

**THE CONSTITUTION (AMENDMENT) (TOBAGO SELF-GOVERNMENT) BILL,
2020**

EXECUTIVE SUMMARY

Bill No.:	House of Representatives Bill 13 of 2020
Introduced in:	House of Representatives
Introduced by:	Dr. the Honourable Keith Rowley, Prime Minister
Introduced on:	14-Oct-2020
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The Constitution (Amendment) (Tobago Self-Government) Bill, 2020, was introduced by Dr. the Honourable Keith Rowley, Prime Minister, to amend the Constitution, to confer self-government on Tobago, and to provide for the creation of a Tobago Island Government.

The Act was enacted by the Parliament of Trinidad and Tobago as follows:

Short Title, Commencement, and Interpretation

The Bill has provided the Short Title, Commencement and Interpretation.

Preamble

In addition to acknowledging the equality of status between the people of the island of Trinidad and the island of Tobago, the preamble of the Constitution has been amended to include a paragraph on the recognition of Tobago’s right to determine their “political status and freely pursue their economic, social and cultural development”.

Amendment to Section 3 of the Constitution

Section 3 of the Constitution which presents interpretations and definitions has been amended to remove the words “Tobago House of Assembly established by section 3 of the Tobago House of Assembly Act, in a civil capacity” and include “Tobago Island Government, in a civil

capacity”. While Section 5, which has expounded on the protection of rights and freedoms, has now been amended to include the “Tobago Legislature”.

Determination of questions as to Membership

The Act has provided authorization to the High Court to hear disputes in relation to the appointment, expulsion, or election of individuals to the House of Assembly. This insertion would work in tandem with the existing clause in Section 52 of the Constitution that has provided the High Court with authorization to preside over the appointment, expulsion or election of senators or members of the House of Representatives.

The Power to Include Bills Passed by the House

The Act has provided the Tobago Legislature with the power to include bills that have been passed by the House but not alter the Constitution or the recognition and protection of fundamental human rights and freedoms. These laws, otherwise authorized by statute, would be passed by the House of Assembly, and assented to by the President.

Subsections two (2), three (3) and four (4) of Section 61 have also been revised to include Bills that have been passed by the House of Assembly; therefore, Bills presented by the House of Assembly would require the same order of consideration as Bills passed by Parliament:

- President’s approval to be assented;
- Duly passed and assented to in accordance with the Constitution;
- Assented to during the period occurring between the end of one session of Parliament and the beginning of the next or at any subsequent time during the life of that Parliament.

The Establishment of the Tobago Executive Council

Section 75 has been repealed to allow for the establishment of the Tobago Executive Council and outline its subsequent powers. The Tobago Executive Council has been given jurisdiction

over the Tobago Island Government and comprises the following positions, appointed by the President:

- The Chief Secretary
- The Deputy Chief Secretary
- Secretaries, selected from the Assembly Members, one of whom has been appointed the Secretary of Legal Affairs

Whereas the Cabinet is responsible for the Government of Trinidad and Tobago, according to the Act, it has no such power in relation to Tobago, unless an emergency or unforeseen circumstance has occurred, in which the Tobago Executive Council has been mandated to comply. In determining if Cabinet intervention is required, the following have been included in the Act for consideration:

- A request or invitation from the Tobago Executive Council has been made.
- A request has not been made within a reasonable period which has prompted the Cabinet, through a Minister, to consult the Tobago Executive Council.
- Due to the urgency of the circumstances, it has not been possible to make a request or invitation.

The President's Functions

The President's power has been extended to act in accordance with the advice and consultation of the Tobago Executive Council or a Secretary, in relation to matters regarding Tobago; and the Cabinet or a Minister acting under the general authority of the Cabinet, in relation to matters regarding the Government of Trinidad and Tobago.

A new section has been inserted under Section 81 of the Constitution to ensure the Chief Secretary keeps the President up to date with the general conduct of the Tobago Island Government.

The Public Service Commission and the Teaching Service Commission

Section 120 of the Constitution that has previously accounted for "two nor more than four other members" appointed to the Public Service Commission, has been revised to include "four nor

more than six other members, two of whom shall be ordinarily resident in Tobago”. These members would therefore be appointed by the President after consultation with the Chief Secretary and the Minority Leader. The Act has provided further amendments to Section 121 which would require the Public Service Commission to consult the Chief Secretary to make specified appointments.

These amendments have also been applied to Section 124 of the Constitution that previously accounted for “a Chairman and not more than four other members” appointed to the Teaching Service Commission. It has now been revised to account for “six other members, two of whom shall be ordinarily resident in Tobago”. These members would therefore be appointed by the President after consultation with the Chief Secretary and the Minority Leader.

Section 129 has been amended to provide for the inclusion of at least one (1) member from Tobago to be included when a Service Commission quorum convenes to deal with matters relating to Tobago.

Tobago Legislature

The Act has repealed Chapter 11A (The Tobago House of Assembly) of the Constitution and introduced a new Chapter 11A (Tobago Legislature) to provide for the following:

- The Establishment of the Tobago Legislature – Section 141A

The Tobago Legislature would consist of the President and the House of Assembly and have the power to make laws for the peace, order and good of Tobago. The House of Assembly would not be allowed to, without the Tobago Executive Council, proceed or amend Bills to impose or increase charges and compound or remit debt.

- Composition of the House of Assembly – Section 141B

The House of Assembly would consist of fifteen (15) Assembly Members, five (5) Councillors appointed by the President based on the advice of the Chief Secretary, three (3) Councillors appointed by the President based on the advice of the Minority Leader, two (2) Councillors appointed on the discretion of the President, and a Presiding Officer.

- Powers Privileges and Immunities – Section 141C

The House of Assembly has been granted the power to regulate its procedures, including the power to make Standing Orders.

- Swearing in of members of the House of Assembly – Section 141D
The oath of office set out in the First Schedule would be administered by the President no later than three (3) days after the date of the election or appointment.
- Election of Presiding Officer and Deputy Presiding Officer – Section 141E
Before the House of Assembly would proceed to dispatch any other business, a Presiding Officer would be elected. If that office has fallen vacant, a Deputy Presiding Officer would be elected.
- Appointment of Chief Secretary and Deputy Chief Secretary – Section 141F
The President would appoint an Assembly Member who is the leader of the party who commands the support of the majority of Assembly Members to the position of Chief Secretary. Based on the advice of the Chief Secretary, the President would also appoint a Deputy Chief Secretary.
- Vacancy in office of Chief Secretary and Deputy Chief Secretary – Section 141G
The Deputy Chief Secretary would act in the position of Chief Secretary if the latter office becomes vacant. This section has also provided details should both offices be vacant at the same time.
- Appointment of Secretaries and Assistance Secretaries – Section 141H
The President would appoint Secretaries and Assistance Secretaries based on the advice of the Chief Secretary.
- Appointment of the Minority Leader – Section 141I
The President would appoint a Minority Leader, who, in his view commands the support of the greatest number of Assembly Members who do not support the Chief Secretary. This section has also provided details for the appointment of a new Minority Leader should the Office become vacant.

- Appointment of Councillors – Section 141J
The President would administer to each Councillor, the oath set out in the First Schedule, immediately after the appointment of the Minority Leader.

- Temporary Appointments – Section 141K
Should a Councillor become incapable of performing his duties, the President would appoint a qualified individual to the position based on the details outlined in Section 141B (b), 141B (c) and 141B (d).

- Motion of No Confidence in the Chief Secretary – Section 141L
Where a motion of no confidence has been passed against the Chief Secretary and the Chief Secretary does not resign or advise the President to dissolve the Tobago Legislature, the President would revoke the appointment of the Chief Secretary.

- Qualification and disqualification for membership – Section 141M
Appointment as an Assembly Member, Presiding Officer or Councillor would be based on citizenship, qualification to be an elector under section 12 of the Representation of the People Act, and residence in Tobago.

- Vacancy of office of a member of the House of Assembly – Section 141N
The seat of an Assembly Member would become vacant if he has submitted a written resignation, has been absent from ordinary sitting or has ceased to possess the required qualifications set out in 141M.

- Declaration of vacation – Section 141O
This section has provided details for the Presiding Officer to declare the vacancy of the seat of an Assembly Member.

- Filling of vacancies – Section 141P
This section has provided details for the filling of a vacant seat of an Assembly Member.

- Dissolution of Tobago Legislature – Section 141Q

The Tobago Legislature would be dissolved four (4) years from the date of the first meeting after any primary election, by resolution, or by the President.

- Jurisdictional Limit – Section 141R

The powers of the House of Assembly would have effect within Tobago.

Miscellaneous and General

The Bill has included after Section 143 of the Constitution, two (2) new sections that would govern how a dispute between the Government of Trinidad and Tobago and the Tobago Island Government be resolved – both parties would be required to resolve it before approaching the Court.

The Bill has also provided for the establishment of a Dispute Resolution Committee.

First Schedule

The Bill has amended 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.

As of June 29, 2021, the Bill has been adopted by the House as amended by the Joint Select Committee.