Resolution Committee is established.

(2) The Dispute Resolution Committee shall comprise five members as follows:

- (a) two members appointed by the Prime Minister;
- (b) two members appointed by the Chief Secretary;
- (c) one member appointed by the President, after consultation with the Prime Minister and the Chief Secretary, who shall be the Chairman.

(3) The Dispute Resolution Committee shall have the jurisdiction to mediate or mitigate any disputes that may arise in relation to the exercise of administrative powers as prescribed.

(4) The Dispute Resolution Committee shall make recommendations to the Prime Minister, who shall consult with the Chief Secretary before making a decision.

(5) A review of a decision of the Prime Minister shall lie to the High Court.

(6) An appeal against a decision of the High Court under subsection (5) shall lie to the Court of Appeal, and the decision of the Court of Appeal shall be final.”

First Schedule
amended

21. The Constitution is amended by inserting in the First Schedule the following:

**“FORM OF OATH (OR AFFIRMATION) OF OFFICE FOR
AN ASSEMBLY MEMBER**

(Section 141D)

I,.....,
having been elected an Assembly Member for Tobago do swear
by.....
(solemnly affirm) that I will bear true faith and allegiance to Trinidad and Tobago, will uphold the Constitution and the law, and will conscientiously and impartially discharge the duties and responsibilities of Assembly Member that I am now about to assume.

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

(Section 141E)

I,.....,
having been elected Presiding Officer/Deputy Presiding Officer of the House of
Assembly do swear by(solemnly
affirm) that I will bear true faith and allegiance to Trinidad and Tobago, will uphold the
Constitution and the law, and will conscientiously, impartially and to the best of my
knowledge, judgment and ability discharge the functions of my office.

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

(Sections 141F and 141H)

I,.....,
do swear by.....(solemnly
affirm) that I will bear true faith and allegiance to Trinidad and Tobago, will uphold the
Constitution and the law, and will conscientiously, impartially and to the best of my
ability discharge my duties as Chief Secretary/Deputy Chief
Secretary/Secretary/Assistant Secretary and do right to all manner of people without fear
or favour, affection or ill-will.

**FORM OF OATH (OR AFFIRMATION) OF OFFICE FOR
MINORITY LEADER**

(Section 141I)

I,.....,
having been appointed a Minority Leader for Tobago do swear by
.....(solemnly affirm) that I will bear true faith and allegiance to Trinidad and Tobago, will uphold the Constitution and the law, and will conscientiously and impartially discharge the duties and responsibilities of Minority Leader that I am now about to assume.

**FORM OF OATH (OR AFFIRMATION) OF OFFICE
FOR COUNCILLORS**

(Section 141J)

I,.....,
having been appointed a Councillor for Tobago do swear by
.....(solemnly affirm) that I will bear true faith and allegiance to Trinidad and Tobago, will uphold the Constitution and the law, and will conscientiously and impartially discharge the duties and responsibilities of Councillor that I am now about to assume.”.

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

Clerk of the House

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed in the House of Representatives and at the final vote thereon in the House has been supported by the votes of not less than three-fourths of all the members of the House, that is to say, by the votes of members of the House.

I confirm the above.

Clerk of the House

