

THE WORKING DOCUMENT ON CONSTITUTIONAL REFORM FOR PUBLIC CONSULTATION

EXPLANATORY NOTES

PRELIMINARY

The Preamble

The Preamble which has existed since 1962 and is the existing provision in the 1976 Constitution remains the same, except that the word “community” in paragraph (b) has been changed to “society.”

Clause 1

The provision with respect to the State as a sovereign unitary State of Trinidad and Tobago remains unchanged.

Clause 2

The declaration of the supremacy of the Constitution remains unaltered.

Clause 3

This provision deals with the interpretation of words and phrases used in the document. It is essentially the same as existing, except the inclusion of ten new words.

CHAPTER 1 – THE RECOGNITION AND PROTECTION OF FUNDAMENTAL HUMAN RIGHTS AND FREEDOMS

Clauses 4 to 17

There has been no change to the Bill of Rights, except as to its form and the right to education which has been slightly expanded.

Clause 18

This is a provision to safeguard any existing right that is not expressly mentioned in the Bill of Rights. This is a new provision.

Clause 19

This is the savings law clause which saves laws existing before the Constitution came into force. The savings law clause now includes a provision for the Court to adapt or modify existing laws in conformity with the Constitution. This power was formerly set out in section 5 of the Constitution of the Republic of Trinidad and Tobago Act, Chap1:01.

Clauses 20 to 25

The provisions as regard a declaration of a State of Emergency and everything connected with those provisions are the same, except for two minor changes.

Clause 26

This is a provision to prevent easy change to any of the fundamental human rights and it is the same as in the present Constitution.

Clause 27

This clause provides the means by which the fundamental human rights may be enforced. It remains unchanged.

CHAPTER 2- CITIZENSHIP

Clauses 28 to 33

These clauses make provision for citizenship and are the same as the existing ones, except that provision is made for re-acquisition of citizenship and where a child is born on an aircraft or ship outside of Trinidad and Tobago he or she has his or her mother's citizenship.

CHAPTER 3 – THE PRESIDENCY

Clause 34

This clause provides that the President is to be the Head of the State and Commander-in-Chief of the armed forces. This remains unchanged.

Clause 35

To become President, a person must be an elected member of the House of Representatives.

Clause 36

The other terms and conditions of the Office of the President remain essentially unchanged.

Clauses 37 and 38

These clauses provide for the first time the Office of the Vice President. The holder is appointed by the President from among members of the House of Representatives, but will not be the Majority Leader in that House. He acts as President whenever the President is for any reason unable to perform his duties.

Clause 39

This clause provides the other conditions of Office of the Vice President.

Clause 40

When this Constitution becomes law, the Prime Minister will become the President under this Constitution until a President is elected.

Clause 41

The President is elected at a general election from among persons who have been nominated by the political parties for the post and who have been elected as members of the House of Representatives. A party that nominates a Presidential candidate also nominates an alternative who replaces the nominee, if the nominee is declared as the President elected, as the member of the House of Representatives.

Clause 42

Where after a general election a party secures a majority of seats in the House of Representatives and its Presidential candidate wins his seat, then he shall be declared by the Elections and Boundaries Commission to be the President elected. If its candidate does not win his seat, the majority party must within a specified time select another elected member to be the President, failing which the Speaker shall hold an election to elect the President from among the elected members of the majority party.

Where after a general election there is no majority party and a number of parties join to secure a majority, the elected members of the coalition will at an election held by the Speaker elect one of their elected members to be the President.

Where the members of the majority party or the coalition are unable to elect a President within a specified time, then the Speaker will select the President from among the elected members of the majority party or the coalition, as the case may be.

Where the office of the President becomes vacant during his term for any reason, the President would be replaced by a member of the House of Representatives selected by the members of the majority party if he was a member of that party. Where the majority party is unable to select a President within a specified time, then an election for the President shall be held. If he was a member of a coalition, then the members of the coalition shall elect a member from among themselves to be the President. In either case, the Speaker shall conduct the election to elect the President from among the elected members of the majority party or the elected members of the coalition, as the case may be. Where the members fail to elect a President within a specified time, the Speaker shall select the President.

This clause also makes provision where there is no majority party or a coalition after a general election and therefore a President is not elected: the existing situation will continue for a specified period until another general election is held.

Clause 43

This clause provides that the President holds office until after 14 days when his successor has been appointed. His term of office is normally five years.

Clause 44

This clause makes provision for the situation when the Vice President acts as President.

Clause 45

This clause makes provision where the Office of the President is vacant and for the office to be filled until a general election is held.

Clauses 46 and 47

These clauses provide the circumstances in which the Office of the President may become vacant, such as death, resignation or removal and the procedure for removal.

Clause 48

This clause sets out the circumstances in which the Office of the Vice President becomes vacant, for example by dissolution of Parliament, disqualification, etc.

Clause 49

This clause provides for the oath of office to be taken by the President and Vice President before assuming duties.

Clause 50

The provision for the immunity of the President under the present Constitution remains unchanged.

Clause 51

As in the present Constitution, the Court of Appeal is the final appellate court to determine any questions concerning the election of a President.

CHAPTER 4 - PARLIAMENT

Clause 52

The Parliament continues to comprise the President, Senate and the House of Representatives.

Clause 53

There is an enlarged Senate consisting of 37 members of whom 19 would be Government Senators, 7 Opposition and 11 Independent Senators, all of whom would

be appointed by the President. The Independent Senators would be appointed after consultation with various interest groups and two must be from Tobago.

Clauses 54, 55 and 56

The qualifications, tenure and disqualifications to be a Senator remain unchanged.

Clause 57

The removal of an Independent Senator requires a motion of the Senate to that effect. Otherwise the removal of Senators remains unchanged.

Clause 58

This clause, which deals with the appointment of temporary Senators, is the same as existing under the present Constitution.

Clause 59

This provision with respect to the President and Vice President of the Senate remains unchanged.

Clauses 60 to 68

All the provisions relating to the House of Representatives such as composition, tenure of members, disqualification of Speaker and Deputy Speaker, removal of the Speaker, etc, remain unchanged.

Clauses 69 to 87

These provisions deal with the power, privileges and procedures of Parliament and remain unchanged except in seven cases:

- (a) The various entrenched provisions have been changed, but not the voting requirement;
- (b) There would be a Minority Leader (replacing the Leader of the Opposition) who will be able to determine the Order Paper once per month;
- (c) The President is required to assent to Bills within fourteen days after receipt;
- (d) The quorum of each House is now changed;
- (e) A Minister may be summoned by either House to report on the performance of his duties
- (f) The types of Joint Select Committees which can be appointed have been increased; and

- (g) The powers of a Joint Select Committee are expanded to ensure compliance with the submission of annual reports by public bodies.

Clauses 88 to 90

These clauses, which deal with the summoning, prorogation and dissolution of Parliament, are the same as existing under the present Constitution.

Clauses 91 to 94

These provisions, dealing with the Elections and Boundaries Commission, remain unchanged, except that the Commission is given the jurisdiction to deal with contested election matters and from its decision, a right of review to the High Court is created.

Clause 95

The draft retains the present system of first – past – the – post and secret ballot.

CHAPTER 5 – EXECUTIVE POWERS

Clause 96

By this clause the executive authority of Trinidad and Tobago remains vested in the President subject to the Constitution. The provision for a Cabinet remains but it will now consist of not more than 25 members, including the President, Vice President, the Majority Leaders from the Senate and the House of Representative, the Attorney General and the other Ministers. The office of Prime Minister is removed.

Clause 97

This clause provides that the President shall appoint the Ministers. In appointing the Ministers, the President shall appoint not more than 4 members from each House of the Parliament as Ministers and the others from outside.

Clause 98

This clause provides the various grounds on which a Minister is required to vacate his office and remains unchanged.

Clause 99

The President allocates portfolios to Ministers (instead of the Prime Minister) and some Ministers may be persons who are not members of either House. One of the Ministers shall be the Minister of Justice.

Clause 100

This clause leaves unchanged the oath to be taken by Ministers.

Clause 101

This clause provides for the manner in which the President's functions are to be performed. It repeats the language of the present Constitution.

Clause 102

The present position is that the Prime Minister keeps the President informed of the general conduct of government business. The draft provides that the President must keep the Parliament so informed and address a joint sitting of both Houses at least once per year.

Clause 103

This clause makes provision for the President to appoint a Majority Leader in both Houses of Parliament and to address circumstances where a Majority Leader is unable to perform his duties.

Clause 104

There will no longer be the Office of Leader of the Opposition but instead a Minority Leader. The present position is that the President appoints the Leader of the Opposition. This clause provides that the Minority Leader shall be elected by the members of the House of Representatives who do not support the Government and then appointed by the Speaker. The term of Office of the Minority Leader is the same as the Leader of the Opposition.

Clause 105

This clause proposes several changes with respect to Permanent Secretaries. They may now be selected from either the private or public sector and shall be contract officers. The power to transfer a Permanent Secretary from one office to another is now vested in the President.

Clause 106

This clause repeats the provision under the present Constitution as to constituting offices by the President.

Clause 107

There is a change to the present position as regards the power of pardon. The President will no longer have to act in accordance with the advice of the Minister of National Security but instead after consultation with the Advisory Committee on the Power of Pardon.

Clause 108

The Chairman of the Advisory Committee on the Power of Pardon will now be the Attorney General and not the Minister of National Security.

Clause 109

In exercising his power of pardon, the President will now consult with the Chairman of the Advisory Committee, but is not bound to act in accordance with the advice of the Advisory Committee.

*CHAPTER 6 – THE DIRECTOR OF PUBLIC PROSECUTIONS AND THE
OMBUDSMAN*

Clause 110

The relationship between the Attorney General and the Director of Public Prosecutions in respect of prosecutions under the present Constitution is not exactly clear. This clause seeks to clarify it and to confirm the independence of the DPP in those matters. However, if a matter directly involves official secrets, terrorism and state-to-state relations, the DPP need the prior approval of the Attorney General. The DPP must submit to Parliament, through the Attorney General, an annual report on the exercise of his powers and functions.

Clauses 111 to 119

The provisions existing under the present Constitution in respect of the Ombudsman are substantially unchanged. The following are the significant changes:

- (a) The draft proposes that the President must consult with the Minority Leader, President of the Senate and Speaker of the House of Representatives, instead of the Prime Minister and Opposition Leader, in the appointment of the Ombudsman;
- (b) The Ombudsman may now employ staff other than public officers;
- (c) The Ombudsman may now investigate the failure of a Service Commission to review its decision when that review has been sought by a public officer;
- (d) Instead of laying his special report before Parliament, the Ombudsman now does so to a Joint Select Committee, which if it thinks fit recommends that Parliament give it urgent consideration;
- (e) The Ombudsman is given power to ask a Permanent Secretary for the reasons why a complaint has not been dealt with or what was the result when dealing with it; and
- (f) Though the Ombudsman cannot under the present Constitution summon a witness to produce Cabinet papers or give confidential income tax information, the draft proposes that he may inspect them on the premises where they are kept.

CHAPTER 7 – THE JUDICATURE

Clause 120

This clause provides for the composition of the Supreme Court which remains unchanged.

Clause 121

This clause is new and expressly provides for the independence of the Judiciary in the exercise of its judicial functions only.

Clause 122

This clause provides that the Chief Justice must submit an annual report to both Houses of Parliament through the President.

Clause 123

This clause provides for a Permanent Secretary of the Judiciary, who will be appointed by the Public Service Commission after consultation with the Chief Justice. All the other provisions which apply to any other Permanent Secretary shall also apply to the Permanent Secretary of the Judiciary. The Permanent Secretary will be the accounting officer for the Judiciary and would be the link between the Executive and the Judiciary and shall report to the Minister of Justice.

Clause 124

There is no change in the composition of the High Court.

Clause 125

This clause provides that Parliament may give to any Court any of the jurisdictions of the High Court.

Clause 126

This clause provides that the Chief Justice can assign a High Court Judge to sit in the Court of Appeal or a Court of Appeal Judge to sit in the High Court.

Clause 127

This clause provides for the composition of the Court of Appeal which remains unchanged.

Clause 128

The power of the President to appoint the Chief Justice will be limited. He must now consult with the Minority Leader and the President of the Law Association and submit his choice to the House of Representatives which may reject it.

Clauses 129 to 130

Provisions similar to the existing one are made to cover a vacancy in the office of the Chief Justice.

Clause 131

The process to appoint Judges of the High Court and the Court of Appeal, except the Chief Justice, remain unchanged.

Clause 132

Although the President acts in accordance with the advice of the Judicial and Legal Service Commission in the appointment of Judges, he must consult with the Chief Justice before so acting.

Clause 133 to 135

These provisions, which deal with the qualifications of Judges, tenure of office and oath, are the same as existing under the present Constitution.

Clause 136

This clause is new. It provides that the Chief Justice should be responsible for the general administration and business of the Supreme Court and states expressly, what was assumed to be the position, that the Chief Justice is entitled to establish such Divisions of the Supreme Court as he consider necessary and to assign Judges to sit in any such Division. However, it provides that some administrative matters relating to the Judiciary as prescribed will fall under the Minister of Justice and who must consult the Chief Justice when exercising this power.

Clause 137

This clause, which deals with appeals on constitutional questions and fundamental rights, when read with clause 68, which deals with judicially determining questions of membership in both Houses of Parliament, is substantially a reproduction of the existing position.

Clauses 138 to 141

These clauses provide for appeals to the Caribbean Court of Justice along the same lines as apply to appeals to the Judicial Committee of the Privy Council.

Clause 142

This clause changes the number of persons to be members of the Judicial and Legal Service Commission; instead of five there are now seven. They are now a retired Judge, three Attorneys-at-Law, two of whom are to be Senior Counsel, a person qualified and experienced in human resource, another in management and a person whom the President thinks fit and proper. These persons would be appointed by the President, subject to the approval of the House of Representatives. The Chief Justice will no longer be the Chairman of the Judicial and Legal Service Commission.

Clause 143

The provision governing the appointment of judicial and legal officers remains the same.

Clause 144

This clause substantially reproduces the position of the present Constitution with respect to removing a Judge or the Chief Justice from office, except with the following changes:

- (a) to remove the Chief Justice, the President, after consulting the Minority Leader and the President of the Law Association, must appoint a tribunal, and in appointing the members of the tribunal he again consults the same two persons;
- (b) the tribunal consists of a Chairman and not less than two other members, all of whom must hold or have held high judicial office;
- (c) when the tribunal has been appointed, the President again consults with the Minority Leader and the President of the Law Association, and may suspend the Chief Justice;
- (d) the tribunal, if it so thinks fit, may refer the question of removal of the Chief Justice to the Caribbean Court of Justice;
- (e) to remove any other Judge from office, the Judicial and Legal Service Commission must represent to the President that the question of removal ought to be investigated;
- (f) the President must consult with the Judicial and Legal Service Commission about the appointment of a tribunal, consisting of a Chairman and not less than two other members, all of whom must hold or have held high judicial office;
- (g) the tribunal must consider and decide whether the removal of the Judge should be referred to the Caribbean Court of Justice; and
- (h) after the appointment of the tribunal, the President may, after consulting the Chief Justice, suspend the Judge from office.

CHAPTER 8 - FINANCE**Clause 145 to 155**

These provisions are essentially the same as in the present Constitution, except the Auditor General is no longer appointed by the President after consultation with the Prime Minister and the Leader of the Opposition, since both these offices are now

abolished. The President will now consult with the Minority Leader and then nominates a person who is accepted or rejected by both Houses of Parliament.

Clauses 156 to 157

These provisions are substantially the same as in the present Constitution.

CHAPTER 9 – APPOINTMENTS TO, AND TENURE OF, OFFICES

Clause 158

The membership of the Public Service Commission has been changed. It will now consist of a Chairman, Deputy Chairman, the Head of the Public Service as an *ex officio* member, and four other members, who shall include a retired Judge, a senior attorney-at-law, a retired senior public officer and a person qualified and experienced in human resource management. The President must consult with the Minority Leader and select persons whom the House of Representatives may accept or reject.

Clause 159

At present the Public Service Commission has the power to appoint, remove, promote, discipline and transfer public officers. In practice, most of these powers are delegated to a Permanent Secretary. This clause now enables the Permanent Secretary or, in some instances, a Head of Department, to exercise the powers of the Public Service Commission in relation to offices in his Ministry where no similar offices exist in another Ministry. But where similar offices exist across the Ministries, the Public Service Commission will retain certain powers in relation to those offices.

Clause 160

A public officer now has a right of appeal to the Public Service Appeal Board only in relation to disciplinary matters. This clause now gives the officer a right of appeal in all matters. From the decision of a Permanent Secretary, a public officer can appeal to the Public Service Commission and then to the Public Service Appeal Board.

Clause 161

This clause allows the Public Service Commission to regulate its own procedure by way of regulations.

Clauses 162 to 164

These clauses are the same as the existing provisions under the present Constitution with reference to the Police Service Commission, except that the House of Representatives no longer has to approve appointments but may reject them.

Clause 165

The membership of the Teaching Service Commission has been changed. It will now consist of a Chairman, Deputy Chairman, the Head of the Public Service as an *ex officio*

member, and four other members, who may include a retired Judge, a senior attorney-at-law, a retired senior public officer and shall include a person qualified and experienced in human resource management. The President must consult with the Minority Leader and select persons whom the House of Representatives may accept or reject.

Clauses 166

This clause provide for the creation of an Educational Human Resource Agency, with its powers, functions, membership, qualification and method of appointment to be set out in an Act of Parliament. The members would be appointed in the same way as members of the Service Commissions. The Chairman of the Agency must be a person qualified and experienced in human resource management.

Clause 167

This clause provides that the Agency will have powers of appointment, transfer, discipline, promotion and removal, which the Teaching Service Commission now enjoys.

Clause 168

This clause provides that the decisions of the Agency will be open to appeal to the Teaching Service Commission.

Clause 169

This clause is substantially the same provision as existing in the present Constitution.

Clause 170

The grounds on which a member of a Service Commission may be removed from office are expanded to include failure to attend meetings, conviction of a criminal offence, failure to perform duties in a responsible and timely manner, conflict of interest and incompetence.

Clauses 171 to 173

These clauses reproduce the position existing under the present Constitution.

Clauses 174 to 177

These clauses reproduce the position existing under the present Constitution, except that the Public Service Appeal Board will now have five instead of three members, and the President will appoint the four members (except the Chairman) after consulting the Minority Leader and the President of the Law Association, and not the Prime Minister and Leader of the Opposition. Also, the Board will now hear appeals on all decisions made by a Service Commission.

Clause 178 to 179

These provisions in respect of pensions remain unchanged.

Clause 180

This clause is substantially the same as existing under the present Constitution.

Clause 181

The provision with respect to special offices remains substantially the same.

CHAPTER 10 – THE INTEGRITY COMMISSION

Clause 182 to 183

The provisions governing the Integrity Commission remain unchanged, except the various persons to whom it applies have been reduced, but provision is made for the inclusion of other persons by an Act of Parliament.

CHAPTER 11 – THE SALARIES REVIEW COMMISSION

Clause 184 to 185

These provisions in respect of the Salaries Review Commission remain unchanged, except that the President consults with the Minority Leader in place of the Leader of the Opposition when appointing the members of the Commission.

CHAPTER 12 – THE TOBAGO HOUSE OF ASSEMBLY

Clause 186 to 189

These provisions in respect of the Tobago House of Assembly remain unchanged.

CHAPTER 13 – LOCAL GOVERNMENT

Clause 190

A Chapter with reference to Local Government is being introduced. Basically, this clause provides a system of local government comprising twelve Local Government bodies operating within seven central government administrative regions in Trinidad only.

CHAPTER 14 – GENERAL PROVISIONS

Clause 191 to 192

These general provisions, which deal with resignation, re-appointments, etc., are the same as existing under the present Constitution.

CHAPTER 15 - REGIONAL INTEGRATION

Clause 193

A Chapter with reference to Regional Integration is being introduced. This clause provides that any regional integration will require parliamentary approval by a simple majority vote.

THE WORKING DOCUMENT ON CONSTITUTIONAL REFORM FOR PUBLIC CONSULTATION

ARRANGEMENT OF CLAUSES

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80. Introduction of Bills, etc.
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 INVESTIGATION BY THE OMBUDSMAN

THE WORKING DOCUMENT ON CONSTITUTIONAL REFORM FOR PUBLIC CONSULTATION

Commencement [January, 2009]

Preamble Whereas the People of Trinidad and Tobago -

- a. have affirmed that the Nation of Trinidad and Tobago is founded upon principles that acknowledge the supremacy of God, faith in fundamental human rights and freedoms, the position of the family in a society of free men and free institutions, the dignity of the human person and the equal and inalienable rights with which all members of the human family are endowed by their Creator;
- b. respect the principles of social justice and therefore believe that the operation of the economic system should result in the material resources of the **society** being so distributed as to subserve the common good, that there should be adequate means of livelihood for all, that labour should not be exploited or forced by economic necessity to operate in inhumane conditions but that there should be an opportunity for advancement on the basis of recognition of merit, ability and integrity;
- c. have asserted their belief in a democratic society in which all persons may, to the extent of their capacity, play some part in the institutions of the national life and thus develop and maintain due respect for lawfully constituted authority;

- d. recognise that men and institutions remain free only when freedom is founded upon respect for moral and spiritual values and the rule of law;
- e. desire that their Constitution should enshrine the above mentioned principles and beliefs and make provision for ensuring the protection in Trinidad and Tobago of fundamental human rights and freedoms.

Now, therefore, the following provisions shall have effect as the Constitution of the Republic of Trinidad and Tobago:

PRELIMINARY

The State

1.(1) The Republic of Trinidad and Tobago shall be a sovereign democratic state.

(2) Trinidad and Tobago shall comprise the Island of Trinidad, the Island of Tobago and any territories that immediately before the 31st day of August, 1962 were dependencies of Trinidad and Tobago, including the seabed and subsoil situated beneath the territorial sea and the continental shelf of Trinidad and Tobago together with such other areas as may be prescribed to form part of the state of Trinidad and Tobago.

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(3) In subsection (2), "territorial sea" and "continental shelf" shall have the same meaning as in the Territorial Sea Act, and the Continental Shelf Act, respectively.

The supreme law

2. This Constitution is the supreme law of Trinidad and Tobago, and any other law that is inconsistent with this Constitution is void to the extent of the inconsistency.

Interpretation

3. (1) In this Constitution -

“Act” means an Act of Parliament;

"the Cabinet" means the Cabinet constituted under section 96;

“Caribbean Court of Justice” means the Caribbean Court of Justice established by the Agreement Establishing the Caribbean Court of Justice, signed at Bridgetown, Barbados, on 14th February, 2001;

"court" means any court of Trinidad and Tobago of competent jurisdiction other than a court martial and, where applicable, includes the Caribbean Court of Justice;

"financial year" means any period of twelve months beginning on the first day of October in any year or such other date as may be prescribed;

"general election" means a general election of members to serve in the House of Representatives;

“Government” means the Government of the Republic of Trinidad and Tobago;

"House" means either the House of Representatives or the Senate, as the context may require;

“House of Assembly” means the Tobago House of Assembly established by section 186;

"Judge" includes the Chief Justice, a Justice of Appeal and a Puisne Judge, and, where applicable, a Judge of the Caribbean Court of Justice;

"law" includes any written and unwritten law, and any Act of Parliament or statutory instrument of the United Kingdom that before the commencement of this Constitution has effect as part of the law of Trinidad and Tobago;

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“Local Government body” means a body established under the Municipal Corporations Act and includes any other such body as may be prescribed;

“Minority Leader” means the person elected to the office of Minority Leader created under section 104;

“Minister” means a Minister of Government, and includes a Minister of State, Minister in the Ministry of a specified Ministry, Parliamentary Secretary, or any other similar designation;

"oath" includes affirmation;

First Schedule

"oath of allegiance" means the oath of allegiance set out in the First Schedule or such other oath as may be prescribed;

"Parliament" means the Parliament of the Republic of Trinidad and Tobago constituted under section 52;

"prescribed" means prescribed by an Act;

“President” means the President of the Republic of Trinidad and Tobago elected under section 42;

"public office" means an office of emolument in the public service;

"public officer" means the holder of any public office and includes any person appointed to act in any such office;

"public service" means, subject to subsections (4) and (5), the service of the Government of the Republic of Trinidad and Tobago or of the House of Assembly in a civil capacity;

“Senator” means a person appointed under section 53 and includes a person appointed under section 58;

"Service Commission" means the Judicial and Legal Service Commission, the Public Service Commission, the Police Service Commission or the Teaching Service

Commission;

"session" means, in relation to a House, the sittings of that House commencing when it first meets after this Constitution comes into force or after the prorogation or dissolution of Parliament at any time, and terminating when Parliament is prorogued or is dissolved without having been prorogued;

"sitting" means, in relation to a House, a period during which that House is sitting continuously without adjournment, and includes any period during which the House is in committee;

"State" means the Republic of Trinidad and Tobago;

"Trinidad and Tobago" has the meaning attributed to that expression in the Trinidad and Tobago Independence Act, 1962;

"the Commonwealth" includes the Republic of Trinidad and Tobago and any other country to which section 30 applies and any dependency of any such country;

"the former Constitution" means the Constitution of the Republic of Trinidad and Tobago set out in the Schedule to the Constitution of the Republic of Trinidad and Tobago Act.

(2) In this Constitution -

- (a) a reference to an appointment to an office shall be construed as including a reference to the appointment of a person to act in or perform the functions of that office at any time when the office is vacant or the holder of that office is unable for any reason to perform the functions of that office; and
- (b) a reference to the holder of an office by the

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term designating his office shall be construed as including a reference to a person for the time being lawfully acting in or performing the functions of that office.

(3) Where by this Constitution a person is directed, or power is conferred on a person or an authority, to appoint a person to perform the functions of an office if the holder of the office is unable to perform those functions, the validity of any performance of those functions by the person so directed or of any appointment made in exercise of that power shall not be called in question in any court on the ground that the holder of the office is able to perform the functions of the office.

(4) For the purpose of this Constitution, a person shall not be considered to hold an office in the public service by reason only that -

- (a) he is in receipt of a pension or other like allowance in respect of public service;
- (b) he holds the office of -
 - (i) President or Vice-President;
 - (ii) Speaker, President of the Senate, Deputy Speaker, Vice-President of the Senate, Minister, member or temporary member of the Senate or member of the House of Representatives or the House of Assembly;
 - (iii) Ombudsman or member of the Integrity Commission, Service Commission or member of any other Commission established by this Constitution;

- (iv) Judge or member of a superior court of record or any special judicial tribunal established by an Act or member of the Public Service Appeal Board;
 - (v) member of any board, commission, committee or similar body, whether incorporated or not, established by law;
 - (vi) member of the personal staff of the President; or
- (c) he is -
- (i) a consultant or adviser appointed for a specific purpose; or
 - (ii) a person appointed on contract for a period not exceeding five years.

(5) Where Parliament so provides, a person shall not be considered for the purpose of this Constitution to hold an office in the public service by reason only that he is the holder of a special office established by or under an Act.

(6) Reference in this Constitution to the power to remove a public officer from a public office shall be construed as including reference to any power conferred by any law to require or permit that officer to retire from the public service.

(7) A power conferred by any law to permit a person to retire from the public service shall, in the case of a public officer who may be removed from office by some person or authority other than a Commission established by this Constitution, vest in the Public Service Commission.

(8) Nothing in subsection (6) shall be construed as conferring on any person or authority power to require a Judge

or the Auditor General to retire from the public service.

(9) Where a power is conferred by this Constitution to make any statutory instrument or to give any direction, the power shall be construed as including a power exercisable in like manner to amend or revoke any such statutory instrument or direction.

CHAPTER 1

THE RECOGNITION AND PROTECTION OF FUNDAMENTAL HUMAN RIGHTS AND FREEDOMS

PART I

Rights enshrined

Recognition and declaration of rights and freedoms

4. It is hereby recognised and declared that in Trinidad and Tobago there have existed and shall continue to exist without discrimination by reason of race, origin, colour, religion or sex, the fundamental human rights and freedoms set out in this Chapter.

Right to life, liberty and security

5.(1) Everyone has the right to life, liberty, security of the person and the right not to be deprived thereof except by due process of law.

(2) Everyone has the right to have his life respected and this right shall be protected by law.

Right to property

6. Everyone has the right to enjoyment of property and the right not to be deprived thereof except by due process of law.

Right to equality before the law	7. Everyone has the right to equality before the law and the right to the equal protection of the law.
Right to equality of treatment	8. Everyone has the right to equality of treatment from any public authority in the exercise of any of its functions.
Right to privacy	9.(1) Everyone has the right to respect for his private life, family life, home and correspondence. (2) Everyone has the right to be secure against unreasonable search or seizure.
Political rights	10. Everyone has the right to make political choices, join political parties and express political views.
Right to education	11. A parent or guardian has the right to - (a) obtain access to educational facilities for his child or ward; and (b) provide a school of his own choice for the education of his child or ward.
Freedom of movement	12. Everyone has the right to freedom of movement.
Freedom of religion	13. Everyone has the right to freedom of conscience and religion but shall not advocate hatred, ridicule or contempt in pursuance of this right.
Freedom of thought and expression	14. Everyone has the right to freedom of thought, belief, opinion and expression but shall not advocate hatred, ridicule or contempt in pursuance of this right.

Freedom of assembly and association

15. Everyone has the right to freedom of assembly and to freedom of association for lawful purpose.

Freedom of the press

16. Everyone has the right to freedom of the press and other media of communication but shall not advocate hatred, ridicule or contempt in pursuance of this right.

Protection of rights and freedoms

17.(1) Except as is otherwise expressly provided in this Chapter and in section 70, no law may abrogate, abridge or infringe or authorise the abrogation, abridgement or infringement of any of the rights and freedoms recognised and declared in this Chapter.

(2) Without prejudice to subsection (1), but subject to this Chapter and to section 70, Parliament may not -

- (a) authorise or effect the arbitrary detention, imprisonment or exile of any person;
- (b) impose or authorise the imposition of cruel and unusual treatment or punishment;
- (c) deprive a person who has been arrested or detained -
 - (i) of the right to be informed promptly and with sufficient particularity of the reason for his arrest or detention;
 - (ii) of the right to retain and instruct without delay a legal adviser of his own choice and the right to hold communication with him;
 - (iii) of the right to be brought promptly before an appropriate judicial authority;
 - (iv) of the remedy by way of *habeas*

corpus for the determination of the validity of his detention and for his release if the detention is not lawful;

- (d) authorise a court, tribunal, commission, board or other authority to compel a person to give evidence unless he is afforded protection against self-incrimination and, where necessary to ensure such protection, the right to legal representation;
- (e) deprive a person of the right to a fair hearing in accordance with the principles of natural justice for the determination of his rights and obligations;
- (f) deprive a person charged with a criminal offence of the right -
 - (i) to be presumed innocent until proved guilty according to law, but this shall not invalidate a law by reason only that the law imposes on any such person the burden of proving particular facts;
 - (ii) to a fair and public hearing by an independent and impartial tribunal;
or
 - (iii) to reasonable bail without just cause;
- (g) deprive a person of the right to the assistance of an interpreter in any proceedings in which he is involved or in which he is a party or a witness, before a court, commission, board or other tribunal,

if he does not understand or speak English; or

- (h) deprive a person of the right to such procedural provisions as are necessary for the purpose of giving effect and protection to the rights and freedoms specified in this Chapter.

Saving for existing rights and freedoms

18. An existing right or freedom shall not be held to be abrogated, abridged or infringed in any way by reason only that the right or freedom is not included or is included only in part in this Chapter.

PART II

Exceptions for Existing Law

Savings for existing law

19.(1) Subject to this Constitution, existing laws shall continue to be in force on and after the date of commencement of this Constitution but shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with this Constitution.

(2) Anything done under an existing law before its modification under this section, which would but for this section cease by virtue of that modification to have effect, shall continue to have effect as if done under the law so modified.

(3) Nothing in this Chapter shall invalidate an Act that repeals and re-enacts an existing law without alteration, or an Act that alters an existing law but does not derogate from any right guaranteed by this Chapter in a manner in which or to

an extent to which that existing law did not previously derogate from that right.

(4) Where an Act repeals and re-enacts with modification an existing law and is held to derogate from any right guaranteed by this Chapter in a manner in which or to an extent to which the existing law did not previously derogate from that right then, subject to sections 26 and 70, the provisions of the existing law shall be substituted for such of the provisions of the Act as are held to derogate from the right in a manner in which or to an extent to which the existing law did not previously derogate from that right.

(5) In this section -

"alters" in relation to an existing law, includes repealing that law and re-enacting it with modifications or making different provisions in place of it or modifying it;

"existing law" means a law that had effect as part of the law of Trinidad and Tobago immediately before the commencement of this Constitution, and includes any law referred to in subsection (1);

"right" includes freedom.

PART III

Exceptions for Emergencies

Emergency powers

20.(1) Without prejudice to the power of Parliament to make provision in the premise, but subject to this section, where any period of public emergency exists, the President may, due regard being had to the circumstances of any situation likely to arise or exist during such period, make regulations for the purpose of dealing with that situation and issue orders and instructions for the purpose of the exercise of

any powers conferred on him or any other person by any Act referred to in subsection (3) or instrument made under this section or any such Act.

(2) Without prejudice to the generality of subsection (1), regulations made under that subsection may, subject to section 24, make provision for the detention of any person.

(3) An Act that is passed during a period of public emergency and is expressly declared to have effect only during that period or any regulations made under subsection (1) shall have effect even though inconsistent with sections 4 to 18 except in so far as its provisions may be shown not to be reasonably justifiable in a society that has a proper respect for the rights and freedoms of the individual for the purpose of dealing with the situation that exists during that period.

Period of public emergency

21.(1) Subject to this section, for the purpose of this Chapter, the President may from time to time make a Proclamation declaring that a state of public emergency exists.

(2) A Proclamation made by the President under subsection (1) shall not be effective unless it contains a declaration that the President is satisfied -

- (a) that a public emergency has arisen as a result of the imminence of a state of war between Trinidad and Tobago and a foreign State;
- (b) that a public emergency has arisen as a result of the occurrence of any earthquake, hurricane, flood, fire, outbreak of pestilence or of infectious disease, or other calamity whether similar to the foregoing or not; or
- (c) that action has been taken, or is

immediately threatened, by any person, of such a nature and on so extensive a scale, as to be likely to endanger the public safety or to deprive the community or any substantial portion of the community of supplies or services essential to life.

Grounds for, and initial duration of, Proclamation

22.(1) Within three days of the making of the Proclamation, the President shall deliver to the Speaker for presentation to the House of Representatives a statement setting out the specific grounds on which the decision to declare the existence of a state of public emergency was based, and a date shall be fixed for a debate on this statement as soon as practicable but in any event not later than fifteen days from the date of the Proclamation.

(2) A Proclamation made by the President for the purpose of and in accordance with this section shall, unless previously revoked, remain in force for fifteen days.

Extension of Proclamation

23.(1) Before its expiration the Proclamation may be extended from time to time by resolution supported by a simple majority vote of the House of Representatives, but no extension shall exceed three months and the aggregate of all the extensions shall not exceed six months.

(2) The Proclamation may be further extended from time to time for not more than three months at any one time, by a resolution passed by both Houses of Parliament and supported by the votes of not less than three-fifths of all the members of each House.

(3) Unless previously revoked by the President, the Proclamation may be revoked at any time by a resolution

supported by a simple majority vote of the House of Representatives.

(4) In this Part, "period of public emergency" means any period during which -

- (a) Trinidad and Tobago is engaged in any war; or
- (b) there is in force a Proclamation by the President declaring that a state of public emergency exists; or
- (c) there is in force a resolution of both Houses of Parliament supported by the votes of not less than two-thirds of all the members of each House declaring that democratic institutions in Trinidad and Tobago are threatened by subversion.

Detention of persons

24.(1) Where a person who is lawfully detained under an Act or regulations made under section 20 so requests at any time during the period of that detention and thereafter not earlier than four months after he last made such a request during that period, his case shall be reviewed by an independent and impartial tribunal established by law and presided over by an attorney-at-law appointed by the Chief Justice **from among attorneys-at-law of not less than ten years standing and who are practising in Trinidad and Tobago.**

(2) On any review by a tribunal in pursuance of subsection (1) of the case of any detained person, the tribunal may make recommendations concerning the necessity or expediency of continuing or discontinuing his detention to the authority by whom it was ordered but, unless otherwise

provided by law, that authority shall not be obliged to act in accordance with such recommendations.

Publication

25.(1) Where at any time it is impracticable or inexpedient to publish in the *Gazette* any Proclamation, Notice, Regulation or Order made under this Part, the President may cause the same to be -

- (a) affixed to public buildings;
- (b) distributed amongst the public;
- (c) announced orally in the public; or
- (d) brought to the attention of the public by any other means seeking to reach the widest public.**

(2) Upon the publication of a Proclamation under this Part all detention orders, curfew orders or other instruments, directions or instructions as are authorised to be made, issued or given by any regulations made under section 20 may be made, issued or given and executed upon any person or authority, even if such regulations have not yet been published under subsection (1).

PART IV

Exceptions for Certain Legislation

**Acts
inconsistent with
sections 4 to 18**

26.(1) An Act to which this section applies may expressly declare that it shall have effect even though inconsistent with sections 4 to 18 and, if any such Act does so declare, it shall have effect accordingly unless the Act is shown not to be reasonably justifiable in a society that has a proper respect for the rights and freedoms of the individual.

(2) An Act to which this section applies is one the Bill

for which has been passed by both Houses of Parliament and at the final vote thereon in each House has been supported by the votes of not less than three-fifths of all the members of that House.

(3) For the purpose of subsection (2), the number of members of the Senate is, notwithstanding the appointment of temporary members in accordance with section 58, deemed to be the number of members specified in section 53(1).

PART V

General

Enforcement of the protective provisions

27.(1) For the removal of doubt, it is hereby declared that if a person alleges that any of the provisions of this Chapter has been, is being, or is likely to be contravened in relation to him, then without prejudice to any other action with respect to the same matter which is lawfully available, that person may apply to the High Court for redress by way of originating motion.

(2) The High Court shall have original jurisdiction -

(a) to hear and determine any application made by a person in pursuance of subsection (1); and

(b) to hear and determine any question arising in the case of a person which is referred to it in pursuance of subsection (4),

and may, subject to subsection (3), make such orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing, or securing the enforcement of, any of the provisions of this Chapter to the protection of which the person concerned is entitled.

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(3) The State Liability and Proceedings Act shall have effect for the purpose of any proceedings under this section.

(4) Where in any proceedings in any court, other than the High Court, the Court of Appeal or the Caribbean Court of Justice, any question arises as to the contravention of any of the provisions of this Chapter the person presiding in that court may, and shall if any party to the proceedings so requests, refer the question to the High Court unless in his opinion the raising of the question is merely frivolous or vexatious.

(5) A person aggrieved by a decision of the High Court under this section may appeal against that decision to the Court of Appeal and is entitled as of right to a stay of execution of the order and the court may grant him bail.

(6) Nothing in this section shall limit the power of Parliament to confer on the High Court or the Court of Appeal such powers as Parliament may think fit in relation to the exercise by the High Court or the Court of Appeal, as the case may be, of its jurisdiction in respect of the matters arising under this Chapter.

CHAPTER 2

CITIZENSHIP

Continuation of citizenship under former Constitution

28. A person who is a citizen under the former Constitution shall continue to be a citizen under this Constitution.

Acquisition of citizenship by birth or descent

29.(1) Subject to subsection (2), every person born in Trinidad and Tobago after the commencement of this Constitution shall become a citizen of Trinidad and Tobago at

the date of his birth.

(2) A person shall not become a citizen of Trinidad and Tobago by virtue of subsection (1), if at the time of his birth-

(a) neither of his parents is a citizen of Trinidad and Tobago and either of them possesses such immunity from suit and legal process as is accorded to an envoy of a foreign sovereign power accredited to Trinidad and Tobago; or

(b) either of his parents is an enemy alien and the birth occurred in a place then under occupation by the enemy.

(3) A person born outside Trinidad and Tobago after the commencement of this Constitution shall become a citizen of Trinidad and Tobago at the date of his birth if at that date either of his parents is, or was, but for his parent's death, a citizen of Trinidad and Tobago otherwise than by descent.

(4) Where a person is employed in the service of the Government or under an authority of the Government and is required to reside outside Trinidad and Tobago for the proper discharge of his functions, subsection (3) shall be read as if the words "otherwise than by descent" were deleted.

Commonwealth citizens

30.(1) Every person who under this Constitution or any Act is a citizen of Trinidad and Tobago or, under any law for the time being in force in any country to which this section applies, is a citizen of that country shall, by virtue of that citizenship, have the status of a Commonwealth citizen.

(2) Every person who is a British subject without citizenship under the British Nationality Act, 1948 of the United

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Kingdom or who continues to be a British subject under section 2 of that Act or who is a British subject under the British Nationality Act, 1965 of the United Kingdom shall, by virtue of that status, have the status of a Commonwealth citizen.

(3) The countries to which this section and section 143(3) apply are Antigua and Barbuda, Australia, Bahamas, Bangladesh, Barbados, Belize, Botswana, Brunei, Cameroon, Canada, Cyprus, Dominica, Fiji, The Gambia, Ghana, Grenada, Guyana, India, Jamaica, Kenya, Kiribati, Lesotho, Malawi, Malaysia, Maldives, Malta, Mauritius, Mozambique, Namibia, Nauru, New Zealand, Nigeria, Pakistan, Papua New Guinea, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Samoa, Seychelles, Sierra Leone, Singapore, Solomon Islands, South Africa, Sri Lanka, Swaziland, Tanzania, Tonga, Tuvalu, Uganda, United Kingdom, Vanuatu and Zambia.

(4) The President may, by Order subject to affirmative resolution of Parliament, amend subsection (3).

**Criminal liability
of
Commonwealth
citizens**

31.(1) A Commonwealth citizen who is not a citizen of Trinidad and Tobago, or a citizen of the Republic of Ireland who is not a citizen of Trinidad and Tobago, shall not be guilty of any offence against any law in force in Trinidad and Tobago by reason of anything done or omitted in any part of the Commonwealth other than Trinidad and Tobago or in the Republic of Ireland or in any foreign country unless -

- (a) the act or omission would be an offence if he were an alien; and
- (b) in the case of an act or omission in any part of the Commonwealth or in the Republic of Ireland, it would be an offence if the country in which the act was done or

the omission made were a foreign country.

(2) In this section "foreign country" means a country (other than the Republic of Ireland) that is not part of the Commonwealth.

Powers of Parliament under this section

32. Parliament may make provisions relating to citizenship including provision -

- (a) for the acquisition of citizenship of Trinidad and Tobago by persons who are not or do not become citizens of Trinidad and Tobago by virtue of this Chapter;
- (b) for depriving of his citizenship of Trinidad and Tobago any citizen of Trinidad and Tobago but only on the acquisition of citizenship of some other country in the case of a citizen by birth or descent;
- (c) for the renunciation by any person of his citizenship of Trinidad and Tobago;
- (d) for the re-acquisition by any person of his citizenship of Trinidad and Tobago.**

Interpretation of Chapter 2

33.(1) In this Chapter -

"alien" means a person who is not a Commonwealth citizen, a British protected person or a citizen of the Republic of Ireland;

"British protected person" means a person who is a British protected person for the purpose of the British Nationality Act, 1948 of the United Kingdom.

(2) For the purpose of this Chapter, a person born outside Trinidad and Tobago aboard a registered ship

or aircraft, or aboard an unregistered ship or aircraft of the government of any country, shall assume the citizenship of his mother.

CHAPTER 3

THE PRESIDENCY

**Establishment of
office of
President**

34. There shall be a President of the Republic of Trinidad and Tobago who shall be the Head of State and Commander-in-Chief of the armed forces.

**Qualification for
office of
President**

35. Subject to section 42(3) and (6), a person is qualified to be elected as President if he has been nominated as a candidate for the office of the President under section 41 and has been elected at a general election to serve as a member of the House of Representatives.

**Other conditions
of office of
President**

36.(1) The President shall not hold any other office of emolument or profit whether in the public service or otherwise, nor engage in any occupation for reward other than the duties of his office.

(2) Where a person is acting as, or performing the functions of, the President under sections 44 or 45, he shall cease temporarily to perform any other functions.

(3) The President shall receive such salary and allowances as may be prescribed.

(4) A person who has held the office of President shall, upon expiration of his term of office, receive such pension benefits as may be prescribed and such pension benefits shall be a charge on the Consolidated Fund.

Establishment of office and selection of Vice- President

37.(1) There shall be a Vice-President of the Republic Trinidad and Tobago.

(2) The Vice-President shall be selected by the President acting in his discretion.

(3) The Vice-President may be removed from office by the President acting in his discretion.

Qualification for office of Vice-President

38. A person is qualified to be selected as Vice-President if he is a member of the House of Representatives or the Senate.

Other conditions of office of Vice-President

39.(1) Where a member of the House of Representatives or Senate is selected as Vice-President, his seat in the House of Representatives or Senate shall not become vacant when he assumes office as the Vice-President.

(2) The Vice-President shall not hold any other office of emolument or profit whether in the public service or otherwise, nor engage in any occupation for reward other than the duties of his office.

(3) The Vice-President shall not be appointed as the Majority Leader in either House.

Transitional

40. The person holding the office of Prime Minister under the former Constitution shall, at the commencement of this Constitution, hold the office of President under this Constitution until a President is elected in accordance with this Chapter and takes and subscribes the oath of office set out in the First Schedule.

First Schedule

**Nomination of
Presidential
candidate**

41.(1) Each political party shall nominate a candidate for the office of the President and that candidate, if at the general election he is elected to serve as a member of the House of Representatives, shall be the presidential candidate for that political party.

(2) Each political party shall also nominate an alternate candidate to stand for election at the general election in the same constituency together with the candidate nominated under subsection (1).

(3) Where the candidate nominated under subsection (1) wins his seat and is elected as the President, he shall vacate his seat and the alternate candidate mentioned in subsection (2) shall automatically assume the vacant seat in the House of Representatives as the elected member of the House for that constituency.

(4) It is hereby declared that a vote for the candidate nominated under subsection (1) is deemed to be a vote for the alternate candidate mentioned under subsection (2).

(5) Notwithstanding subsection (4), where the candidate nominated under subsection (1) is elected to serve as a member of the House of Representatives but he is not elected as the President, he shall serve as the elected member of the House of Representatives for that constituency.

**Election of
President**

42.(1) Where after a general election a political party secures a majority of the seats in the House of Representatives and its candidate nominated under section 41(1) is elected as a member of the House of Representatives, the Chairman of the Elections and

Boundaries Commission (in this section referred to as “the Chairman”) shall declare that member to be the President elected.

(2) Where after a general election a political party secures a majority of the seats in the House of Representatives but its candidate nominated under section 41(1) is not elected as a member of the House of Representatives, the political leader of that party shall, not later than three days from the date of the declaration of the results of the election, select an elected member to be the President and the political leader shall in writing inform the Chairman of the name of that member and the Chairman shall immediately declare that member to be the President elected.

(3) Where the political leader of the majority party under subsection (2) -

- (a) fails to select an elected member from the majority party to be the President;**
- (b) fails to inform the Chairman whether or not a selection has been made; or**
- (c) informs the Chairman that he has failed to select a member to be the President,**

then the Chairman, having received no correspondence from the political leader of the majority party or is informed by the political leader that he has failed to select a member within the time specified under subsection (2), shall immediately in writing inform the Speaker that a member was not selected to be the President.

(4) Where after a general election no political party secures a majority of the seats in the House of Representatives and two or more political parties join to

secure such a majority, the elected members of the political parties joining to secure such a majority shall, not later than three days from the date of the declaration of the results of the election and in accordance with subsections (6) to (10), elect from among themselves a member to be the President.

- (5) The Speaker shall, within three days from -
- (a) the date he receives the written information under subsection (3); or
 - (b) the date of the declaration of the results of the general election and a number of political parties join to secure a majority,

conduct an election to elect the President from among the elected members of the majority party or the elected members of the political parties joining to secure a majority, as the case may be.

(6) The Speaker shall preside over the election mentioned under subsection (5), voting shall be by open ballot, and the quorum of the House shall consist of half plus one of the elected members of the majority party or the elected members of the political parties joining to secure a majority, as the case may be, but the Speaker shall not be included in reckoning whether there is a quorum of the House present.

(7) Where at any sitting of the House under subsection (5) a member of the House draws the attention of the Speaker to the absence of a quorum, the Speaker shall ascertain whether there is a quorum and where there is no quorum, subject to subsection (11), the Speaker shall adjourn the House.

(8) Where the elected members of the majority party or the elected members of the political parties joining to secure a majority, as the case may be, are unable to elect a President on the first ballot within the three days regardless of the number of candidates proposed, the Speaker shall again conduct a second ballot within the three days to allow the members to elect a President.

(9) At an election under subsection (5), the Speaker shall declare the member who is unopposed or who obtains the majority of votes to be the President elected.

(10) When a member is elected as the President at an election under subsection (5), the Speaker shall immediately in writing inform the Chairman of the name of that member and the Chairman shall immediately declare that member to be the President elected.

(11) Where the elected members of the majority party or the elected members of the political parties joining to secure a majority, as the case may be, are unable, within the time specified under subsection (5), to elect an elected member from among themselves to be the President, or there is no quorum after two occasions, then the Speaker shall, upon the expiration of the time specified under subsection (5), select a member of the House to be the President who, in his judgment, is most likely to command the support of the majority of the members of the House and who is willing to be the President.

(12) The Speaker shall immediately in writing inform the Chairman of the name of the member he selected under subsection (11) to be the President and the Chairman shall immediately declare that member to be the

President elected.

(13) Subject to subsection (15), where after the declaration of the results of a general election no political party secures a majority of the seats in the House and two or more political parties are unable to secure such a majority, then within three days after the declaration the Speaker shall summon all the members of the House and conduct an election to elect a President from among all the members of the House.

(14) Subsections (6) to (12) shall apply to an election conducted under subsection (13).

(15) Where the elected members of the House are unable under subsection (13) to elect a President, or where there is no quorum after two occasions, the Speaker shall immediately in writing inform the President in office that a President was not elected.

(16) Notwithstanding sections 89 and 90, the President in office shall, not later than five days after receipt of the correspondence under subsection (15), dissolve the Parliament and appoint a date for a general election to be held within thirty-five days of the date of the dissolution.

(17) Where the office of the President has become vacant under sections 46 or 47 and the President was a member of the majority party, the elected members of the majority party shall, within three days of the occurrence of the vacancy, select an elected member from among themselves to be the President.

(18) The political leader of the majority party or a member nominated by the party shall in writing inform the Speaker and the Chairman of the name of the elected

member selected under subsection (17) to be the President and the Chairman shall immediately declare that member to be the President elected.

(19) Where-

- (a) the elected members of the majority party are unable, within the time specified under subsection (17), to select an elected member from among themselves to be the President, the Speaker, having received no written information from the majority party; or
- (b) the President was a member of the political parties joining to secure a majority, the Speaker, within three days of the occurrence of the vacancy,

shall immediately convene the House and conduct an election to elect the President from among the elected members of the majority party or the elected members of the political parties joining to secure the majority, as the case may be.

(20) Subsections (6) to (12) shall apply *mutatis mutandis* to an election conducted under subsection (19).

(21) Where under this section the member who is elected or selected as the President was not a candidate nominated under section 41(1), section 90(2) shall apply.

Term of office

43.(1) Subject to sections 44 and 46, a President elected under section 42 shall hold office until a President is elected and assumes office under subsection (2).

(2) The President who is elected shall assume office on the expiration of fourteen days next after his

election.

**Temporary
absence of
President**

44.(1) Where the President is incapable of performing his functions as President by reason of his absence from Trinidad and Tobago or by reason of illness or otherwise, the Vice-President shall act temporarily as President.

(2) Where under subsection (1) the Vice-President acts temporarily as President, the Vice-President shall temporarily cease to perform his functions as a member of the House of Representatives or the Senate, as the case may be.

(3) Where the Vice-President is required to act temporarily as President, the President may assign the responsibilities which were allocated to the Vice-President under section 99 to a member of the House of Representatives or the Senate as the case may be, or where the President is for any reason unable to do so, the Vice-President shall make the assignment when he assumes office as the acting President.

(4) Where the Vice-President ceases to act temporarily as the President, he shall resume the performance of his functions as a member of the House of Representatives or Senate as the case may be and resume any responsibility assigned under subsection (3).

(5) Where the Vice-President is for any reason unable to act as the President under subsection (1), the President shall appoint another member of the Parliament to act temporarily as President.

**Where office of
President vacant**

45.(1) Where the office of President becomes vacant under section 46, subject to subsection (2), section 44 shall apply.

(2) Where the office of President becomes vacant under section 46 before the expiration of the term of that office prescribed under section 43, an election shall be held in accordance with section 42(6) to fill the vacancy.

(3) Where a person is elected to fill a vacancy in the office of President in an election under section 42(6), he shall hold office for only the unexpired portion of the term of office of his predecessor.

**Vacation of
office**

46.(1) The office of President shall become vacant where the person holding that office -

- (a) dies;**
- (b) resigns by writing signed by him and addressed and delivered to the Speaker; or**
- (c) is removed from office under section 47.**

(2) The office of the President shall also become vacant -

- (a) when after any dissolution of Parliament the office holder is elected as President or another member has been elected as President; or**
- (b) where for any reason other than a dissolution of Parliament the office holder is not qualified to be elected as a member of the House of Representatives by virtue of section**

62(1) or any law made under section 62(3).

**Removal of
President from
office**

47.(1) The President may be removed from office under this section where -

- (a) he wilfully violates any provision of the Constitution;
- (b) he behaves in such a way as to bring his office into hatred, ridicule or contempt;
- (c) he behaves in a way that endangers the security of the State; or
- (d) because of physical or mental incapacity, he is unable to perform the functions of his office.

(2) The President shall be removed from office where -

- (a) a motion that his removal from office should be investigated by a tribunal is proposed in the House of Representatives;
- (b) the motion states with full particulars the grounds on which his removal from office is proposed and is signed by not less than one-third of the total membership of the House of Representatives;
- (c) the motion is adopted by the votes of not less than two-thirds of the total membership of the Senate and the House of Representatives assembled together;
- (d) a tribunal consisting of the Chief Justice and four other Judges appointed by him, being as far as practicable the most senior

Judges, investigate the complaint and report on the facts to the House of Representatives;

- (e) the Senate and the House of Representatives together on the summons of the Speaker consider the report and by resolution supported by the votes of not less than two-thirds of the total membership of the Senate and the House of Representatives assembled together declare that he shall be removed from office.

(3) Where under subsection (2)(c) a motion is adopted the President shall, from the date of its adoption, cease to perform any of his functions as President and section 44 shall apply.

(4) The procedure of the tribunal shall be such as is prescribed, but, subject to such procedure, the tribunal may regulate its own procedure.

(5) Upon the adoption of the resolution in accordance with subsection (2)(e) the office shall become vacant.

(6) Notwithstanding that the office becomes vacant as mentioned in subsection (5), the Vice-President shall continue to hold office until a President is elected in accordance with section 42(6) and assumes office.

(7) The succeeding President shall assume office in accordance with section 43(2).

Removal of Vice-President from office

48. The Vice-President shall vacate his office-

- (a) when another member of the House has been selected by the President as Vice-**

- President;
- (b) when after any dissolution of Parliament he is elected as President or selected by the President as the Vice-President; or
 - (c) where for any reason, other than a dissolution of Parliament, he is not qualified to be a member of -
 - (i) the House of Representatives by virtue of section 62(1) or any law made under section 62(3); or
 - (ii) the Senate by virtue of section 55(1) or any law made under section 55(3).

Oath

First Schedule

49.(1) The President and Vice-President shall before entering upon the duties of their respective office take and subscribe the oath of office set out in the First Schedule, such oath being administered by the Chief Justice or such other Judge as may be designated by the Chief Justice.

(2) Subsection (1) shall apply to any person required under this Constitution to perform the functions of the office of President or Vice-President as it applies to a person selected or elected as such.

(3) Where the date for the assumption of office of the President or the Vice-President falls on a Sunday or public holiday, the President or Vice-President respectively shall assume office on the first following day that is not a Sunday or public holiday.

**Immunities of
the President**

50.(1) The President shall not be answerable to any court for the performance of the functions of his office or for any act done by him in the performance of those functions.

(2) Without the fiat of the Director of Public Prosecutions, no criminal proceedings shall be instituted or continued against the President in any court during his term of office and no process for the President's arrest or imprisonment shall be issued from any court or shall be executed during his term of office.

(3) No civil proceedings in which relief is claimed against the President shall be instituted during his term of office in any court in respect of any act done by him in his personal capacity whether before or after he entered the office of President, except on the condition specified in subsection (4).

(4) The condition referred to in subsection (3) is that two months shall elapse after a notice in writing has been served on the President either by registered post or by being left at his office stating the nature of the proceedings, the cause of action, the name, description and address of the party instituting the proceedings and the relief claimed.

(5) A period of limitation prescribed shall not run in favour of the President in respect of a civil action during the period of two months after a notice in respect of that action has been served on him under subsection (4).

**Determination of
questions as to
elections**

51.(1) Subject to subsection (2), where there is an election for the office of President, an instrument which -

(a) in the case of an uncontested election, is signed and sealed by the Speaker or the Chairman of the Elections and Boundaries Commission as the case may be and

states that a person named in the instrument was the only person nominated for the election and was in consequence declared elected under section 42; or

- (b) in the case of a contested election, is signed and sealed by the Speaker or the Chairman of the Elections and Boundaries Commission as the case may be and states that a person named in the instrument was declared elected under section 42,

shall be conclusive evidence that the person so named was so elected, and no question as to the validity of the election of the person so named shall be inquired into in any court.

(2) The Court of Appeal shall have exclusive jurisdiction to hear and determine any question as to the validity of an election of a President, in so far as that question depends upon the qualification of any person for election or the interpretation of this Chapter, and the decision of the Court of Appeal under this subsection shall be final.

(3) Parliament may make provisions with respect to the persons by whom, the manner in which and the conditions upon which the proceedings under subsection (2) may be instituted in the Court of Appeal and subject to any provisions so made, provisions may be made with respect to these matters by rules of court, and until such provisions or rules are made the procedure for moving the Court of Appeal shall be by way of a representation petition.

CHAPTER 4

PARLIAMENT

PART 1

COMPOSITION OF PARLIAMENT

Establishment

Establishment of Parliament

52. There shall be a Parliament of the Republic of Trinidad and Tobago which shall consist of the President, the Senate and the House of Representatives.

The Senate

Composition of Senate

53.(1) The Senate shall consist of thirty-seven members who shall be appointed in accordance with this Part.

- (2)** The Senators shall be appointed as follows-
- (a)** nineteen shall be appointed by the President acting in his discretion;
 - (b)** seven shall be appointed by the President acting on the advice of the Minority Leader; and
 - (c)** subject to subsection (3), eleven shall be appointed by the President after consultation with various interest groups or organisations and a representative of the following groups or organisations, among others, shall be appointed:
 - (i)** business;
 - (ii)** labour;
 - (iii)** the environment;

- (iv) the village council movement;
- (v) the energy sector; and
- (vi) finance.

(3) The President, in appointing the Senators specified in subsection (2)(c), shall, after consultation with the House of Assembly, appoint two persons from Tobago as Senators.

Qualification for appointment as a Senator

54. Subject to section 55, a person shall be qualified to be appointed as a Senator if, and shall not be qualified to be so appointed unless, he is a citizen of Trinidad and Tobago of the age of twenty-five years or upwards.

Disqualification for appointment as Senator

55.(1) No person shall be qualified to be appointed as a Senator who -

- (a) is a citizen of a country other than Trinidad and Tobago having become such a citizen voluntarily or is under a declaration of allegiance to such a country;
- (b) is a member of the House of Representatives;
- (c) is disqualified for membership of the House of Representatives by virtue of any law which provides that a person who is convicted of an offence relating to elections is disqualified for membership of the House of Representatives;
- (d) is an undischarged bankrupt having been adjudged or otherwise declared bankrupt under any law in force in Trinidad and Tobago;

- (e) is mentally ill, within the meaning of the Mental Health Act;
 - (f) is under sentence of death imposed on him by a court or is serving a sentence of imprisonment, by whatever name called, exceeding twelve months imposed on him by a court or substituted by competent authority for some other sentence imposed on him by a court, or is under such a sentence of imprisonment the execution of which has been suspended; or
 - (g) is not qualified to be registered as an elector at a parliamentary election under any law.
- (2) For the purpose of subsection (1)(f) -
- (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.
- (3) Parliament may provide that, subject to such exceptions and limitations, if any, as may be prescribed, a person shall be disqualified for membership of the Senate 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.

**Tenure of office
of Senators**

56.(1) Subject to section 57, every Senator shall vacate his seat in the Senate at the next dissolution of Parliament after his appointment.

(2) A Senator shall also vacate his seat in the Senate where -

- (a) he is absent from the sittings of the Senate for such period and in such circumstances as may be specified in the rules of procedure of the Senate;
- (b) with his consent, he is nominated as a candidate for election to the House of Representatives, or he is elected to be a member of the House of Representatives;
- (c) he ceases to be a citizen of Trinidad and Tobago; or
- (d) subject to subsection (3), any circumstances arise that, if he were not a Senator, would cause him to be disqualified for appointment as such by virtue of section 55(1) or any law enacted in pursuance of section 55(3).

(3) Where circumstances such as are referred to in subsection (2)(d) arise because a Senator is under sentence of death or imprisonment, is mentally ill, declared bankrupt or convicted of an offence relating to elections, and where it is open to the Senator to appeal against the decision, either with the leave of a court or other authority or without such leave, he shall immediately cease to perform his functions as a Senator, but, subject to this section, he shall not vacate his seat until the expiration of a period of thirty days thereafter.

(4) The President of the Senate may extend the period specified in subsection (3) for further periods of thirty days to enable the Senator to pursue an appeal against the decision, but extensions of time exceeding in the aggregate one hundred and fifty days shall not be given without the approval, signified by resolution, of the Senate.

(5) Where on the determination of an appeal, such circumstances continue to exist and no further appeal is open to the Senator, or where, by reason of the expiration of any period for entering an appeal or notice to appeal or the refusal of leave to appeal or for any other reason, it ceases to be open to the Senator to appeal, he shall immediately vacate his seat.

(6) Where at any time before the Senator vacates his seat, such circumstances as are mentioned in this section cease to exist, his seat shall not become vacant on the expiration of the period referred to in subsection (3) and he may resume the performance of his functions as a Senator.

**Removal of
Senators from
office**

57. (1) A Senator who is appointed by the President under section 53(2)(a) shall vacate his seat where the President advises the President of the Senate that a new Senator is to be appointed and the President of the Senate

declares his seat vacant.

(2) A Senator who is appointed by the Minority Leader acting in his discretion under section 53(2)(b) shall vacate his seat where the Minority Leader advises the President of the Senate that a new Senator is to be appointed and the President of the Senate declares his seat vacant.

(3) A Senator who is appointed by the President under section 53(2)(c) shall vacate his seat where the Senate passes a motion for his removal and the President of the Senate declares his seat vacant.

Appointment of temporary Senators

58.(1) Where a Senator is incapable of performing his functions as a Senator by virtue of section 56(3) or by reason of-

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

the President of the Senate may appoint a person qualified for appointment as a Senator to be temporarily a member of the Senate during such suspension, absence, illness or otherwise.

(2) Section 56(1) and (2) shall apply in relation to a person appointed under this section as they apply in relation to a Senator, except that subsection (2)(d) shall apply as if it were not expressed to be subject to section 56(3), and an appointment made under this section shall in any case cease to have effect if the person appointed is notified by the President of the Senate that the circumstances giving rise to his appointment have ceased to exist.

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

- (a) in accordance with the advice of the

President in relation to a Senator appointed in pursuance of section 53(2)(a) or (c);

- (b) in accordance with the advice of the Minority Leader in relation to a Senator appointed in pursuance of section 53(2)(b).

President and Vice-President of the Senate

59.(1) When the Senate first meets after any general election and before it proceeds to the despatch of any other business, it shall elect a Senator to be President of the Senate.

(2) When the office of President of the Senate falls vacant at any time before the next dissolution of Parliament, the Senate shall, as soon as practicable, elect another Senator to that office.

(3) When the Senate first meets after any general election and before it proceeds to the despatch of any other business and after the election of the President of the Senate, it shall elect a Senator to be Vice-President of the Senate.

(4) When the office of Vice-President of the Senate falls vacant at any time before the next dissolution of Parliament, the Senate shall, as soon as convenient, elect another Senator to that office.

(5) The Senate shall not elect a Senator who is a Minister to be the President of the Senate or the Vice-President of the Senate.

(6) A person shall vacate the office of President of the Senate or Vice-President of the Senate where -

- (a) he ceases to be a Senator; but the President of the Senate shall not vacate his office by reason only that he has ceased to be a Senator on a dissolution of

Parliament until the Senate first meets after that dissolution;

- (b) he is appointed to be a Minister;
- (c) he announces the resignation of his office to the Senate or where, by writing signed by him and addressed, in the case of the President of the Senate, to the Clerk of the Senate, and in the case of the Vice-President of the Senate to the President of the Senate (or, where the office of President of the Senate is vacant or the President of the Senate is absent from Trinidad and Tobago, to the Clerk of the Senate), he resigns that office; or
- (d) he dies.

(7) Where, by virtue of section 56(3), the President of the Senate or Vice-President of the Senate is required to cease to perform his functions as a Senator he shall also cease to perform his functions as President of the Senate or Vice-President of the Senate, as the case may be, and those functions shall, until he vacates his seat in the Senate or resumes the performance of the functions of his office, be performed -

- (a) in the case of the President of the Senate by the Vice-President of the Senate or if the office of Vice-President of the Senate is vacant or the Vice-President of the Senate is required to cease to perform his functions as a Senator by virtue of section 56(3) by such Senator not being a Minister as the Senate may elect for the purpose;

(b) in the case of the Vice-President of the Senate by such Senator not being a Minister as the Senate may elect for the purpose.

(8) Where the President of the Senate or Vice-President of the Senate resumes the performance of his functions as a Senator, in accordance with section 56(6), he shall also resume the performance of his functions as President of the Senate or Vice-President of the Senate, as the case may be.

The House of Representatives

Composition of the House of Representatives

60.(1) Subject to this section, the House of Representatives shall consist of members who shall be elected in the manner as prescribed.

(2) There shall be forty-one members of the House of Representatives or such other number of members as corresponds with the number of constituencies as provided for by an Order made by the President under section 94.

(3) Where a person who is not a member of the House of Representatives is elected to be Speaker of the House he shall, by virtue of holding the office of Speaker, be a member of the House in addition to the forty-one members or other number of members provided for by an Order made by the President under section 94.

Qualification for election as member

61. Subject to section 62, a person shall be qualified to be elected as a member of the House of Representatives if, and shall not be qualified to be so elected unless, he -

(a) is a citizen of Trinidad and Tobago of the age of eighteen years or upwards; and

- (b) has resided in Trinidad and Tobago for a period of two years immediately before the date of his nomination for election or is domiciled and resident in Trinidad and Tobago at that date.

**Disqualification
for election as
member**

62.(1) No person shall be qualified to be elected as a member of the House of Representatives who -

- (a) is a citizen of a country other than Trinidad and Tobago having become such a citizen voluntarily, or is under a declaration of allegiance to such a country;
- (b) is an undischarged bankrupt having been adjudged or otherwise declared bankrupt under any law in force in Trinidad and Tobago;
- (c) is mentally ill, within the meaning of the Mental Health Act;
- (d) is under sentence of death imposed on him by a court or is serving a sentence of imprisonment, by whatever name called, exceeding twelve months imposed on him by a court or substituted by competent authority for some other sentence imposed on him by a court, or is under such a sentence of imprisonment the execution of which has been suspended;
- (e) is disqualified for membership of the House of Representatives by any law in force in Trinidad and Tobago by reason of his holding, or acting in, any office the

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functions of which involve-

- (i) any responsibility for, or in connection with, the conduct of any election; or
 - (ii) any responsibility for the compilation or revision of any electoral register;
- (f) 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
- (g) is not qualified to be registered as an elector at a parliamentary election under any law in force in Trinidad and Tobago.

(2) For the purpose of subsection (1)(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.

(3) Parliament 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 Representatives 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.

**Tenure of office
of members**

63.(1) Every member of the House of Representatives shall vacate his seat in the House at the next dissolution of Parliament.

(2) A member of the House of Representatives shall also vacate his seat in the House where -

- (a) he resigns it by writing signed by him and addressed to the Speaker or, where the office of Speaker is vacant or the Speaker is absent from Trinidad and Tobago, to the Deputy Speaker;
- (b) he is absent from the sittings of the House for such period and in such circumstances as may be specified in the rules of procedure of the House;
- (c) he ceases to be a citizen of Trinidad and Tobago;
- (d) subject to subsection (3), any circumstances arise that, if he were not a member of the House of Representatives, would cause him to be disqualified for election to the House by virtue of section

62(1) or any law enacted in pursuance of section 62(3);

- (e) having been a candidate of a party and elected to the House, he resigns from or is expelled by that party;
- (f) he dies.

(3) Where circumstances such as are referred to in subsection (2)(d) arise because a member of the House of Representatives is under sentence of death or imprisonment, mentally ill, declared bankrupt or convicted of an offence relating to elections, and where it is open to the member to appeal against the decision, either with the leave of a court or other authority or without such leave, he shall immediately cease to perform his functions as a member of the House, but, subject to this section, he shall not vacate his seat until the expiration of a period of thirty days thereafter.

(4) The Speaker may, from time to time, extend the period specified in subsection (3) for further periods of thirty days to enable the member to pursue an appeal against the decision, but extensions of time exceeding in the aggregate one hundred and fifty days shall not be given without the approval, signified by resolution, of the House.

(5) Where on the determination of any appeal, such circumstances continue to exist and no further appeal is open to the member, or where, by reason of the expiration of any period of entering an appeal or notice of appeal or the refusal of leave to appeal or for any other reason, it ceases to be open to the member to appeal, he shall immediately vacate his seat.

(6) Where at any time before the member of the House vacates his seat such circumstances as are mentioned in this section cease to exist his seat shall not become vacant

on the expiration of the period referred to in subsection (3) and he may resume the performance of his functions as a member of the House.

**Vacation of seat
where member
resigns or is
expelled**

64.(1) Where circumstances such as are referred to in section 63(2)(e) arise, the Majority Leader or the Minority Leader in the House of Representatives of the party as a candidate of which the member was elected, shall inform the Speaker in writing of those circumstances and the Speaker shall, at the sitting of the House of Representatives next after he is so informed, make a declaration that the member has resigned from or has been expelled by the party, as the case may be.

(2) Where within fourteen days from the date of the declaration by the Speaker the member does not institute legal proceedings to challenge the allegation that he has resigned or has been expelled, he shall vacate his seat at the end of the said fourteen days.

(3) Where within fourteen days of the declaration by the Speaker, the member institutes legal proceedings to challenge his resignation or expulsion he shall not vacate his seat unless and until either the proceedings are withdrawn or the proceedings are finally determined by a decision upholding the resignation or expulsion, the decision being one that is not open to appeal or in respect of which the time allowed for an appeal has expired without an appeal being filed.

(4) From the date of the declaration by the Speaker under subsection (1) the member shall cease to perform his functions as a member of the House of Representatives and he shall resume the performance of such functions only if and when the legal proceedings referred to in subsection (3) are

finally determined within the meaning of that subsection in favour of such member.

**Speaker and
Deputy Speaker**

65.(1) When the House of Representatives first meets after any general election and before it proceeds to the despatch of any other business, it shall elect a person to the office of the Speaker of the House.

(2) When the office of Speaker falls vacant at any time before the next dissolution of Parliament, the House shall, as soon as practicable, elect another person to that office.

(3) The Speaker may be elected either from among the members of the House of Representatives who are not Ministers, or subject to subsection (4), from among persons who are not members of either House.

(4) A person who is not a member of either House shall not be elected Speaker where -

(a) he is not a citizen of Trinidad and Tobago;
or

(b) he is a person disqualified for election as a member of the House of Representatives under section 62(1) or any law enacted under section 62(3).

(5) When the House of Representatives first meets after any general election and before it proceeds to the despatch of any other business except the election of the Speaker, the House shall elect a member of the House, who is not a Minister, to the office of the Deputy Speaker of the House.

(6) When the office of Deputy Speaker falls vacant at any time before the next dissolution of Parliament, the House shall, as soon as practicable, elect another such member to that office.

(7) A person shall vacate the office of Speaker or Deputy Speaker -

- (a) in the case of a Speaker elected from among the members of the House of Representatives or in the case of the Deputy Speaker -
 - (i) where he ceases to be a member of the House, but the Speaker shall not vacate his office by reason only that he has ceased to be a member of the House on a dissolution of Parliament, until the House first meets after that dissolution;
 - (ii) where he is appointed to be a Minister;
- (b) in the case of a Speaker elected from among persons who are not members of either House -
 - (i) when the House first meets after any dissolution of Parliament;
 - (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 under section 62(1) or any law enacted under section 62(3);
- (c) where he announces the resignation of his office to the House of Representatives or if by writing signed by him and addressed, in the case of the Speaker, to the Clerk of the

House and in the case of the Deputy Speaker, to the Speaker, or, if the office of Speaker is vacant or the Speaker is absent from Trinidad and Tobago, to the Clerk of the House, he resigns that office; or

- (d) in the case of the Deputy Speaker, where he is elected to be Speaker.

(8) Where, by virtue of section 63(3), the Speaker or Deputy Speaker is required to cease to perform his functions as a member of the House of Representatives or where, in the case of the Speaker, by reason of circumstances referred to in section 66(1), he has temporarily vacated his office, he shall also cease to perform his functions as Speaker or Deputy Speaker, as the case may be, and those functions shall, until he vacates his seat in the House or resumes the performance of the functions of his office, be performed -

- (a) in the case of the Speaker, by the Deputy Speaker or, if the office of Deputy Speaker is vacant or the Deputy Speaker is required to cease to perform his functions as a member of the House of Representatives by virtue of section 63(3), by such member of the House, not being a Minister, as the House may elect for the purpose;
- (b) in the case of the Deputy Speaker, by such member of the House, not being a Minister, as the House may elect for the purpose.

(9) Where the Speaker or Deputy Speaker resumes the performance of his functions as a member of the House in accordance with section 63(6), he shall also resume the performance of his functions as Speaker or Deputy Speaker, as

the case may be.

**Removal of
Speaker**

66.(1) Upon delivery by the Clerk of the House to the Speaker of a resolution signed by a majority of the members of the House that the Speaker may be removed from office, (hereinafter referred to as "the resolution") the Speaker shall vacate his office temporarily and cease to perform his functions as Speaker.

(2) The resolution shall state the grounds on which the Speaker's removal from office is proposed.

(3) The Speaker may, within twenty-one days of the delivery of the resolution, supply to the Clerk of the House in writing any grounds on which he resists his removal from office, and the Clerk of the House shall supply a copy of those grounds to each member of the House.

(4) Unless a motion in support of the resolution is moved in the House -

(a) within fourteen days of the receipt by the Clerk of the House of the grounds supplied by the Speaker; or

(b) where no such grounds have been supplied, within fourteen days of the time specified in subsection (3),

the Speaker shall resume the performance of his functions as Speaker.

(5) Where the motion in subsection (4) is passed, the Clerk of the House shall, within seven days of its passing, transmit the records of proceedings in the House to a Special Tribunal comprising a Chairman and two other members appointed by the President after consultation with the Minority Leader (hereinafter referred to as "the Tribunal").

(6) The record shall include the resolution, the grounds supplied by the Speaker and the speeches made by Members of the House upon debate of the resolution.

(7) The Tribunal shall review the record and, within twenty-one days of its receipt, make a recommendation to the House accompanied by a brief statement of its reasons either -

(a) confirming that the Speaker should vacate office; or

(b) withholding confirmation.

(8) Where the Tribunal confirms that the Speaker should vacate office he shall do so immediately upon delivery to him of the confirmation of the Tribunal by the Clerk of the House.

(9) Where the Tribunal withholds confirmation, the House, by resolution, may resolve not to follow the recommendation of the Tribunal and to confirm the motion that the Speaker should vacate office and where such a resolution is passed the Speaker shall vacate his office immediately.

(10) During the period of review by the Tribunal the Speaker shall not resume performance of his functions as Speaker.

(11) For the purpose of subsections (3) and (10), a resolution left at the office of the Speaker is deemed to be delivered at the time it is so left.

Qualifications of voters

67. Subject to such disqualifications as Parliament may prescribe, a person shall be qualified to vote at a general election if, and shall not be qualified to vote at a general election unless, he-

(a) is a citizen of the Commonwealth and is of the age of eighteen years or upwards; and

- (b) has such other qualifications regarding residence or registration as may be prescribed.

General

Determination of questions of membership

68.(1) Any question whether -

- (a) a person has been validly elected or appointed as a Senator or validly elected as a member of the House of Representatives;
- (b) a Senator or member of the House of Representatives has vacated his seat or is required, under section 56(3) or 63(3), respectively, to cease to exercise any of his functions as a Senator or as a member of the House of Representatives; or
- (c) any person has been validly elected as Speaker of the House of Representatives from among persons who are not Senators or members of the House of Representatives,

shall be determined by the High Court.

(2) Proceedings for the determination of any question referred to in subsection (1) shall not be instituted except with the leave of a Judge of the High Court.

(3) An appeal shall lie to the Court of Appeal as of right from -

- (a) the decision of a Judge of the High Court granting or refusing leave to institute proceedings for the determination of any

question referred to in subsection (1);

(b) the determination by the High Court of any question referred to in subsection (1).

(4) No appeal shall lie from any decision of the Court of Appeal given in an appeal brought in accordance with subsection (3).

PART II

Powers, Privileges and Procedure of Parliament

Power to make laws

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69. Parliament may make laws for the peace, order and good government of Trinidad and Tobago, but the provisions of this Constitution or (in so far as it forms part of the law of Trinidad and Tobago) the Trinidad and Tobago Independence Act, 1962 of the United Kingdom may not be altered except in accordance with section 70.

Alteration of this Constitution

70.(1) Subject to this section, Parliament may alter any of the provisions of this Constitution or (in so far as it forms part of the law of Trinidad and Tobago) the Trinidad and Tobago Independence Act, 1962.

(2) In so far as it alters -

(a) **sections 4 to 27, 32(b), 33, 56(1), 69, 70, 75, 88(2), 91, 104, 120, 121, 124, 127, 128, 130, 131, 133, 134(1) and (2), 135, 137, 140, 142, 144, 145, 149, 150, 152, 155 to 159, 162, 163, 165, 168, 178, 179 to 183, or the Second Schedule; or**

(b) section 3 in its application to any of the sections specified in paragraph (a),

a Bill for an Act under this section shall not be passed by

Parliament unless at the final vote thereon in each House it is supported by the votes of not less than two-thirds of all the members of each House.

- (3) In so far as it alters -
 - (a) this section;
 - (b) sections 34, 41, 42, 51, 71, 78, 80, 89, 90, 92, 94, 107 to 111, 113, 116(5), 118, 148, or the Third Schedule;**
 - (c) section 3 in its application to any of the provisions specified in paragraph (a) or (b);
or
 - (d) any of the provisions of the Trinidad and Tobago Independence Act, 1962,

a Bill for an Act under this section shall not be passed by Parliament unless it is supported at the final vote thereon -

- (i) in the House of Representatives, by the votes of not less than three-fourths of all the members of the House; and
- (b) in the Senate, by the votes of not less than two-thirds of all the members of the Senate.

(4) For the purpose of subsections (2) and (3), the number of members of the Senate shall, even though circumstances requiring the appointment of temporary members in accordance with section 58(1) have arisen, continue to be the number of members specified in section 53(1).

(5) No Act other than an Act making provision for any particular case or class of case, inconsistent with provisions of this Constitution, not being those referred to in subsections (2)

and (3), shall be construed as altering any of the provisions of this Constitution, or (in so far as it forms part of the law of Trinidad and Tobago) the Trinidad and Tobago Independence Act, 1962, unless it is stated in the Act that it is an Act for that purpose.

(6) In this section reference to the alteration of any of the provision of this Constitution or the Trinidad and Tobago Independence Act, 1962, includes reference to repealing it with or without re-enactment, making different provision in place of it, making provision for any particular case or class of case inconsistent with it, modifying it, or suspending its operation for any period.

**Privileges and
immunities of
Parliament**

71.(1) Subject to this Constitution and to the rules and standing orders regulating the procedure of the Senate and House of Representatives, there shall be freedom of speech in the Senate and House of Representatives.

(2) No civil or criminal proceedings may be instituted against any member of either House for words spoken before, or written in a report to, the House of which he is a member or in which he has a right of audience under section 80 or a committee or any joint committee or meeting of the Senate and House of Representatives, or by reason of any matter or thing brought by him in either House by petition, Bill, resolution, motion or otherwise, or for the publication by or under the authority of either House of any report, paper, votes or proceedings.

(3) In other respects, the powers, privileges and immunities of each House and of the members and the committees of each House shall be such as may be prescribed by Parliament after the commencement of this Constitution and

until so prescribed shall be those of the House of Commons of the Parliament of the United Kingdom and of its members and committees at the commencement of this Constitution.

(4) A person called to give any evidence before either House or any committee shall enjoy the same privileges and immunities as a member of either House.

Regulation of procedure in each House

72.(1) Subject to this Constitution, each House may regulate its own procedure.

(2) Each House may act notwithstanding any vacancy in its membership (including any vacancy not filled when the House first meets after the commencement of this Constitution or after any dissolution of Parliament), and the presence or participation of any person not entitled to be present at or to participate in the proceedings of the House shall not invalidate those proceedings.

Minority Leader to set Order Paper

73. The Minority Leader is entitled, once per month on a date agreed on by the President, to set the Order Paper of each House.

Oath of allegiance

74. No member of either House shall take part in the proceedings of that House (other than proceedings necessary for the purpose of this section) until he has made and subscribed before that House the oath of allegiance set out in the First Schedule, but the election of a Speaker and Deputy Speaker of the House of Representatives and the election of a President of the Senate and Vice-President of the Senate may take place before the members of the House of Representatives, or the members of the Senate, as the case may be, have made and subscribed such oath.

First Schedule

Presiding in the Senate and the House of Representatives

75.(1) The President of the Senate or, in his absence, the Vice-President of the Senate or, where they are both absent, a Senator, not being a Minister, elected by the Senate for that sitting shall preside at each sitting of the Senate.

(2) The Speaker or, in his absence, the Deputy Speaker or, where they are both absent, a member of the House of Representatives, not being a Minister, elected by the House for that sitting shall preside at that sitting of the House.

(3) Reference in this section to circumstances in which the President of the Senate or Vice-President of the Senate, Speaker or Deputy Speaker is absent includes reference to circumstances in which the office of President of the Senate or Vice-President of the Senate, Speaker or Deputy Speaker is vacant.

Voting

76.(1) Save as otherwise provided in this Constitution, all questions proposed for decision in either House shall be determined by a majority of the votes of the members of the House present and voting.

(2) The President of the Senate or other member presiding in the Senate shall not vote unless on any question the votes are equally divided, in which case he shall have and exercise a casting vote.

(3) The Speaker or other member presiding in the House of Representatives shall not vote unless on any question the votes are equally divided, in which case he shall have and exercise a casting vote.

(4) All voting in either House shall be by public ballot.

Quorum

77.(1) A quorum of the House of Representatives shall consist of twenty members of the House and a

quorum of the Senate shall consist of eighteen Senators, but the person presiding at the sitting of either House shall not be included in reckoning whether there is a quorum of that House present.

(2) Where at any sitting of either House any member of the House who is present draws the attention of the person presiding at the sitting of the absence of a quorum and, after such interval as may be specified by that House, the person presiding at the sitting ascertains that a quorum of the House is still not present the House shall be adjourned.

**Mode of
exercising
legislative power**

78.(1) Subject to this Constitution, the power of Parliament to make laws shall, except where otherwise authorised by an Act, be exercised by Bills passed by the House of Representatives and the Senate and assented to by the President.

(2) The Parliament shall ensure that every Bill that is passed shall be presented to the President within forty days after the date of its passage.

(3) The President shall signify his assent when a Bill is presented to him for assent within fourteen days.

(4) A Bill shall not become law unless it has been duly passed and assented to in accordance with this Constitution.

(5) A Bill may be 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.

**Attendance of
Ministers in
either House**

79.(1) A Minister –

(a) has the right to attend any sitting of the

Senate or the House of Representatives, respectively;

(b) may be required at the instance of the President of the Senate or the Speaker to attend any sitting of Senate or the House of Representatives, respectively;

(c) may be required at the instance of the President of the Senate or the Speaker to appear any sitting of Senate or the House of Representatives, respectively, and report on the performance of his duties as a Minister.

(2) A Minister may not be required to attend any sitting of either House under subsection (1)(b) or (c) except on the adoption by that House of a motion for the purpose.

(3) A Minister attending any sitting of the Senate or the House of Representatives under this section may take part in any debate or other proceedings concerning matters falling within his portfolio in such House and may speak on any motion before the House concerning such matters and move amendments to any such motions, but that Minister, if he is not a member of that House, shall have no vote thereon.

(4) Nothing in this section shall preclude the Attorney General from attending any sitting of the Senate or the House of Representatives, as the case may be, and taking part in debates and other proceedings and speaking on any motion before any such House, as the case may be, and moving amendments to any such motions even though the matter falls within the portfolio of some other Minister.

Introduction of Bills, etc.

80.(1) A Bill, other than a Money Bill, may be introduced in either House; a Money Bill shall not be introduced in the Senate.

(2) Except on the recommendation or with the consent of the Cabinet, neither House shall -

- (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 purpose:
 - (i) for imposing or increasing any tax;
 - (ii) for imposing or increasing any charge on the revenues or other funds of Trinidad and Tobago or for altering any such charge otherwise than by reducing it; or
 - (iii) for compounding or remitting any debt due to Trinidad and 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 purpose specified in paragraph (a);or
- (c) receive any petition which, in the opinion of the person presiding, requests that provision be made for any of the purpose specified in paragraph (a).

Restrictions on powers of Senate as to Money Bills

81.(1) Where a Money Bill, having been passed by the House of Representatives and sent to the Senate at least one month before the end of the session, is not passed by the

Senate without amendment within one month after it is sent to the Senate, the Bill shall, unless the House of Representatives otherwise resolves, be presented to the President for assent notwithstanding that the Senate has not passed the Bill.

(2) There shall be endorsed on every Money Bill when it is sent to the Senate the certificate of the Speaker signed by him that it is a Money Bill.

(3) There shall be endorsed on every Money Bill that is presented to the President for assent in pursuance of subsection (1), the certificate of the Speaker signed by him that it is a Money Bill and that subsection (1) has been complied with.

Restrictions on powers of Senate as to Bills other than Money Bills

82.(1) Where any Bill, other than a Money Bill, is passed by the House of Representatives in two successive sessions, whether or not Parliament is dissolved between those sessions, and, having been sent to the Senate in each of those sessions at least one month before the end of the session, is not passed by the Senate in each of those sessions, that Bill shall, on its rejection for the second time by the Senate, unless the House of Representatives otherwise resolves, be presented to the President for assent notwithstanding that the Senate has not passed the Bill.

(2) Nothing in subsection (1) shall have effect until at least six months have elapsed between the date on which the Bill is passed by the House of Representatives in the first session and the date on which it is passed by that House in the second session.

(3) For the purpose of this section, a Bill that is sent to the Senate from the House of Representatives in any session is deemed to be the same Bill as a former Bill sent to

the Senate in the preceding session if, when it is sent to the Senate, it is identical with the former Bill or contains only such alterations as are certified by the Speaker to be necessary owing to the time that has elapsed since the date of the former Bill or to represent any amendments which have been made by the Senate in the former Bill in the preceding session.

(4) The House of Representatives may, if it thinks fit, on the passage through that House of a Bill that is deemed to be the same Bill as a former Bill sent to the Senate in the preceding session, suggest any amendments without inserting the amendments in the Bill, and any such amendments shall be considered by the Senate, and, if agreed to by the Senate, shall be treated as amendments made by the Senate and agreed to by the House of Representatives; but the exercise of this power by the House of Representatives shall not affect the operation of this section in the event of the rejection of the Bill in the Senate.

(5) For the purpose of this section, a Bill is deemed to be rejected by the Senate where -

- (a) it is not passed by the Senate without amendments; or
- (b) it is passed by the Senate with any amendment that is not agreed to by the House of Representatives.

(6) There shall be inserted in any Bill that is presented to the President for assent in pursuance of this section any amendments that are certified by the Speaker to have been made in the Bill by the Senate in the second session and agreed to by the House of Representatives.

(7) There shall be endorsed on any Bill that is presented to the President for assent in pursuance of this

section the certificate of the Speaker signed by him that this section has been complied with.

(8) This section shall not apply to a Bill for an Act which is required by sections 26 or 70 to be supported at the final vote thereon in the Senate by the votes of not less than three-fifths or two-thirds, respectively, of all the members of the Senate.

**Provisions
relating to
sections 79, 80
and 81**

83.(1) In sections 80, 81 and 82, "Money Bill" means a public Bill which, in the opinion of the Speaker, contains only provisions dealing with all or any of the following matters:

- (a) the imposition, repeal, remission, alteration or regulation of taxation;
- (b) the imposition, for the payment of debt or other financial purpose, of charges on public money or the variation or repeal of any such charges;
- (c) the grant of money to the State or to any authority or person, or the variation or revocation of any such grant;
- (d) the appropriation, receipt, custody, investment, issue or audit of accounts of public money;
- (e) the raising or guarantee of any loan or the repayment of such loan, or the establishment, alteration, administration or abolition of any sinking fund provided in connection with any such loan; or
- (f) subordinate matters incidental to any of the matters referred to in this subsection.

(2) In subsection (1) the expressions "taxation",

"debt", "public money" and "loan" do not include any taxation imposed, debt incurred or money provided or loan raised by any Local Government body for a local purpose.

(3) Where the office of Speaker is vacant or the Speaker is for any reason unable to perform any function conferred upon him by section 81 or 82 or subsection (1) that function may be performed by the Deputy Speaker.

(4) A certificate of the Speaker or the Deputy Speaker under section 81 or 82 shall be conclusive for all purpose and shall not be questioned in any court.

(5) Before giving any certificate under section 81 or 82 the Speaker or the Deputy Speaker, as the case may be, shall consult the Attorney General or, if the Attorney General is absent from the seat of Government, such legal officer in the Ministry of the Attorney General as the Attorney General may designate for that purpose.

**Appointment of
certain Select or
Joint Select
Committees**

84.(1) Subject to subsection (2), it is hereby declared that -

- (a) in addition to any other Joint Select Committee which Parliament is empowered to appoint under its Standing Orders, Parliament shall, within one month of the first meeting of the House of Representatives after a general election, or such time as the Parliament may resolve not being later than three months after the general election, appoint Joint Select Committees to inquire into and report to both Houses of Parliament in respect of -

- (i) **Government Departments,**

Ministries, and Local Government bodies;

- (ii) Statutory Bodies or Authorities, and Enterprises owned or controlled by or on behalf of the State or which received funding from the State of more than two thirds of its total income in any one year;
 - (iii) Foreign Affairs;**
 - (iv) Energy;**
 - (v) Public Accounts;**
 - (vi) subject to section 86, Service Commissions,
in relation to their administration, the manner of the exercise of their functions, their methods of functioning and any criteria adopted by them in the exercise of their functions;
- (b) for the purpose of this section, an enterprise shall be taken to be controlled by the State if the Government or any body controlled by the Government -
- (i) exercises or is entitled to exercise control directly or indirectly over the affairs of the enterprise;
 - (ii) is entitled to appoint a majority of the directors of the Board of Directors of the enterprise; or
 - (iii) holds at least fifty per cent of the ordinary share capital of the enterprise,

- as the case may be;
- (c) a Committee appointed for the purpose set out in paragraph (a) may -
 - (i) appoint sub-committees from among its members and delegate any of its functions to such sub-committee;
 - (ii) adjourn from place to place;
 - (iii) appoint specialist advisers to assist its members in their deliberations;
 - (d) subject to any order of the House or resolution of a Committee, the sitting of that Committee shall be held in public;
 - (e) a Committee appointed for the purpose set out in paragraph (a) shall make a report of its opinion and observations which shall be laid in both Houses of Parliament.

(2) A Joint Select Committee in the exercise of its functions under subsection (1) shall not enquire into the validity of the exercise of the functions of a body referred to in subsection (1)(a) nor modify, alter, rescind or in any way interfere with the decision of any such body.

(3) A Joint Select Committee, in the exercise of its functions under subsection (1), is entitled to examine the annual report of a body referred to in subsection (1)(a), to determine the time when such report shall be submitted to the Committee and to determine the general contents of such reports, and, when such reports are not submitted to the Committee on time, to summon the relevant person before the Committee to explain the delay.

(4) Subject to this section, the Standing Orders of the

Parliament shall apply to a Committee appointed under this section.

(5) Subject to the Standing Orders of Parliament, a Committee may regulate its own procedure.

**Reports of
Service
Commissions**

85. Subject to section 86, each Service Commission shall submit to the President, before 1st October in each year, a report on its administration, the manner of the exercise of its functions, its methods of functioning and any criteria adopted by it in the exercise of its functions in the previous year and the President shall cause the report to be laid in each House within sixty days of receipt.

**Exemption of
and reporting by
Judicial and
Legal Service
Commission**

86.(1) Sections 84 and 85 shall not apply to the Judicial and Legal Service Commission.

(2) The Judicial and Legal Service Commission shall submit to the President, before 1st October in each year, a report on the exercise of its functions in the previous year, describing the procedures followed and any criteria adopted by it in the exercise of its functions, and the President shall cause the report to be laid in each House within sixty days of receipt.

**Report of
Government
Ministries, etc.**

87. A body, authority or enterprise listed in section 84(1)(a)(i) and (ii) shall submit to the President, before 1st July in each year, a report on the exercise of its functions in the previous year, describing the procedures followed and any criteria adopted by it in the exercise of its functions and the President shall cause the report to be laid in each House within sixty days of receipt.

Part III

Summoning, Prorogation and Dissolution

Sessions of Parliament

88.(1) Each session of Parliament shall be held at such place within Trinidad and Tobago and shall commence at such time as the President may by Proclamation appoint.

(2) There shall be a session of each House once at least in every year, so that a period of six months shall not intervene between the last sitting of Parliament in one session and the first sitting thereof in the next session.

Prorogation and dissolution of Parliament

89.(1) The President may at any time prorogue or dissolve Parliament.

(2) Subject to subsection (3), Parliament, unless sooner dissolved, shall continue for five years from the date of its first sitting after any dissolution, and shall then stand dissolved.

(3) At any time when Trinidad and Tobago is at war, Parliament may extend the period of five years specified in subsection (2) for not more than twelve months at a time, but the life of Parliament shall not be extended under this subsection for more than five years.

(4) Where, between a dissolution of Parliament and the next ensuing general election, an emergency arises of such a nature that in the opinion of the President, it is necessary for the two Houses to be summoned before that general election can be held, the President may summon the two Houses of the preceding Parliament but the election of members of the House of Representatives shall proceed and the Parliament that has been summoned shall, if not sooner dissolved, again stand dissolved on the day on which the general election is held.

**General election
or bye-election**

90.(1) A general election shall be held at such time within three months after every dissolution of Parliament as the President shall appoint.

(2) Where a vacancy occurs in the House of Representatives within the first four years of the life of the Parliament a bye-election shall be held to fill such vacancy.

PART IV

Elections and Boundaries Commission

Constituencies

91.(1) Trinidad and Tobago shall be divided into forty-one constituencies or such other number as may be provided for by an Order made by the President in accordance with this Part and each such constituency shall elect one member to the House of Representatives.

(2) Not less than two such constituencies shall be in the Island of Tobago.

**Elections and
Boundaries
Commission**

92.(1) There shall be an Elections and Boundaries Commission for Trinidad and Tobago (in this Part referred to as "the Commission").

(2) The members of the Commission shall be a Chairman and not less than two nor more than four other members.

(3) The members of the Commission, including its Chairman, shall be appointed by the President, after consultation with the Minority Leader.

(4) A person shall not be qualified to hold office as a member of the Commission who is a Minister, a member of the House of Representatives or the Senate, a temporary member of the Senate, a member of the House of Assembly or of a

Local Government body, or a public officer.

(5) Subject to this section, a member of the Commission shall vacate his office -

(a) at the expiration of five years from the date of his appointment, but is eligible for re-appointment; or

(b) where any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified for appointment as such.

(6) Three members of the Commission shall constitute a quorum.

(7) Where there is a quorum, the Commission shall not be disqualified for the transaction of business by reason of a vacancy among its members, and any proceeding of the Commission shall be valid even though some person who was not entitled so to do took part in the proceeding.

(8) The Commission may regulate its own procedure.

(9) The Commission shall be provided with adequate staff and resources for the efficient and expeditious discharge of its functions.

(10) The salaries and allowances of the staff of the Commission shall be a charge on the Consolidated Fund.

Functions of the Commission

93.(1) The Commission shall not be subject to the direction or control of any other person or authority in the exercise of its functions.

(2) It shall be the function of the Commission to direct and supervise the registration of voters and the conduct of elections in every constituency.

(3) It shall be the function of the Commission to

adjudicate on all matters arising out of, before and after the conduct of an election, and, subject to subsection (4), the Commission shall give its decision within one week from the date the matter is filed with the Commission.

(4) The period specified in subsection (3) may be extended by a Judge in Chambers only once and for not more than one week.

(5) A person aggrieved by a decision of the Commission under this section is entitled to apply for judicial review to the High Court.

(6) Notwithstanding any law to the contrary and that an application is filed under subsection (5), the High Court, prior to its final decision, shall have no power to grant an injunction to prevent the decision of the Commission from being implemented.

**Procedure for
review of
constituency
boundaries**

94.(1) The Commission shall, in accordance with this section, review the number and boundaries of the constituencies into which Trinidad and Tobago is divided and submit to the President and the Speaker for presentation to the House of Representatives in accordance with this section reports either -

- (a) showing the constituencies into which it recommends that Trinidad and Tobago should be divided in order to give effect to the rules set out in the Second Schedule; or
- (b) stating that, in the opinion of the Commission, no alteration is required to the existing number or boundaries of constituencies in order to give effect to the

**Second
Schedule**

said rules.

(2) The Commission shall submit a report under subsection (1) not less than two nor more than five years from the date of the submission of its last report.

(3) As soon as may be after the Commission has submitted a report under subsection (1)(a), the Minister designated by the President for this purpose (in this section called "the Minister") shall lay before the House of Representatives for its approval the draft of an Order by the President for giving effect, whether with or without modifications, to the recommendations contained in the report, and that draft may make provision for any matters which appear to the Minister to be incidental to or consequential upon the other provisions of the draft.

(4) Where any draft made under this section gives effect to any such recommendations with modifications, the Minister shall lay before the House of Representatives together with the draft a statement of the reasons for the modifications.

(5) Where the motion for the approval of any draft made under this section is rejected by the House of Representatives, or is withdrawn by leave of that House, the Minister shall amend the draft and lay the amended draft before the House of Representatives.

(6) Where any draft made under this section is approved by resolution of the House of Representatives, the Minister shall submit it to the President who shall make the Order in terms of the draft.

(7) An Order made under subsection (6) shall come into force on such day as may be specified in the Order and, until revoked by a further Order made by the President in accordance with this section, shall have the force of law.

(8) The question of the validity of an Order by the President purporting to be made under this section and reciting that a draft of the Order has been approved by resolution of the House of Representatives shall not be enquired into in any court.

PART V

System of Balloting

System of balloting

95.(1) The election of members of the House of Representatives shall be by secret ballot and in accordance with the first-past-the-post system.

(2) For the purpose of subsection (1), the votes shall be cast in ballot boxes of a design calculated to ensure their efficiency, confidentiality and reliability.

CHAPTER 5

EXECUTIVE POWERS

The Cabinet

96.(1) There shall be a Cabinet for Trinidad and Tobago which shall have the general direction and control of the Government and shall be collectively responsible thereof to Parliament.

(2) The executive authority of Trinidad and Tobago shall be vested in the President and, subject to this Constitution, may be exercised by him directly or through officers subordinate to him.

(3) Subject to subsection (4), the Cabinet shall consist of not more than twenty-five members selected by the President in his discretion.

(4) The members of the Cabinet shall include the

President, the Vice-President, the Attorney General, the two Majority Leaders from both Houses, and subject to section 97(2) such numbers of Ministers as the President may consider appropriate.

Appointment of Ministers

97.(1) Subject to subsection (2), the Ministers shall be such persons as the President shall appoint from among persons who are qualified to be elected as members of the House of Representatives.

(2) The President shall appoint not more than four members of –

(a) the Senate; and

(b) the House of Representatives,

as Ministers.

(3) Except in the case of a person acting as a Minister, a Minister shall not hold any other office of emolument or profit whether in the public service or otherwise, nor engage in any occupation for reward other than the duties of his office.

Tenure of office of Ministers

98.(1) A Minister shall vacate his office -

(a) when, subject to subsection (3), a person is appointed or reappointed as President;

(b) where for any reason, other than a dissolution of Parliament, he ceases to be a member of the House from among the members of which he was appointed;

(c) where his appointment is revoked by the President.

(2) Where at any time a Minister, who is a member of any House, is required under section 56(3) or 63(3) to cease to

perform his functions as a member of the House to which he belongs, he shall cease during such time to perform his functions as Minister.

(3) Where the office of the President becomes vacant under section 46 -

(a) the Vice President shall perform the functions of the President; and

(b) the Ministers shall continue to hold office, until a new President is elected and assumes office in accordance with section 43(2).

Allocation of portfolios to Ministers

99.(1) The President may, by directions in writing, assign to any Minister responsibility for any business of the Government, including the administration of any department of Government.

(2) Notwithstanding subsection (1), the President shall appoint a member of the Senate or the House of Representatives as the Minister of Justice, whose portfolio shall be responsibility for such administrative matters relating to the Judiciary as may be prescribed.

(3) Subject to subsection (1), the Attorney General shall be responsible for the administration of legal affairs in Trinidad and Tobago and legal proceedings for and against the State shall be taken -

(a) in the case of civil proceedings, in the name of the Attorney General;

(b) in the case of criminal proceedings, in the name of the State.

(4) Where a Minister is assigned responsibility for any department of Government, he shall exercise general direction and control over that department.

(5) Subject to section 97, where a Minister is incapable of performing his functions by reason of his absence from Trinidad and Tobago or by reason of illness or otherwise, the President may appoint any person to act in the office of such Minister during such incapacity.

**Oath to be taken
by Ministers**

100. A Minister shall not enter upon the duties of his office unless he has taken and subscribed the oath of allegiance and oath for the due execution of his office as set out in the First Schedule.

First Schedule

**Exercise of
President's
functions**

101.(1) In the exercise of his functions under this Constitution or any other law, the President shall act in accordance with the advice of Cabinet or a Minister acting under the general authority of the Cabinet, 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 -

- (a) in his discretion;
- (b) after consultation with any person or authority other than the Cabinet; or
- (b) in accordance with the advice of any person or authority other than the Cabinet.

(2) Where by this Constitution the President is required to act in accordance with the advice of, or after consultation with, any person or authority, the question whether he has in any case so acted shall not be enquired into in any court.

**President to
inform
Parliament
concerning
matters of
Government**

102. The President shall keep the Parliament fully informed concerning the general conduct of the Government by addressing a joint sitting of the House of Representatives and the Senate at least once per year and may do so at any other time during the year as he considers appropriate.

Majority Leaders

103.(1) The President in his discretion shall appoint a member of the House of Representatives as the Majority Leader of the House of Representatives and a member of the Senate as the Majority Leader of the Senate.

(2) The members appointed under subsection (1) shall be members of the Cabinet and may be appointed as Ministers.

(3) Where the Majority Leader of any House is unable for any reason to perform his functions -

(a) the President in his discretion shall appoint another member of that House;

(b) and the President is unable for any reason to exercise his power under paragraph (a), the members of that House shall immediately select from among their members a member,

temporarily to perform the functions of the Majority Leader until the Majority Leader resumes the performance of his functions.

(4) A member appointed under subsection (3)(a) shall, after his appointment, be a member of the Cabinet but a member appointed under subsection (3)(b) shall, after his appointment if he is not a member of Cabinet, not be a member of the Cabinet.

Minority Leader

104.(1) There shall be an office of Minority Leader and, subject to subsection (2), appointments to that office shall be made by the Speaker.

(2) A Minority Leader shall be elected by a majority vote of the members of the House of Representatives who do not support the Government.

(3) The candidate who -

(a) is unopposed; or

(b) obtains the greatest number of the votes cast,

for the office of Minority Leader shall be declared by the Speaker to be so elected.

(4) The Speaker shall preside over the proceedings mentioned under subsection (2) to elect the Minority Leader but shall have no vote.

(5) A Minority Leader elected under subsection (2) shall be elected by the members voting by public ballot.

(6) Where the votes cast for two or more candidates are equally divided, fresh election for the office of Minority Leader shall be held as soon as practicable.

(7) The office of Minority Leader shall become vacant where the Minority Leader -

(a) resigns his office by writing signed by him and addressed to the Speaker or, if the office of the Speaker is vacant, to the Clerk of the House;

(b) ceases to be a member of the House of Representatives for any reason other than a dissolution of Parliament;

(c) is not a member of the House of Representatives when the House of

Representatives first meets after a dissolution of Parliament;

- (d) by virtue of section 63(3), is required to cease to exercise his functions as a member of the House of Representatives;
- (e) dies; or
- (f) is required to cease to exercise his functions when his appointment as the Minority Leader is revoked under subsection (9).

(8) Subject to subsection (9), the Minority Leader shall vacate his office where the members of the House of Representatives who do not support the Government pass a resolution, supported by the votes of a majority of all those members, declaring that it has no confidence in the Minority Leader

(9) Where a resolution is passed under subsection (8), the Speaker shall immediately revoke the appointment of the Minority Leader, but, without prejudice to the revocation, the Minority Leader shall continue to hold office until a new Minority Leader is elected and assumes office.

(10) Nothing in subsections (8) and (9) shall apply while Parliament is dissolved.

(11) Where the office of Minority Leader is vacant for any 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.

Permanent Secretaries

105.(1) Subject to section 99(4), a department of Government shall be under the management of a Permanent Secretary, whose office shall be a public office.

(2) A candidate for the position of Permanent Secretary may be selected from either the private or public sector.

(3) Subject to subsection (4), the Public Service Commission shall appoint every Permanent Secretary on contract for a period not exceeding five years, and the officeholder is eligible for re-appointment.

(4) A person shall not be appointed as a Permanent Secretary if the President signifies to the Public Service Commission his objection to the appointment of that person.

(5) Notwithstanding section 3(4)(c)(ii), a person appointed under this section shall be a public officer.

(6) Subject to section 123, the President shall have the power to transfer any Permanent Secretary or Deputy Permanent Secretary from one such office to another such office carrying the same salary.

(7) Where a public officer is appointed under this section and his term of office comes to an end, other than by removal, he is entitled to resume duties in -

(a) his former office; or

(b) a similar or an equivalent office to his former office,

in the public service.

(8) For the purpose of this section-

(a) two or more departments of Government may be placed under the management of one Permanent Secretary; or

- (b) two or more Permanent Secretaries may manage any department of Government assigned to a Minister.

Constitution of offices, etc.

106. Subject to this Constitution and any other law, the President may constitute offices for Trinidad and Tobago, make appointments to any such office and terminate any such appointment.

Powers of pardon, etc

107.(1) The President may grant to any person a pardon, either free or subject to lawful conditions, in respect of any offence that he may have committed.

(2) The power of the President under subsection (1) may be exercised by him either before or after the person is charged with any offence and before he is convicted of an offence.

(3) The President may -

- (a) grant to any person convicted of any offence against the laws of Trinidad and Tobago a pardon, either free or subject to lawful conditions;
- (b) grant to any person a respite, either indefinite or for a specified period, from the execution of any punishment imposed on that person for such an offence;
- (c) substitute a less severe form of punishment for that imposed by any sentence for such an offence; or
- (d) remit the whole or any part of any sentence passed for such an offence or any penalty or forfeiture otherwise due to the State on

account of such an offence.

(4) The power of the President under subsection (3) may be exercised by him after consultation with the Advisory Committee on the Power of Pardon.

**Advisory
Committee on
the Power of
Pardon**

108. There shall be an Advisory Committee on the Power of Pardon which shall consist of -

- (a) the Attorney General, who shall be the Chairman;**
- (b) the Director of Public Prosecutions;
- (c) one Minister designated by the President;
and
- (d) four other members appointed by the President, after consultation with the Minority Leader.

**Functions of
Advisory
Committee**

109.(1) Where an offender has been sentenced to death by any court for an offence against the law of Trinidad and Tobago, **the Attorney General shall obtain a written report of the case from the trial Judge, and shall submit the same, together with such other information derived from the record of the case or elsewhere as the Attorney General may require, to the Advisory Committee for its consideration.**

(2) The President shall consult with the Chairman of the Advisory Committee before making a decision in any case falling within section 107.

(3) The President is not obliged in any case to act in accordance with the advice of the Advisory Committee.

(4) The Advisory Committee may regulate its own procedure.

CHAPTER 6

THE DIRECTOR OF PUBLIC PROSECUTIONS AND THE OMBUDSMAN

PART I

Director of Public Prosecutions

**Appointment,
tenure and
functions**

110.(1) This section shall have effect with respect to the conduct of prosecutions.

(2) There shall be a Director of Public Prosecutions for Trinidad and Tobago whose office shall be a public office.

(3) The Director of Public Prosecutions shall exercise his powers and discharge his functions under this Constitution and any other law as follows:

(a) in matters directly involving official secrets, terrorism and State to State relations, with the prior approval of the Attorney General; and

(b) in relation to criminal proceedings, in his discretion.

(4) The Attorney General shall, if requested to do so by the Director of Public Prosecutions, consult with the Director of Public Prosecutions with respect to matters concerning the exercise of the powers and discharge of the functions of the Director of Public Prosecutions under this Constitution and any other law.

(5) The Director of Public Prosecutions shall, if requested to do so by the Attorney General, consult with the Attorney General with respect to matters concerning the exercise of the powers and discharge of the functions of the Director of Public Prosecutions under this

Constitution and any other law.

(6) Notwithstanding subsections (4) and (5), the Director of Public Prosecutions shall be under no obligation or duty to accept any direction given or proposal made by the Attorney General during the consultations mentioned in subsections (4) and (5).

(7) Subject to subsection (3)(a), the Director of Public Prosecutions shall exercise his powers and discharge his functions under this Constitution and any other law independent of the control and direction of any other person or authority and shall be free and independent from political, executive and any other form of interference.

(8) The Director of Public Prosecutions shall have power in any case in which he considers it proper to do so -

- (a) to institute and undertake criminal proceedings against any person before any court in respect of any offence against the laws of Trinidad and Tobago;
- (b) to take over and continue any criminal proceedings that may have been instituted by any other person or authority;
- (c) to discontinue at any stage before judgment is delivered any criminal proceedings instituted or undertaken by himself or any other person or authority.

(9) The powers conferred upon the Director of Public Prosecutions by subsection (8)(b) and (c) shall be vested in him to the exclusion of the person or authority who instituted or undertook the criminal proceedings, except that a person or authority that has instituted criminal proceedings may withdraw

them at any stage before the person against whom the proceedings have been instituted has been charged before the court.

(10) For the purpose of this section, a reference to criminal proceedings includes an appeal from the determination of any court in criminal proceedings or a case stated or a question of law reserved in respect of those proceedings.

(11) The powers of the Director of Public Prosecutions under subsection (8) may be exercised by him in person or through other persons acting under and in accordance with his general or special instructions.

(12) The Director of Public Prosecutions shall submit to the Attorney General, before 31st August in each year, an annual report on the administration of his office and the exercise of his powers and discharge of his functions under this Constitution and any other law, and the Attorney General shall cause the report to be laid within sixty days thereafter in each House.

PART II

Ombudsman

Appointment and conditions of office

111.(1) There shall be an Ombudsman for the Republic of Trinidad and Tobago who shall be an officer of Parliament.

(2) The Ombudsman shall not hold any other office of emolument whether in the public service or otherwise nor engage in any occupation for reward other than the duties of his office.

(3) The Ombudsman shall be appointed by the President after consultation with the Minority Leader, President of the Senate and Speaker of the House of

Representatives.

(4) The Ombudsman shall hold office for a term not exceeding five years and is eligible for re-appointment.

(5) Subject to subsection (4), the Ombudsman shall hold office in accordance with section 181.

(6) Before entering upon the duties of his office, the Ombudsman shall take and subscribe the oath of office set out in the First Schedule before the Speaker of the House of Representatives.

First Schedule

Staff

112.(1) The Ombudsman shall be provided with adequate staff and resources for the efficient and expeditious discharge of his functions.

(2) The staff of the Ombudsman shall be public officers appointed in accordance with section 159(13).

(3) Notwithstanding subsection (2), the Ombudsman may employ such members of staff as he requires for the performance of his functions on such terms and conditions as are agreed upon between the employee and the Ombudsman.

Functions of Ombudsman

113.(1) Subject to this section and to sections 114 and 116, the principal function of the Ombudsman shall be to investigate any decision or recommendation made, including any advice given or recommendation made to a Minister, or any act done or omitted by any department of Government or any other authority to which this section applies, or by officers or members of such a department or authority, being action taken in exercise of the administrative functions of that department or authority.

(2) The Ombudsman may investigate any such

matter in any of the following circumstances:

- (a) where a complaint is duly made to the Ombudsman by any person alleging that the complainant has sustained an injustice as a result of a fault in administration;
- (b) where a member of the House of Representatives requests the Ombudsman to investigate the matter on the ground that a person or body of persons specified in the request has or may have sustained such injustice;
- (c) in any other circumstances in which the Ombudsman considers that he ought to investigate the matter on the ground that some person or body of persons has or may have sustained such injustice.

(3) The authorities, other than departments of Government, to which this section applies are -

- (a) local authorities or other bodies established for purpose of the public service or of local Government;
- (b) authorities or bodies the majority of whose members are appointed by the President or by a Minister or whose revenues consist wholly or mainly of moneys provided out of public funds;
- (c) any authority empowered to determine the person with whom any contract shall be entered into by or on behalf of Government;
- (d) such other authorities as may be

prescribed.

(4) Where a public officer makes a written complaint to a Service Commission for a review of the Service Commission's decision and the Commission fails to act on the request within a reasonable time, the Ombudsman may investigate the inaction.

Restrictions on matters for investigations

114.(1) In investigating any matter leading to, resulting from or connected with the decision of a Minister, the Ombudsman shall not inquire into or question the policy of the Minister in accordance with which the decision was made.

(2) The Ombudsman shall have power to investigate complaints of administrative injustice under section 113 notwithstanding that such complaints raise questions as to the integrity or corruption of the public service or any department or office of the public service, and may investigate any conditions resulting from, or calculated to facilitate or encourage corruption in the public service, but he shall not undertake any investigation into specific charges of corruption against any person.

(3) Where in the course of an investigation it appears to the Ombudsman that there is evidence of any corrupt act by any public officer or by any person in connection with the public service, he shall report the matter to the appropriate authority with his recommendation as to any further investigation he may consider proper.

- (4) The Ombudsman shall not investigate -
- (a) any action in respect of which the complainant has or had -
 - (i) a remedy by way of proceedings in a court; or

Third Schedule

- (ii) a right of appeal, reference or review to or before an independent and impartial tribunal other than a court; or
 - (b) any such action or action taken with respect to any matter set out in the Third Schedule.
- (5) Notwithstanding subsection (4), the Ombudsman-
 - (a) may investigate a matter notwithstanding that the complainant has or had a remedy by way of proceedings in a court if satisfied that in the particular circumstances it is not reasonable to expect him to take or to have taken such proceedings;
 - (b) is not in any case precluded from investigating any matter by reason only that it is open to the complainant to apply to the High Court for redress under section 27.

Discretion of Ombudsman

115. In determining whether to initiate, continue or discontinue an investigation, the Ombudsman shall, subject to sections 113 and 114, act in his discretion and, in particular and without prejudice to the generality of this discretion, the Ombudsman may refuse to initiate or may discontinue an investigation where it appears to him that -

- (a) a complaint relates to action of which the complainant has knowledge for more than twelve months before the complaint was received by the Ombudsman;
- (b) the subject matter of the complaint is trivial;

- (c) the complaint is frivolous or vexatious or is not made in good faith; or
- (d) the complainant does not have a sufficient interest in the subject matter of the complaint.

**Report on
investigation**

116.(1) Where a complaint or request for an investigation is duly made and the Ombudsman decides not to investigate the matter or where he decides to discontinue an investigation of the matter, he shall inform the person who made the complaint or request of the reasons for his decision.

(2) Subject to subsection (3), upon the completion of an investigation the Ombudsman shall inform the department of Government or the authority concerned of the results of the investigation and if he is of the opinion that any person has sustained an injustice in consequence of a fault in administration, he shall inform the department of Government or the authority of the reasons for his opinion and make such recommendations as he thinks fit.

(3) The Ombudsman may in his original recommendations under subsection (2), or at any later stage if he thinks fit, specify the time within which the injustice should be remedied.

(4) Where the investigation is undertaken as a result of a complaint or request, the Ombudsman shall inform the person who made the complaint or request of his findings.

(5) Where the matter is in the opinion of the Ombudsman of sufficient public importance or where the Ombudsman has made a recommendation under subsection (2) and within the time specified by him under subsection (3) no sufficient action has been taken to remedy the injustice, then,

subject to such provision as may be made by Parliament, the Ombudsman shall lay a special report on the case before Parliament.

(6) Where the Ombudsman decides to lay a special report before Parliament under subsection (5), such report shall be presented by him or a representative appointed by him before a Joint Select Committee of Parliament.

(7) The Joint Select Committee of Parliament, after considering the special report, shall recommend to Parliament for its urgent consideration the steps it considers should be taken to address the issues set out in the report.

(8) The Ombudsman shall make an annual report on the performance of his functions to Parliament which shall include statistics in such form and in such detail, as may be prescribed, of the complaints received by him and the results of his investigations.

Power to request reasons

117.(1) Where a complaint has been made against a department of Government or an authority referred to in section 114(3), the Ombudsman shall have the power to request from the Permanent Secretary reasons for the omission or decision that has given rise to the complaint.

(2) Where a request has been made under subsection (1), the Permanent Secretary shall forward the reasons to the Ombudsman within twenty-one days from the date of receipt of the request.

Power to obtain evidence

118.(1) The Ombudsman shall have the powers of the High Court to summon witnesses to appear before him and to

compel them to give evidence on oath and to produce documents relevant to the proceedings before him and all persons giving evidence at those proceedings shall have the same duties and liabilities and enjoy the same privileges as in the High Court.

(2) The Ombudsman shall have power to enter and inspect the premises of a department of Government or of an authority referred to in section 113(3), to call for, examine and where necessary retain any document kept on such premises and there to carry out any investigation in pursuance of his functions.

(3) Subject to section 119(3), where a complaint has been made in relation to information contained in any Cabinet documents or confidential income tax documents, the Ombudsman is entitled to examine those documents on the premises where they are kept to determine the nature of any decision made in relation to the complaint.

**Prescribed
matters
concerning
Ombudsman**

119.(1) Subject to subsection (2), Parliament may make provision -

- (a) for regulating the procedure for the making of complaints and requests to the Ombudsman and for the exercise of the functions of the Ombudsman;
- (b) for conferring such powers on the Ombudsman and imposing such duties on persons concerned as are necessary to facilitate the Ombudsman in the performance of his functions; and
- (c) generally for giving effect to this Part.

(2) The Ombudsman may not be empowered to

summon a Minister to appear before him or to compel a Minister to answer any questions relating to any matter under investigation by the Ombudsman.

(3) The Ombudsman may not be empowered to summon any witness to produce any Cabinet papers or to give any confidential income tax information.

(4) No complainant may be required to pay any fee in respect of his complaint or request or for any investigation to be made by the Ombudsman.

(5) No proceedings, civil or criminal, may lie against the Ombudsman, or against any person holding an office or appointment under him for anything he may do, report or say in the course of the exercise or intended exercise of the functions of the Ombudsman under this Constitution, unless it is shown that he acted in bad faith.

(6) The Ombudsman, and any person holding office or appointment under him, may not be called to give evidence in any court, or in any proceedings of a judicial nature, in respect of anything coming to his knowledge in the exercise of his functions.

(7) Anything said or any information supplied or any document, paper, or thing produced by any person in the course of any enquiry by or proceedings before an Ombudsman under this Constitution is privileged in the same manner as if the enquiry or proceedings were proceedings in a court.

(8) No proceeding of the Ombudsman may be held bad for want of form, and, except on the ground of lack of jurisdiction, no proceeding or decision of the Ombudsman is liable to be challenged, reviewed, quashed or called in question in any court.

CHAPTER 7

THE JUDICATURE

PART I

The Supreme Court

Establishment of Supreme Court

120.(1) There shall be a Supreme Court of Judicature of the Republic of Trinidad and Tobago consisting of a High Court of Justice (hereinafter referred to as "the High Court") and a Court of Appeal with such jurisdiction and powers as are conferred on those Courts respectively by this Constitution or any other law.

(2) There shall be a Chief Justice of the Republic of Trinidad and Tobago (hereinafter referred to as "the Chief Justice") who shall be the head of the Judiciary.

Independence of the Judiciary

121. The Judiciary shall be independent in the exercise of its judicial functions.

Judiciary to report to Parliament

122. The Chief Justice shall prepare and submit to the President, before 31st August in each year, an annual report on the judicial functioning of the Judiciary, and the President shall cause the report to be laid within sixty days thereafter in each House.

Permanent Secretary of the Judiciary

123.(1) There shall be a Permanent Secretary of the Judiciary, whose office shall be a public office.

(2) **The Permanent Secretary of the Judiciary shall be appointed by the Public Service Commission after consultation with the Chief Justice.**

(3) **Section 105(2), (3), (4), (5) and (7) shall apply**

to the Permanent Secretary of the Judiciary as they apply to any other Permanent Secretary.

(4) The power to transfer the Permanent Secretary of the Judiciary shall vest in the President, but he shall exercise this power only after prior consultation with the Chief Justice.

(5) The Permanent Secretary of the Judiciary shall -

- (a) be the accounting officer of the Judiciary for the purpose of the Exchequer and Audit Act;
- (b) serve as the public functionary between the Government and the Judiciary, and shall report to the Minister of Justice;
- (c) be responsible for preparing the annual report on the administrative functioning of the Judiciary; and
- (d) perform such other functions as may be prescribed.

(6) Where the office of Permanent Secretary of the Judiciary becomes vacant due to death, resignation, removal from office or for any other reason, the functions of the office of the Permanent Secretary of the Judiciary shall be performed by a person appointed by the President after consultation with the Chief Justice and that person shall hold that office until a person has been appointed in accordance with this section and has assumed the office of the Permanent Secretary of the Judiciary.

(7) Where the Permanent Secretary of the Judiciary is for any reason unable to perform the functions of his office, until the Permanent Secretary of the Judiciary

has resumed those functions, those functions shall be performed by a person appointed by the President, after consultation with the Chief Justice.

Constitution of High Court

124.(1) The judges of the High Court shall be the Chief Justice, who shall be *ex officio* a Judge of that Court, and such number of Puisne Judges as may be prescribed.

(2) The High Court shall be a superior court of record and, save as otherwise provided by Parliament, shall have all the powers of such a court, including all such powers as are vested in the Supreme Court of the Republic of Trinidad and Tobago immediately before the commencement of this Constitution.

Transfer of High Court jurisdiction

125. Subject to this Constitution, Parliament may confer on any court any part of the jurisdiction of and any powers conferred on the High Court by this Constitution or any other law.

Concurrent jurisdiction

126.(1) The jurisdiction and powers of a Justice of Appeal may be exercised by such Puisne Judge as may be designated by the Chief Justice to sit as an additional Justice of Appeal at sittings of the Court of Appeal.

(2) The jurisdiction and powers of a Puisne Judge may be exercised by such Justice of Appeal as may be designated by the Chief Justice to sit as an additional Puisne Judge.

The Court of Appeal

**Constitution of
Court of Appeal**

127.(1) The Judges of the Court of Appeal shall be the Chief Justice, who shall be the President of the Court of Appeal, and such number of Justices of Appeal as may be prescribed.

(2) The Court of Appeal shall be a superior court of record and, save as otherwise provided by Parliament, shall have all the powers of such a court, including all such powers as are vested in the Court of Appeal immediately before the commencement of this Constitution.

**Appointment of
Chief Justice**

128.(1) The President shall, after consultation with the Minority Leader and the President of the Law Association, nominate a person to be appointed as the Chief Justice.

(2) The President shall issue a Notification in respect of the person nominated under subsection (1) and the Notification shall be subject to negative resolution of the House of Representatives.

(3) The President shall make the appointment under this section only after the House of Representatives has not annulled the Notification.

(4) Where the Notification has been annulled by the House of Representatives, the President shall again comply with the process set out in this section.

**Office of Chief
Justice vacant**

129. Where the office of Chief Justice is vacant due to death, resignation or removal under section 144 or for any other reason, the functions of the office of the Chief Justice shall be performed by a Judge appointed by the President in

accordance with section 130, and that Judge shall hold that office until a person has been appointed in accordance with section 128 and has assumed the office of the Chief Justice.

**Acting
appointment as
Chief Justice**

130. Where the Chief Justice is for any reason unable to perform the functions of his office, until the Chief Justice has resumed those functions, those functions shall be performed by a Judge appointed by the President, after consultation with the Chief Justice (where possible), the Minority Leader and the President of the Law Association.

Appointment of Judges

**Appointment of
Judges**

131.(1) The Judges, other than the Chief Justice, shall be appointed by the President, acting in accordance with the advice of the Judicial and Legal Service Commission.

(2) Where -

- (a) the office of any such Judge is vacant;
- (b) a Judge is for any reason unable to perform the functions of his office;
- (c) a Justice of Appeal is acting as Chief Justice or a Puisne Judge is acting as a Justice of Appeal; or
- (d) the Chief Justice advises the President that the state of business of the Court of Appeal or the High Court so requires,

the President, acting in accordance with the advice of the Judicial and Legal Service Commission -

- (i) may appoint a person to act in the office of Justice of Appeal or Puisne Judge, as the case may require;

(ii) may, notwithstanding section 181, appoint a person who has held office as a Judge and who has attained the age of sixty-five to be temporarily a Puisne Judge for fixed periods of not more than two years.

(3) The appointment of any person under subsection (2) to act in the office of Justice of Appeal or Puisne Judge shall continue to have effect until it is revoked by the President, acting in accordance with the advice of the Judicial and Legal Service Commission.

**President to
consult Chief
Justice**

132. Notwithstanding section 131, the President shall consult the Chief Justice in relation to any matter mentioned in section 131 before the President acts in accordance with the advice of the Judicial and Legal Service Commission under that section.

**Qualifications of
Judges**

133. A person shall not be appointed as a Judge or to act as a Judge unless he has such qualifications for appointment as may be prescribed.

Tenure of office

134.(1) Subject to section 131(3), a Judge shall hold office in accordance with section 144 and 181.

(2) No office of Judge shall be abolished while there is a substantive holder of that office.

(3) A Judge shall vacate his office on attaining the age of sixty-five years or such other age as may be prescribed.

(4) Notwithstanding that he has attained the age at which he is required by subsection (3) to vacate his office, a Judge may, with the permission of the President, acting in

accordance with the advice of the Chief Justice, continue in office for such period not exceeding one year, after attaining that age, as may be necessary to enable him to deliver judgment, or to do any other thing in relation to proceedings that were commenced before him before he attained that age.

**Oath to be taken
by Judges**

135. A Judge shall not enter upon the duties of his office unless he has taken and subscribed the oath of allegiance and the oath for the due execution of his office set out in the First Schedule.

First Schedule

**Administration
of courts**

136.(1) The Chief Justice shall be responsible for the general administration and business of the Supreme Court.

(2) The Chief Justice shall have the power to -

- (a) establish such Divisions of the Supreme Court as he considers necessary for the expeditious and efficient discharge of the functions of the Supreme Court; and**
- (b) assign Judges to sit in such Divisions as he may consider appropriate, having regard to, among other things, the qualification and experience of the Judges concerned.**

(3) Subject to subsection (1), the Minister of Justice shall have control of administrative matters relating to the Judiciary as may be prescribed and the Minister shall, in the exercise of such administrative matters, first consult the Chief Justice.

Appeals on constitutional questions and fundamental rights, etc.

137. An appeal to the Court of Appeal shall be as of right from decisions of the High Court in the following, among other, cases:

- (a) any order or decision in any civil or criminal proceedings on questions as to the interpretation of this Constitution;
- (b) any order or decision given in exercise of the jurisdiction conferred on the High Court by section 27;
- (c) any order or decision of a court in the exercise of its jurisdiction to punish for contempt of court, including criminal contempt.

PART II

Appeals to the Caribbean Court of Justice

Interpretation of this Part

138. For the purpose of this Part, “Agreement” means the Agreement Establishing the Caribbean Court of Justice, signed at Bridgetown, Barbados, on 14th February, 2001, to which Trinidad and Tobago is a party.

Jurisdiction of the Caribbean Court of Justice

139.(1) The Caribbean Court of Justice shall be a superior court of record and shall have appellate jurisdiction conferred on it by this Constitution and any other law in accordance with Part III of the Agreement.

(2) A decision of the Caribbean Court of Justice shall be final.

Appeals from Court of Appeal to Caribbean Court of Justice

140.(1) An appeal shall lie from decisions of the Court of Appeal to the Caribbean Court of Justice as of right in the

following cases:

- (a) final decisions in civil proceedings where the matter in dispute on the appeal to the Caribbean Court of Justice is of the value of the equivalent in Trinidad and Tobago dollars of twenty-five thousand dollars Eastern Caribbean currency or upwards or where the appeal involves directly or indirectly a claim to or question respecting property or a right of the value of the equivalent in Trinidad and Tobago dollars of twenty-five thousand dollars Eastern Caribbean currency or upwards;
- (b) final decisions in proceedings for dissolution or nullity of marriage;
- (c) final decisions in any civil, criminal or other proceedings which involve a question as to the interpretation of this Constitution;
- (d) any case referred to in section 137;
- (e) final decisions in disciplinary matters under section 81(3) to (5) of the Supreme Court of Judicature Act, and under the Legal Profession Act; and
- (f) such other cases as may be prescribed.

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Chap. 90:03

(2) An appeal shall lie from decisions of the Court of Appeal to the Caribbean Court of Justice with the leave of the Court of Appeal in the following cases:

- (a) decisions in any civil proceedings, where in the opinion of the Court of Appeal the question involved in the appeal is one that, by reason of its great general or public

importance or otherwise, ought to be submitted to the Caribbean Court of Justice; and

(b) such other cases as may be prescribed.

(3) An appeal shall lie to the Caribbean Court of Justice with the special leave of the Caribbean Court of Justice from decisions of the Court of Appeal in any civil or criminal matter in any case in which, immediately before the date on which Trinidad and Tobago became a Republic, an appeal could have been brought with the special leave of Her Majesty to Her Majesty in Council from such decisions.

(4) Subsections (1), (2) and (3) are subject to sections 51(2) and 68(4).

(5) Subject to this section, provision may be made by or under any Act regulating the procedure to be adopted by the Court of Appeal with respect to any appeal to the Caribbean Court of Justice under this section or by parties to any such appeal.

(6) Any decision given by the Caribbean Court of Justice in any appeal under this section shall be enforced in like manner as if it were a decision of the Court of Appeal.

(7) Subject to subsection (6), the Caribbean Court of Justice shall, in relation to any appeal to it under this section in any case, have all the jurisdiction and powers possessed in relation to that case by the Court of Appeal.

Constitution,
tenure,
appointment,
etc.

141. The constitution of the Caribbean Court of Justice, the tenure, appointment, determination of terms and conditions of service and the power to remove and exercise disciplinary control of the Judges of the Caribbean Court of Justice shall be as provided for in the

Agreement.

PART III

Judicial and Legal Service Commission

**Judicial and
Legal Service
Commission**

142.(1) There shall be a Judicial and Legal Service Commission for Trinidad and Tobago.

(2) The Judicial and Legal Service Commission shall consist of seven members, who shall be appointed by the President in accordance with this section.

(3) The President shall nominate the seven members of the Commission as follows:

- (a)** a retired judge of a court having unlimited jurisdiction in civil and criminal matters in Trinidad and Tobago or a country listed under section 30(3) or a court having jurisdiction in appeal from any such court;
- (b)** three attorneys-at-law, two of whom shall be Senior Counsel;
- (c)** a person qualified and experienced in human resource;
- (d)** a person qualified and experienced in management; and
- (e)** a person who the President in his discretion considers a fit and proper person to be a member of the Commission.

(4) The President shall issue a Notification in respect of each person nominated for appointment under subsection (3) and the Notification shall be subject to

negative resolution of the House of Representatives.

(5) The President shall make an appointment under this section only after the House of Representatives has not annulled the Notification in respect of the relevant person.

(6) Where the Notification has been annulled by the House of Representatives, the President shall again comply with the process set out in this section.

(7) The members of the Commission shall appoint either the retired judge or one of the Senior Counsel to be the Chairman of the Commission.

(8) Notwithstanding section 173(2), any five members of the Commission shall constitute a quorum.

(9) The members of the Judicial and Legal Service Commission shall hold office in accordance with sections 169 and 170.

**Appointment of
judicial and legal
officers**

143.(1) Subject to this section, the Judicial and Legal Service Commission shall have, in relation to offices to which this section applies, the power to appoint persons to hold or act in such offices, and the power to -

- (a) make appointments on promotion of;
- (b) confirm appointments of;
- (c) transfer;
- (d) remove;
- (e) exercise disciplinary control over; and
- (f) enforce standards of conduct on,

such persons.

(2) Before the Judicial and Legal Service Commission makes an appointment to the offices of Solicitor General, Chief Parliamentary Counsel, Director of Public

Prosecutions, Registrar General or Chief State Solicitor it shall consult with the President.

(3) A person shall not be appointed to an office mentioned in subsection (2) if the President signifies to the Judicial and Legal Service Commission his objection to the appointment of that person to that office.

(4) This section applies to such public offices as may be prescribed, for appointment to which persons are required to possess legal qualifications.

**Removal from
office of Judge**

144.(1) A Judge may be removed from office only for inability to perform the functions of his office, (whether arising from infirmity of mind or body or any other cause), or for misbehaviour, and shall not be so removed except in accordance with this section.

(2) A Judge shall be removed from office by the President where the question of removal of that Judge has been referred by the tribunal, appointed under subsection (5)(a), to the Caribbean Court of Justice and the Caribbean Court of Justice has advised the President that the Judge ought to be removed from office for such inability or for misbehaviour.

(3) Where the President, after consultation with the Minority Leader and the President of the Law Association, is of the opinion that the question of the removal of the Chief Justice from office under this section ought to be investigated, the President shall comply with the procedure set out in subsection (5).

(4) Where the Judicial and Legal Service Commission represents to the President that the question of removing any other Judge from office under this section ought to be investigated, the President shall comply with

the procedure set out in subsection (5).

(5) The procedure for the removal of a Judge shall be as follows:

(a) the President shall appoint a tribunal, which shall consist of a chairman and not less than two other members, selected by the President -

(i) after consultation with the Minority Leader and the President of the Law Association, in the case of the Chief Justice; or

(ii) after consultation with the Judicial and Legal Service Commission, in the case of any other Judge,

from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in the Commonwealth or a court having jurisdiction in appeals from any such court;

(b) the tribunal shall enquire into the matter and where it is of the opinion that the question of removal of that Judge from office should be referred to the Caribbean Court of Justice, the tribunal shall so refer the question; and

(c) where the tribunal does not so refer the question under paragraph (b), it shall inform the President accordingly.

(6) Where the question of removing a Judge from office has been referred to a tribunal under subsection (5), the President, after consultation with -

- (a) the Minority Leader and the President of the Law Association, in the case of the Chief Justice; or**
- (b) the Chief Justice, in the case of any other Judge,**

may suspend the Chief Justice or the Judge, as the case may be, from performing the functions of his office.

(7) A suspension under subsection (6) may at any time be revoked by the President, after consultation with -

- (a) the Minority Leader and the President of the Law Association, in the case of the Chief Justice; or**
- (b) the Chief Justice, in the case of any other Judge.**

(8) Notwithstanding subsection (7), a suspension under subsection (6) shall cease to have effect -

- (a) where the tribunal informs the President that it has not referred the question of the removal of the Chief Justice or Judge from office to the Caribbean Court of Justice; or**
- (b) where the Caribbean Court of Justice advises the President that the Chief Justice or Judge ought not to be removed from office.**

CHAPTER 8

FINANCE

Establishment of Consolidated Fund

145.(1) All revenues or other moneys raised or received by Trinidad and Tobago, not being revenues or other moneys payable under this Constitution or any other law into some other public fund established for a specific purpose shall, unless Parliament otherwise provides, be paid into and form one Consolidated Fund.

(2) No moneys shall be withdrawn from the Consolidated Fund except to meet expenditure that is charged upon the Fund by this Constitution or any Act or where the issue of those moneys has been authorised by an Appropriation Act or an Act passed in pursuance of section 146 or in accordance with any other law.

(3) No moneys shall be withdrawn from any public fund other than the Consolidated Fund unless the issue of those moneys has been authorised by an Act.

(4) No moneys shall be withdrawn from the Consolidated Fund or any other public fund except in the manner prescribed.

Authorisation of expenditure from Consolidated Fund

146.(1) The Minister responsible for finance shall cause to be prepared and laid before the House of Representatives before or not later than thirty days after the commencement of each financial year estimates of the revenues and expenditure of Trinidad and Tobago for that year.

(2) The heads of expenditure contained in the estimates, other than expenditure charged upon the Consolidated Fund by this Constitution or any Act shall be included in a Bill, to be known as an Appropriation Bill,

providing for the issue from the Consolidated Fund of the sums necessary to meet that expenditure and the appropriation of those sums for the purposes specified therein.

- (3) If in respect of any financial year it is found -
 - (a) that the amount appropriated by the Appropriation Act for any purpose is insufficient or that a need has arisen for expenditure for a purpose for which no amount has been appropriated by the Act; or
 - (b) that any moneys have been expended for any purpose in excess of the amount appropriated for the purpose by the Appropriation Act or for a purpose for which no amount has been appropriated by the Act,

a supplementary estimate showing the sums required or spent shall be laid before the House of Representatives and the heads of any such expenditure shall be included in a Supplementary Appropriation Bill.

Authorisation of expenditure in advance of appropriation

147. Parliament may make provision under which, if the Appropriation Act in respect of any financial year has not come into operation by the beginning of that financial year, the Minister responsible for finance may authorise the withdrawal of moneys from the Consolidated Fund for the purpose of meeting expenditure necessary to carry on the services of the Government until the expiration of thirty days from the beginning of that financial year or the coming into operation of the Act, whichever is the earlier.

**Contingencies
Fund**

148.(1) Parliament may provide for the establishment of a Contingencies Fund and for authorising the Minister responsible for finance, if he is satisfied that there has arisen an urgent and unforeseen need for expenditure for which no other provision exists, to make advances from the Fund to meet that need.

(2) Where any advance is made in accordance with subsection (1) a supplementary estimate shall be presented and a Supplementary Appropriation Bill shall be introduced as soon as possible for the purpose of replacing the amount so advanced.

**Office and
functions of
Auditor General**

149.(1) There shall be an Auditor General for the Republic of Trinidad and Tobago, whose office shall be a public office.

(2) The public accounts of Trinidad and Tobago and of all officers, courts and authorities of Trinidad and Tobago shall be audited and reported on annually by the Auditor General, and for that purpose the Auditor General or any person authorised by him in that behalf shall have access to all books, records, returns and other documents relating to those accounts.

(3) The Auditor General is hereby empowered to carry out audits of the accounts, balance sheets and other financial statements of all enterprises that are owned or controlled by or on behalf of the State.

(4) The Auditor General shall submit his reports annually to the Speaker, the President of the Senate and the Minister responsible for finance.

(5) The President of the Senate and the Speaker shall cause the report to be laid before the Senate and the

House of Representatives, respectively, at the next sitting of the Senate and the House of Representatives after the receipt thereof, respectively.

(6) In the exercise of his functions under this Constitution, the Auditor General shall not be subject to the direction or control of any other person or authority.

Appointment of Auditor General

150.(1) Subject to this section, the Auditor General shall be appointed by the President and hold office in accordance with section 181.

(2) The President shall, after consultation with the Minority Leader, nominate a person to be appointed as the Auditor General.

(3) The President shall issue a Notification in respect of the person nominated under subsection (2) and the Notification shall be subject to negative resolution of Parliament.

(4) The President shall make the appointment under this section only after Parliament has not annulled the Notification.

(5) Where the Notification has been annulled by Parliament, the President shall again comply with the process set out in this section.

(6) Nothing done by the Auditor General shall be invalid by reason only that he has attained the age at which he is required under section 181 to vacate his office.

Oath by Auditor General

151. Before entering upon the duties of his office the Auditor General shall take and subscribe the oath of office set out in the First Schedule before the President or a person appointed by the President for the purpose.

First Schedule

Staff

152.(1) The Auditor General shall be provided with adequate staff and resources for the efficient and expeditious discharge of his functions.

(2) The staff of the Auditor General shall be public officers appointed in accordance with section 159(13).

Office of Auditor General vacant

153. Where the office of Auditor General is vacant due to death, resignation, removal from office or for any other reason, the functions of the office of the Auditor General shall be performed by a person appointed by the President in accordance with section 154, and that person shall hold that office until a person has been appointed in accordance with section 150 and has assumed the office of the Auditor General.

Acting appointment of Auditor General

154. Where the Auditor General is for any reason unable to perform the functions of his office, until the Auditor General has resumed those functions, those functions shall be performed by a person appointed by the President, after consultation with the Auditor General, where possible, and the Minority Leader.

Public debt

155.(1) The public debt of Trinidad and Tobago shall be secured on the revenues and assets of Trinidad and Tobago.

(2) In this section, reference to the public debt of Trinidad and Tobago includes reference to the interest on that debt, sinking fund payment in respect of that debt, and the cost, charge and expense incidental to the management of that debt.

Public Accounts Committee

156.(1) There shall be a Public Accounts Committee which shall consist of not less than six nor more than ten members.

(2) The Chairman of the Public Accounts Committee shall be a member of the majority of members of the House of Representatives who do not support the Government in the House, if any, and if willing to act.

(3) The Chairman and other members may comprise an equal number of members of the House of Representatives and the Senate as the House of Representatives may determine.

(4) Where no member of the majority of the members of the House of Representatives who do not support the Government in the House is willing to act as Chairman of the Public Accounts Committee, a member of the majority of the members of the Senate who do not support the Government in the Senate shall be so appointed and where no such member is willing so to act, then the Chairman shall be elected by and from among the members of the Senate.

(5) The Public Accounts Committee shall consider and report to the House of Representatives on -

- (a) appropriation accounts of moneys expended out of sums granted by Parliament to meet the public expenditure of Trinidad and Tobago;
- (b) such other accounts as may be referred to the Committee by the House of Representatives or as are authorised or required to be considered by the committee under any other enactment; and
- (c) the report of the Auditor General on any such accounts.

**Public Accounts
(Enterprises)
Committee**

157.(1) There shall be a Public Accounts (Enterprises) Committee which shall consist of not less than six nor more than ten members.

(2) The Chairman of the Public Accounts (Enterprises) Committee shall be a Senator, if willing to act, appointed in accordance with the advice of the Minority Leader and the other members shall be such members of the House of Representatives and Senators as the House of Representatives may determine.

(3) Where no member of the majority of the members of the Senate who do not support the Government in the Senate is willing to act as Chairman of the Public Accounts (Enterprises) Committee, a member of the majority of the members of the House of Representatives who do not support the Government in the House of Representatives shall be so appointed and where no such member is willing so to act, then the Chairman shall be elected by and from among the members of the Senate.

(4) The Public Accounts (Enterprises) Committee shall consider and report to the House of Representatives on -

- (a) the audited accounts, balance sheets and other financial statements of all enterprises that are owned or controlled by or on behalf of the State; and
- (b) the Auditor General's report on any such accounts, balance sheets and other financial statements.

(5) For the purpose of subsection (4) and section 148(3), an enterprise shall be taken to be controlled by the State if the Government or any body controlled by the

Government -

- (a) exercises or is entitled to exercise control directly or indirectly over the affairs of the enterprise;
- (b) is entitled to appoint a majority of the directors of the Board of Directors of the enterprise; or
- (c) holds at least fifty per cent of the ordinary share capital of the enterprise,

as the case may be.

CHAPTER 9

APPOINTMENTS TO, AND TENURE OF, OFFICES

PART I

SERVICE COMMISSIONS, ETC

Public Service Commission

Public Service
Commission

158.(1) There shall be a Public Service Commission for Trinidad and Tobago which shall consist of a Chairman, a Deputy Chairman, the Head of the Public Service as an *ex officio* member, and four other members.

(2) The members of the Public Service Commission, except the *ex officio* member, shall be appointed by the President in accordance with this section.

(3) The President shall, after consultation with the Minority Leader and subject to subsection (4), nominate persons to be appointed as members of the Public Service Commission.

(4) The persons mentioned in subsection (3) shall

include a retired Judge, an attorney-at-law who has at least ten years standing, a retired senior public officer, and a person qualified and experienced in human resource management.

(5) The President shall issue a Notification in respect of each person nominated for appointment under subsection (3) and the Notification shall be subject to negative resolution of the House of Representatives.

(6) The President shall make an appointment under this section only after the House of Representatives has not annulled the Notification in respect of the relevant person.

(7) Where the Notification has been annulled by the House of Representatives, the President shall again comply with the process set out in this section.

(8) The President shall appoint a Chairman and a Deputy Chairman of the Public Service Commission from among its members, not including the *ex officio* member.

(9) The members of the Public Service Commission shall hold office in accordance with sections 169 and 170.

Appointments,
etc. of public
officers

159.(1) Subject to this Constitution, a Permanent Secretary of a Ministry shall have, in relation to offices of that Ministry and where no similar offices exist in another Ministry, the power to appoint persons to hold or act in such offices, and the power to -

- (a) make appointments on promotion of;
- (b) confirm appointments of;
- (c) transfer;
- (d) exercise disciplinary control over;

- (e) enforce standards of conduct on; and
- (f) remove,

such persons.

(2) Subject to this Constitution, the Public Service Commission shall have, in relation to offices of a Ministry and where similar offices exist in another Ministry, the power to appoint persons to hold or act in such offices, and the power to -

- (a) make appointments on promotion of;
- (b) transfer; and
- (c) remove,

such persons.

(3) Subject to this Constitution, a Permanent Secretary of a Ministry shall have, in relation to offices of a Ministry and where similar offices exist in another Ministry, the power to -

- (a) exercise disciplinary control over;
- (b) enforce standards of conduct on; and
- (c) confirm appointments of,

persons appointed to such offices by the Public Service Commission under subsection (2).

(4) Subject to this Constitution, where no Head of Department of Government or Permanent Secretary is assigned responsibility to manage any authority of Government, that authority shall be considered a department of Government, and the head of that authority shall have, in relation to offices of that authority and where no similar offices exist in another such authority or a Ministry, the power to appoint persons to hold or act in such offices, and the power to -

- (a) make appointments on promotion of;

- (b) confirm appointments of;
- (c) transfer;
- (d) exercise disciplinary control over;
- (e) enforce standards of conduct on; and
- (f) remove,

such persons.

(5) Subject to this Constitution, the Public Service Commission shall have, in relation to offices of an authority which is mentioned in subsection (4) and where similar offices exist in another such authority or Ministry, the power to appoint persons to hold or act in such offices, and the power to -

- (a) make appointments on promotion of;
- (b) transfer; and
- (c) remove,

such persons.

(6) Subject to this Constitution, the head of an authority which is mentioned in subsection (4) shall have, in relation to offices of the authority and where similar offices exist in another such authority or Ministry, the power to -

- (a) exercise disciplinary control over;
- (b) enforce standards of conduct on; and
- (c) confirm appointments of,

persons appointed to such offices by the Public Service Commission under subsection (5).

(7) A Permanent Secretary shall not remove or inflict any punishment on a public officer on the grounds of any act done or omitted to be done by that officer in the exercise of a judicial function conferred upon him unless the Judicial and Legal Service Commission concurs

therein.

(8) Before a Permanent Secretary makes an appointment to an office to which subsection (10) applies he shall consult the President.

(9) A person shall not be appointed to an office to which subsection (8) applies if the President signifies to the Permanent Secretary his objection to the appointment of that person to that office.

(10) Subject to subsections (11) and (12), subsection (8) applies to the offices of Chief Technical Officer, Chief Professional Adviser in a Ministry of Government, the office of deputy to any of these offices, and to such other offices as may be prescribed.

(11) The President shall have the power to make appointments or transfer to any office the holder of which is required to reside outside Trinidad and Tobago for the proper discharge of his functions, and such offices in the Ministry of Foreign Affairs as may from time to time be designated by the President.

(12) This section applies to all public offices including in particular offices in the Civil Service, the Fire Service and the Prison Service, but this section does not apply to offices to which appointments are made by the Judicial and Legal Service Commission, the Police Service Commission or the Teaching Service Commission or offices to which appointments are to be made by the President.

(13) Notwithstanding subsections (2) to (5), before the Public Service Commission makes an appointment to or transfers a member of the staff of the Auditor General or Ombudsman, it shall first consult with the Auditor General or Ombudsman, as the case may be.

Chap. 23:01

Chap. 35:50

Chap. 13:02

Appeals

(14) In subsection (12), "Civil Service", "Fire Service" and "Prison Service" means respectively the Civil Service established under the Civil Service Act, the Fire Service established under the Fire Service Act, and the Prison Service established under the Prison Service Act.

160.(1) Where a public officer is aggrieved by a decision of the Public Service Commission in the exercise of its powers under section 159(2), (5) or (13), the officer is entitled to file an appeal against that decision to the Public Service Appeal Board.

(2) Where a public officer is aggrieved by a decision of a Permanent Secretary in the exercise of his powers under section 160, the officer is entitled to file an appeal against that decision to the Public Service Commission.

(3) The Commission may, where it considers it necessary that further evidence may be adduced -

(a) order such evidence to be adduced either before the Commission or by affidavit; or

(b) refer the matter back to the relevant Permanent Secretary to take such evidence and -

(i) to adjudicate upon the matter afresh; or

(ii) to report for the information of the Commission specific findings of fact.

(4) Where the matter is referred to the Commission under subsection (3)(b), the matter, so far as

may be practicable or necessary, shall be dealt with as if it were being heard at first instance.

(5) Upon the conclusion of the hearing of an appeal under this section, the Commission may -

- (a) affirm, modify or amend the decision appealed against;
- (b) set aside the decision; or
- (c) substitute any other decision which the Permanent Secretary could have made.

Procedure

161.(1) The Commission may by regulations provide for its own procedure.

(2) With the consent of the President, the Commission may by regulations or otherwise confer powers and impose duties on any public officer or any authority of the Government for the purpose of the exercise of the functions of the Commission.

Police Service Commission

Police Service
Commission

162.(1) There shall be a Police Service Commission for Trinidad and Tobago which shall consist of a Chairman and four other members.

(2) The members of the Police Service Commission shall be appointed by the President in accordance with this section.

(3) The President shall, after consultation with the Minority Leader, nominate persons, who are qualified and experienced in the disciplines of law, finance, sociology or management, to be appointed as members of the Police Service Commission.

(4) The President shall issue a Notification in respect of each person nominated for appointment under subsection (3) and **the Notification shall be subject to negative resolution of the House of Representatives.**

(5) The President shall make an appointment under this section only after the House of Representatives has not annulled the Notification in respect of the relevant person.

(6) Where the Notification has been annulled by the House of Representatives, the President shall again comply with the process set out in this section.

(7) The President shall appoint a Chairman of the Police Service Commission from among its members.

(8) The members of the Police Service Commission shall hold office in accordance with sections 169 and 170.

**Powers of Police
Service
Commission**

163.(1) Subject to this Constitution, the Police Service Commission shall have the power to appoint persons to hold or act in the offices of Commissioner and Deputy Commissioner of Police and the power to -

- (a) make appointments on promotion of;
- (b) confirm appointments of;
- (c) remove;
- (d) exercise disciplinary control over;
- (e) enforce standards of conduct on; and
- (f) monitor the efficiency and effectiveness of the discharge of the functions of,

the Commissioner and Deputy Commissioner of Police, as the case may be.

(2) The Police Service Commission shall nominate persons for appointment to hold the offices specified in subsection (1)(a), and section 22(1) of the Police Service Act,

Act No. 7 of 2006

2006, in accordance with the criteria and procedure prescribed by Order of the President, subject to negative resolution of Parliament.

(3) The Police Service Commission shall submit to the President a list of the names of the persons nominated for appointment to the offices of Commissioner or Deputy Commissioner of Police.

(4) The President shall issue a Notification in respect of each person nominated under subsection (3) and the Notification shall be subject to affirmative resolution of the House of Representatives.

(5) The Police Service Commission shall appoint the Commissioner or Deputy Commissioner of Police only after the House of Representatives affirms the Notification in respect of the relevant person.

(6) The Police Service Commission shall prepare an annual performance appraisal report in such form as may be specified by the Police Service Commission in respect and for the information of the Commissioner and Deputy Commissioner of Police.

(7) For the purpose of subsection (1)(f) -

(a) the Commissioner of Police shall, every six months, submit a report in writing to the Police Service Commission on the management of the Police Service; and

(b) the Police Service Commission shall have the power to call on the Commissioner of Police to produce documents pertaining to financial, legal and personnel matters in relation to the Police Service.

(8) Notwithstanding subsection (7), the Police

Service Commission may, on its own initiative, request a special report in writing from the Commissioner of Police at any time on any matter relating to the management of the Police Service, to which the Commissioner shall respond in a timely manner.

(9) The Police Service Commission may terminate the services of the Commissioner or a Deputy Commissioner of Police on any of the following grounds:

- (a) absence from duty without leave for seven consecutive days, during which he has failed to notify the Police Service Commission of the cause of his absence, whether he holds a permanent, temporary, or contractual appointment;
- (b) breach of contract, where the officer is appointed on contract;
- (c) reported inefficiency based on his performance appraisal reports; or
- (d) a recommendation for dismissal in consequence of disciplinary proceedings, after giving him an opportunity to be heard;
- (e) where the officer holds a permanent appointment -
 - (i) on being retired on medical grounds;
 - (ii) on being retired in the public interest; or
 - (iii) on the abolition of office.

(10) The procedure for the termination of the services of the Commissioner or a Deputy Commissioner of Police shall be specified by the Police Service Commission in accordance

with section 173.

(11) The Police Service Commission shall have the power to hear and determine appeals from decisions of the Commissioner of Police, or of any person to whom the powers of the Commissioner of Police have been delegated in relation to appointments on promotion or as a result of disciplinary proceedings brought against a police officer appointed by the Commissioner of Police.

(12) Notwithstanding section 176, no appeal shall lie to the Public Service Appeal Board in respect of a decision of the Police Service Commission under subsection (9).

**Powers of
Commissioner of
Police**

164.(1) Subject to section 163(1), the Commissioner of Police shall have the power to manage the Police Service and is required to ensure that the human, financial and material resources available to the Service are used in an efficient and effective manner.

(2) The Commissioner of Police shall have, in relation to the offices in the Police Service established under the Police Service Act, 2006, other than an office referred to in section 163(1), the power to appoint persons to hold or act in such offices, and the power to -

- (a) make appointments on promotion of;
- (b) confirm appointments of;
- (c) transfer;
- (d) remove;
- (e) exercise disciplinary control over; and
- (f) enforce standards of conduct on,

such persons.

(3) The functions of the Commissioner of Police under this section may be exercised by him in person or through any

police officer of or above the rank of Superintendent acting under and in accordance with his general or special instructions.

(4) In the performance of his functions under this section the Commissioner of Police shall act in accordance with the Police Service Act, 2006 and the regulations made under that Act.

Teaching Service Commission

Teaching
Service
Commission

165.(1) There shall be a Teaching Service Commission for Trinidad and Tobago which shall consist of a Chairman, Deputy Chairman, the Permanent Secretary of the Ministry responsible for education as an *ex officio* member and four other members.

(2) The members of the Teaching Service Commission, except the *ex officio* member, shall be appointed by the President in accordance with this section.

(3) The President shall, after consultation with the Minority Leader and subject to subsection (4), nominate persons to be appointed as members of the Teaching Service Commission.

(4) The persons mentioned in subsection (3) may include a retired Judge, an attorney-at-law who has at least ten years standing, a retired senior public officer, a person qualified and experienced in human resource management and shall include a person qualified and experienced in education.

(5) The President shall issue a Notification in respect of each person nominated for appointment under

subsection (3) and the Notification shall be subject to negative resolution of the House of Representatives.

(6) The President shall make an appointment under this section only after the House of Representatives has not annulled the Notification in respect of the relevant person.

(7) Where the Notification has been annulled by the House of Representatives, the President shall again comply with the process set out in this section.

(8) The President shall appoint a Chairman and a Deputy Chairman of the Teaching Service Commission from among its members, not including the *ex officio* member.

(9) The members of the Teaching Service Commission shall hold office in accordance with sections 169 and 170.

The Education
Human
Resource
Agency

166.(1) Subject to subsections (3) and (4), there shall be an Education Human Resource Agency consisting of such number of members, qualified and appointed in such manner and holding office upon such tenure as may be prescribed.

(2) The members of the Education Human Resource Agency shall be appointed in accordance with the process of appointment applicable to members of the Public Service Commission.

(3) The Chairman of the Education Human Resource Agency shall be a person qualified and experienced in human resource management.

(4) Subject to section 167, the Education Human Resource Agency shall have such powers and functions in

relation to public officers in the Teaching Service as may be prescribed.

Appointment,
etc. of teachers

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167. The Education Human Resource Agency shall have, in relation to the public offices in the Teaching Service established under the Education Act, the power to appoint persons to hold or act in such offices, and the power to -

- (a) make appointments on promotion of;**
- (b) confirm appointments of;**
- (c) transfer;**
- (d) remove;**
- (e) exercise disciplinary control over; and**
- (f) enforce standards of conduct on,**

such persons.

Powers of the
Teaching
Service
Commission

168.(1) Where a public officer in the Teaching Service is aggrieved by a decision of the Education Human Resource Agency in the exercise of its powers under this Constitution or any other law, he is entitled to file an appeal against that decision to the Teaching Service Commission.

(2) Sections 160 and 161 shall apply to the Teaching Service Commission as they apply to the Public Service Commission.

General Provisions on Service Commissions

Qualification,
tenure of office,
etc.

169.(1) A person who -

- (a) is a Minister or a member of the Senate, House of Representatives,**

House of Assembly or a Local Government body; or

- (b) holds or is acting in any public office or has held any public office within the period of three years preceding his proposed appointment,

is not qualified to hold the office of member of a Service Commission.

(2) A person who has held office or acted as a member of a Service Commission shall not, within a period of three years commencing with the date on which he last held or acted in such an office, be eligible for appointment to any public office.

(3) The office of a member of a Service Commission shall become vacant -

- (a) upon the expiration of five years from the date of his appointment or such shorter period, not being less than three years, as may be specified in his instrument of appointment;
- (b) where he becomes a Minister, Senator, or where with his consent he is nominated for election to the House of Representatives or the House of Assembly; or
- (c) where he becomes an elected or nominated member of a Local Government body.**

(4) Before entering upon the duties of his office a member of a Service Commission shall take and subscribe the oath of office set out in the First Schedule before the President or a person appointed by the President for the purpose.

First Schedule

**Grounds of
removal of
members of
Service
Commissions**

**170.(1) The President may remove a member of
a Service Commission from office if the member -**

- (a) fails to attend four consecutive meetings without reasonable cause;**
- (b) is convicted of a criminal offence by any court, which is punishable by imprisonment for six or more months with or without a fine;**
- (c) becomes infirm in mind or body;**
- (d) fails to perform his duties in a responsible or timely manner;**
- (e) fails to absent himself from meetings of the Service Commission where there is a conflict of interest;**
- (f) demonstrates a lack of competence to perform his duties;**
- (g) misbehaves in office;**
- (h) is unable to discharge the functions of his office for any other cause.**

(2) The President, in the exercise of his power under subsection (1)(d) to (h), may consider the report of a Joint Select Committee laid in Parliament under sections 84(1)(a)(vi), 85 and 86(2).

(3) A member of a Service Commission shall not be removed from office except in accordance with this section.

**Delegation of
functions**

171.(1) A Service Commission may, with the approval of the President and subject to such conditions as it may think fit, delegate any of its functions under this Part, other than any power conferred on the Commission by section 173, to any of

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its members, or in the case of the Public Service Commission, to any public officer or in respect of the Regional Health Authorities to the Boards of the Regional Health Authorities established under section 4 of the Regional Health Authorities Act.

(2) In this section and in section 173, as regards any matter concerning the holder of any office referred to in section 160(10), a reference to "public officer" includes a reference to a Judge as well as a retired public officer.

**Consultation
with other
Service
Commissions**

172. Before a Service Commission appoints to an office a person holding or acting in any office, power to make appointments to which is vested by this Constitution in another Service Commission, it shall consult that other Commission.

**Powers and
procedure of
Service
Commissions**

173.(1) A Service Commission may, with the consent of the President, by regulations or otherwise regulate its own procedure, including the procedure for consultation with persons with whom it is required by this Constitution to consult, and confer powers and impose duties on any public officer or in the case of the holder of an office referred to in section 143(2), a Judge or on any authority of the Government, for the purpose of the discharge of its functions.

(2) At a meeting of a Service Commission three members shall constitute a quorum.

(3) No penalty may be imposed on a public officer except as a result of disciplinary proceedings.

(4) Notwithstanding subsection (3), where a public officer is convicted of a criminal offence by a court and the time allotted for an appeal has elapsed or, if the officer has appealed, the appeal process has been completed or an order

has been made under section 71 of the Summary Courts Act, a Service Commission may consider the relevant proceedings on such offence and if it is of the opinion that the officer ought to be dismissed or subjected to some lesser punishment in respect of the conduct which led to his conviction or to the making of the order, the Commission may thereupon dismiss or otherwise punish the officer without the institution of any disciplinary proceedings.

(5) In furtherance of subsection (4) -

- (a) a certificate of conviction issued by the court shall be sufficient evidence of a public officer's conviction for an offence;
- (b) a certified copy of an order made under section 71 of the Summary Courts Act shall be sufficient evidence of the commission by the public officer of the offence for which he was charged.

(6) A public officer referred to in subsection (4) is entitled to show reason why he should not be dismissed from office.

(7) A reference in subsection (4) to a Service Commission also includes a reference to the Commissioner of Police, as the case may be.

PART II

Public Service Appeal Board

174.(1) There shall be a Public Service Appeal Board (in this Part referred to as "the Appeal Board") **to which appeals shall lie from a decision of a Service Commission.**

(2) The Appeal Board shall consist of a Chairman

who shall be a retired Judge or an attorney-at-law who has at least ten years standing appointed by the President after consultation with the Chief Justice and four other members appointed by the President after consultation with the Minority Leader and President of the Law Association.

(3) One member of the Appeal Board shall be a retired public officer.

Tenure of office **175.(1)** Sections 170 and 171 shall apply to members of the Appeal Board as they apply to members of a Service Commission.

First Schedule (2) Before entering upon the duties of his office, a member of the Appeal Board shall take and subscribe the oath of office set out in the First Schedule before the President or a person appointed by the President for the purpose.

Appeals **176.(1)** **Where a public officer is aggrieved by a decision of a Service Commission, he is entitled to file an appeal against that decision to the Public Service Appeal Board.**

(2) The Appeal Board may, where it considers it necessary that further evidence may be adduced -

(a) order such evidence to be adduced either before the Appeal Board or by affidavit; or

(b) refer the matter back to the relevant Service Commission to take such evidence and -

(i) to adjudicate upon the matter afresh; or

(ii) to report for the information of the

Appeal Board specific findings of fact.

(3) Where the matter is referred to a Service Commission under subsection (2)(b), the matter, so far as may be practicable or necessary, shall be dealt with as if it were being heard at first instance.

(4) Upon the conclusion of the hearing of an appeal under this section, the Appeal Board may -

- (a) affirm, modify or amend the decision appealed against;
- (b) set aside the decision; or
- (c) substitute any other decision which the Service Commission could have made.

Procedure

177.(1) The Appeal Board may by regulations make provision for -

- (a) procedure of its own; and
- (b) the procedure in appeals under section 176.

(2) With the consent of the President, the Appeal Board may by regulations or otherwise confer powers and impose duties on any public officer or any authority of the Government for the purpose of the exercise of the functions of the Appeal Board.

PART III

Pension

Protection of pension rights

178.(1) Subject to section 179, the law applicable to any benefits to which this section applies shall, in relation to a person who has been granted or who is eligible for the grant

of such benefits, be that in force on the relevant date or any later law that is not less favourable to that person.

(2) In this section, "the relevant date" means -

(a) in relation to any benefits granted or to be granted on or after the commencement of this Constitution to or in respect of a person who was a public officer before that date, the commencement of this Constitution;

(b) in relation to any benefits granted or to be granted to or in respect of a person who becomes a public officer on or after the commencement of this Constitution, the date on which he becomes a public officer.

(3) Where a person is entitled to exercise an option as to which of two or more laws shall apply in his case, the law specified by him in exercising the option is, for the purpose of this section deemed to be more favourable to him than the other law.

(4) A benefit to which this section applies, not being a benefit that is a charge on some other public fund of Trinidad and Tobago, shall be a charge on the Consolidated Fund.

(5) A reference in this section to the law applicable to any benefits includes, without prejudice to the generality of the expression, a reference to a law relating to the time at which and the manner in which a person may retire in order to become eligible for those benefits.

(6) For the purpose of this section, service as President or as a Judge is deemed to be public service.

(7) This section applies to any benefits payable under any law providing for the grant of pensions, gratuities or

compensation to persons who are or have been public officers in respect of their service in the public service, or to the widows, children, dependants or personal representatives of such persons in respect of such service.

**Powers of
Service
Commissions in
relation to grant
of pensions, etc.**

179.(1) Where under any law an authority has power to withhold, reduce in amount or suspend any benefits to which this section applies, that power shall not be exercised without the approval specified in subsection (2), (3) or (4).

(2) Subject to subsection (4), where a person who has been granted benefits, or who is eligible for benefits, in respect of public service was, at the time he ceased to be a public officer, subject to the jurisdiction of the Judicial and Legal Service Commission, the Police Service Commission or the Teaching Service Commission, the power referred to in subsection (1) shall not be exercised with respect to those benefits without the approval of that Commission.

(3) Subject to subsection (4), where a person who has been granted benefits, or who is eligible for benefits, in respect of public service, was not, at the time he ceased to be a public officer, subject to the jurisdiction of the Judicial and Legal Service Commission, the Police Service Commission, or the Teaching Service Commission, the power referred to in subsection (1) shall not be exercised without the approval of the Public Service Commission.

(4) Where a person, who is eligible for benefits in respect of public service, was at the time he ceased to be a public officer subject to the jurisdiction of the Commissioner of Police, the power referred to in subsection (1) with respect to those benefits shall not be exercised without the approval of the Commissioner of Police.

(5) No benefits to which this section applies that have been granted to or in respect of any person who is or has been the holder of an office referred to in section 181(11) to (15) or for which any such person or his widow, children, dependants or his personal representatives may be eligible, shall be withheld, reduced in amount or suspended on the ground that that person has been guilty of misbehaviour, unless that person has been removed from his office under this Constitution by reason of such misbehaviour.

(6) For the purpose of this section, service as a Judge is deemed to be public service.

(7) This section applies to any benefits payable under any law providing for the grant of pensions, gratuities or compensation to persons who are or have been public officers in respect of their service in the public service or to the widows, children or personal representatives of such persons in respect of such service.

PART IV

Special Offices

Appointment of principal representatives of Trinidad and Tobago

180.(1) The President shall have power to appoint persons to the offices to which this section applies and to remove persons from any such office.

(2) Before exercising his power under this section in relation to a person who holds or is acting in a public office other than an office to which this section applies, the President shall consult the appropriate Service Commission.

- (3) This section applies to the offices of -
- (a) Ambassador or High Commissioner; and
 - (b) any principal representative of Trinidad and

Tobago in any other country.

**Tenure of
special offices**

181.(1) The holder of an office to which this subsection and subsections (2) to (10) apply (in this section referred to as "the officer") shall vacate his office on attaining the age of sixty-five years or such other age as may be prescribed.

(2) Nothing done by the officer shall be invalid by reason only that he has attained the age at which he is required under this section to vacate his office.

(3) The officer shall vacate his office if, with his consent, he becomes a Minister, Senator or is nominated for election to the House of Representatives or the House of Assembly, or where he becomes an elected or nominated member of a Local Government body.

(4) The salaries and allowances payable to the holder of an office to which subsections (1) to (10) apply or an office referred to in subsections (12) to (15) shall be a charge on the Consolidated Fund.

(5) The salary and allowances payable to the holder of an office to which subsections (1) to (10) apply or an office referred to in subsections (12) to (15) and his other terms of service shall not be altered to his disadvantage after his appointment and for the purpose of this subsection, in so far as the terms of service of a person depend upon the option of that person, the terms for which he opts shall be taken to be more advantageous to him than any other terms for which he might have opted.

(6) The officer, except a member of a Service Commission, may be removed from office only for inability to discharge the functions of his office whether arising from infirmity of mind or body or any other cause, or for

misbehaviour and shall not be so removed except in accordance with subsections (7)(b), (8) and (9).

(7) A decision that the question of removing the officer from office ought to be investigated may be made at any time -

- (a) in the case of the Ombudsman by resolution of the House of Representatives; and
- (b) in any other case by the President either on his own initiative or upon the representation of the relevant Service Commission.

(8) Where a decision is made under subsection (7) that the question of removing the officer from office ought to be investigated, then -

- (a) the President shall appoint a Tribunal which shall consist of a Chairman and not less than two other members all of whom shall be selected by the President acting in accordance with the advice of the Judicial and Legal Service Commission from among persons who hold or have held office as a Judge of a court having unlimited jurisdiction in civil and criminal matters in the Commonwealth or a court having jurisdiction in appeals from any such court; and
- (b) the Tribunal shall inquire into the matter and report on the facts to the President and advise the President whether the officer ought to be removed from office on

any of the grounds specified in subsection (6), or in relation to a member of a Service Commission, the grounds specified in section 170.

(9) Where the question of removing the officer from office is referred to a Tribunal appointed under subsection (8) and the Tribunal advises the President that the officer ought to be removed from office, the President shall, by writing signed by him, remove the officer from office.

(10) Where the question of removing the officer from office has been referred to a Tribunal under subsection (8), the President, after consultation with the Judicial and Legal Service Commission, may suspend the officer from performing the functions of his office and any such suspension may at any time be revoked by the President and shall in any case cease to have effect if the Tribunal advises the President that the officer ought not to be removed from office.

(11) Subsections (1) to (10) apply to the office of Auditor General and to such other offices as may be prescribed.

(12) Subsections (1) to (5) apply to the office of Judge.

(13) Subsections (1) to (5) apply to the office of Director of Public Prosecutions, Chief Parliamentary Counsel and Solicitor General.

(14) Subsections (4) to (10) apply to the office of Ombudsman, a member of the Elections and Boundaries Commission, a member of the Integrity Commission, a member of the Salaries Review Commission and to such other offices as may be prescribed.

CHAPTER 10

THE INTEGRITY COMMISSION

The Integrity Commission

182.(1) There shall be an Integrity Commission (in this section and in section 183 referred to as "the Commission") for Trinidad and Tobago consisting of such number of members, qualified and appointed in such manner and holding office upon such tenure as may be prescribed.

First Schedule

(2) Before entering upon the duties of his office, a member of the Commission shall take and subscribe the oath of office set out in the First Schedule before the President or a person appointed by the President for the purpose.

(3) The Commission shall be charged with the duty of-

- (a) **receiving from time to time, declarations in writing of the assets, liabilities and income of Ministers, Members of Parliament, and the members and the holders of such public offices as may be prescribed;**
- (b) the supervision and monitoring of standards of ethical conduct prescribed by Parliament to be observed by persons referred to in paragraph (a);
- (c) the monitoring and investigating of conduct, practices and procedures which are dishonest or corrupt;
- (d) the supervision of such matters which are mentioned in this subsection as may be prescribed.

Power to make laws relating to the Commission

183. Subject to this Constitution, Parliament may make provision for -

- (a) the procedure in accordance with which the Commission is to perform its functions;
- (b) conferring such powers on the Commission and imposing such duties on persons concerned as are necessary to enable the Commission to carry out effectively the purpose of section 182;
- (c) the proper custody of declarations and other documents delivered to the Commission;
- (d) the maintenance of secrecy in respect of all information received by the Commission in the course of its duties with respect to the assets, liabilities and income of any person;
- (e) the preparation by the Commission of a Register of Interests for public inspection; and
- (f) generally to give effect to the purpose of section 182.

CHAPTER 11

THE SALARIES REVIEW COMMISSION

Constitution of Commission

184.(1) There shall be a Salaries Review Commission which shall consist of a Chairman and four other members all of whom shall **be appointed by the President after consultation with the Minority Leader.**

(2) The members of the Salaries Review Commission shall hold office in accordance with sections 169 and 170.

Functions of Commission

185.(1) The Salaries Review Commission shall, from time to time with the approval of the President, review the salaries and other conditions of service of the President, the holders of offices referred to in section 181(11) to (14), members of Parliament, including Ministers of Government and the holders of such other offices as may be prescribed.

(2) The report of the Salaries Review Commission concerning any review of salaries or of the conditions of service, or both, shall be submitted to the President and shall be laid as soon as possible thereafter on the table of each House.

CHAPTER 12

THE TOBAGO HOUSE OF ASSEMBLY

Tobago House of Assembly

186.(1) There shall be an assembly to be called the Tobago House of Assembly.

(2) The House of Assembly shall consist of a Presiding Officer and such other members qualified and appointed in such manner and holding office upon such terms and conditions as may be prescribed.

Powers and functions of the House of Assembly

187. Subject to this Constitution, the House of Assembly shall have such powers and functions in relation to Tobago as may be prescribed.

**Executive
Council**

188.(1) There shall be an Executive Council of the House of Assembly consisting of a Chief Secretary and such number of Secretaries as may be prescribed, and appointed in such manner as may be prescribed.

(2) The functions of the Chief Secretary and other Secretaries shall be prescribed.

Fund

189. There is established a fund to be called "the Tobago House of Assembly Fund" which shall consist of -

- (a) such monies as may be appropriated by Parliament for the use of the House of Assembly; and
- (b) such other monies as the House of Assembly may lawfully collect.

CHAPTER 13

LOCAL GOVERNMENT

**Local
Government**

190.(1) There shall be a system of local government comprising twelve Local Government bodies, or such other number as may be prescribed, operating within seven central government administrative regions in Trinidad, or such other number as may be prescribed.

(2) Subject to subsection (3), the boundary of each central government administrative region shall be prescribed, after consultation with the Elections and Boundaries Commission.

(3) The boundary of each central government administrative region shall be coterminous to the electoral boundaries of local government.

(4) Those State Enterprises and Statutory Bodies or Authorities, as prescribed, shall be structured in such a manner as to reflect the seven central government administrative regions.

CHAPTER 14

GENERAL PROVISIONS

Resignation

191.(1) Subject to this Constitution, a person who is appointed, elected to or otherwise selected for an office established by this Constitution, including the office of President or Minister, may resign from that office by writing signed by him and addressed to the person or authority by whom he was appointed, elected or selected,

(2) The resignation of a person from any such office shall take effect when the writing signifying the resignation is received by the person or authority to whom it is addressed or by a person authorised by that person or authority to receive it.

Re-appointment, etc.

192.(1) Where a person has vacated an office established by this Constitution, including the office of President or Minister, he may, if qualified, again be appointed, elected or otherwise selected to hold that office in accordance with this Constitution.

(2) Where by this Constitution a power is conferred upon a person or an authority to make an appointment to a public office, a person may be appointed to that office notwithstanding that some other person may be holding that office, when that other person is on leave of absence pending relinquishment of the office.

(3) Where two or more persons are holding the same public office by reason of an appointment made in pursuance of subsection (2), then for the purpose of any function conferred upon the holder of that office the person last appointed is deemed to be the sole holder of the office.

CHAPTER 15

REGIONAL INTEGRATION

Regional
integration

193. The State shall not be part of any regional integration unless Parliament enacts a law to expressly give effect to such integration.

FIRST SCHEDULE

FORMS OF OATH (OR AFFIRMATION) OF ALLEGIANCE AND OF OFFICE

Section 40 *Form of oath (affirmation) for the President or Vice-President:*

I, A. B., do swear by (solemnly affirm) that I will bear true faith and allegiance to Trinidad and Tobago and to the best of my ability preserve and defend the Constitution and the law, that I will conscientiously and impartially discharge the functions of President and will devote myself to the service and well-being of the people of Trinidad and Tobago.

Section 100 *Form of oath (affirmation) for a Minister :*

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

Section 74 *Form of oath (affirmation) for a member of the House of
Representatives or the Senate:*

I, A. B., having been elected/appointed a member of Parliament 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 responsibilities to the people of Trinidad and Tobago upon which I am about to enter.

Sections 3(1),
111(6), 135, 151,
169(4), 175(2)

Form of oath (affirmation) for the Ombudsman, a Judge, the Auditor General, or a member of a Service Commission, the Public Service Appeal Board or the Integrity Commission:

I. A. B., having been appointed of Trinidad and Tobago do swear by (solemnly affirm) that I will bear true faith and allegiance to Trinidad and Tobago and will uphold the Constitution and the law, that I will conscientiously, impartially and to the best of my knowledge, judgment and ability discharge the functions of my office and do right to all manner of people after the laws and usages of Trinidad and Tobago without fear or favour, affection or ill-will.

Section 94(1)(a)

SECOND SCHEDULE

BOUNDARIES OF CONSTITUENCIES

1. These rules are the Delimitation of Constituencies Rules in accordance with which the constituencies of Trinidad and Tobago are to be delimited under section 93(1).

2. Subject to paragraph 3, the electorate shall, so far as is practicable, be equal in all constituencies.

3. The number of constituencies in Tobago shall not be less than two.

4. In Trinidad and in Tobago, respectively, the electorate in any constituency shall not be more than one hundred and ten per cent nor be less than ninety per cent of the total electorate of the island divided by the number of constituencies in that island.

5. Special attention shall be paid to the needs of sparsely populated areas which on account of size, isolation or

inadequacy of communications cannot adequately be represented by a single member of Parliament.

6. Natural boundaries such as major highways and rivers shall be used wherever possible.

7. In this Schedule, "Trinidad" means the Island of Trinidad and its offshore islands, and "Tobago" means the Island of Tobago and its offshore islands.

Section 114(4)(b)

THIRD SCHEDULE

MATTERS NOT SUBJECT TO INVESTIGATION BY THE OMBUDSMAN

1. Action taken in matters certified by the Attorney General to affect relations or dealings between the Government and any other government or any International Organisation.

2. Action taken in any country or territory outside Trinidad and Tobago by or on behalf of any officer representing or acting under the authority of the Government.

3. Action taken under any law relating to extradition or fugitive offenders.

4. Action taken for the purpose of investigating crime or of protecting the security of the State.

5. The commencement or conduct of civil or criminal proceedings before any court or before any international court or tribunal.

6. Any exercise of the power of pardon.

7. Action taken in matters relating to contractual or other commercial transactions, being transactions of a department of Government or an authority to which section 113 applies not being transactions for or relating to-

- (a) the acquisition of land compulsorily or in circumstances in which it could be acquired compulsorily;
- (b) the disposal as surplus of land acquired compulsorily or in circumstances in which it could be acquired compulsorily.

8. Action taken in respect of appointments, removals, pay, discipline, superannuation or other personnel matters in relation to service in any office or employment in the public service or under any authority as may be prescribed.

9. Any matter relating to a person who is or was a member of the armed forces of Trinidad and Tobago in so far as the matter relates to-

- (a) the terms and conditions of service as such member; or
- (b) any order, command, penalty or punishment given to or affecting him in his capacity as such member.

10. Any action which by virtue of this Constitution may not be enquired into by any court.