

Minister of Finance Response to issues raised by the JSC on Tobago Self-Government

The draft Constitution Amendment (Tobago Self Government) Bill (Bill No. 1)

1. *In the proposed Fourth Schedule which sets out the law-making powers of the proposed Tobago Legislature, Tobago will be granted exclusive power to legislate on matters related to the borrowing of moneys or obtaining grants of moneys for the purposes of the Tobago Island Government and the making of grants and loans for those purpose. This is consistent with the power of a Legislature to have oversight of borrowings by a Government. However, the Fifth Schedule which sets out exclusive executive powers, exempts “external borrowing” notwithstanding the fact that the Tobago Island Government will be empowered to borrow externally with the approval of the Minister of Finance. (See clause 28 in Bill No. 2). The Committee seeks the advice of the Minister on whether the Fifth Schedule ought to be amended to include the power to borrow.*

The 5th Schedule should not be amended to include the power to borrow without oversight, otherwise the TIG may find itself in a situation where it cannot service its debt.

Further, the Tobago Island Administration Bill is silent on the following critical matters:

- a. The entity responsible for the recording of borrowings incurred by the TIG on the domestic and International market;
- b. The mechanism to be utilized by the TIG to record borrowings;
- c. The entity responsible for the generation of debt statistics at the TIG;
- d. The frequency with which the entity will generate debt statistics;
- e. The mechanism that is to be utilized for the transmission of debt statistics to the Debt Management Division, Ministry of Finance to enable the generation of . complete debt data for both Trinidad and Tobago for the annual Budget exercise; and
- f. The mechanism and entity to be utilized in evaluating Proposals issued by domestic and international financial institutions.

The TIG Bill should address the above to ensure that borrowings are accurately recorded, and accurate debt statistics are generated in a timely manner. This is critical to facilitate the generation of accurate consolidated debt statistics for the country for the annual Budget, as well as domestic and international institutions (such as the International Monetary Fund and Rating Agencies etc.).

The draft Tobago Island Government Bill (Bill No. 2)

2. *Re Clause 24 of the Bill, the Committee seeks the advice of the Minister of Finance in the clarification the rules/processes that should be established to govern the administration of the Tobago Fund.*

This matter needs more in-depth examination. The context of the “Tobago Fund” is not clear from the draft Bill. The Tobago Fund appears to operate similar to funds established under Section 43 of the Exchequer and Audit Act Chapter 69:01 except that it consists of not only appropriated funds and its associated receipts, earnings and accruals but it also consists of borrowings and grants which makes it difficult to determine rules/processes for this conglomeration.

The current Tobago House of Assembly Fund is guided by the Tobago House of Assembly Rules 1990. Section 30 of the draft Bill states “The Tobago Legislature shall approve Financial Rules as are necessary for the proper management of finances.” The Tobago House of Assembly Financial Rules 1990 can be used in conjunction with the Financial Regulations as a basis for the new Regulations. However additional guidance will be needed for the administration of loan and grant funding as these are normally functions of Central Government.

3. *Must the Tobago Island Government be a legal entity in order to borrow and invest and to otherwise contract?*

Yes

4. *It has been recommended that there be a body/unit established in Tobago to function as a Treasury Division for a number of purposes re Tobago, including the payment of Pensions to Civil Servants who serve the Tobago Island Government. This is intended to eliminate the delays caused by the processing of paperwork such as the assessment of pensions and gratuities in Trinidad. What is the Minister’s view on this proposal?*

This is not recommended at this time, because it is a complex matter that requires further examination. Further, the recommendation that there be a “body/unit established in Tobago to function as a Treasury Division for a number of purposes re Tobago...” is too vague to enable the submission of extensive relevant comments. The functions of the Treasury Division in Trinidad are wide and varied and therefore for this response we will respond to the reference made to pensions and gratuities, only, at this time.

It should be noted that the email refers to Civil Servants however the Draft Bill refers to only Members of the Assembly.

With respect to the question on the processing of pensions and gratuity to Civil Servants:

The Civil Service Regulations Chap. IV Part 1 speaks to the payment of Pensions and Gratuity to Civil Officers. Reg. 33 and 34.

The Auditor General is also required to verify the computation of awards to officers. The draft legislation is silent on this.

If the paperwork referred to is the officers’ work history that is, the Pension and Leave Record, (P&L) this is a requirement. A review of this history often highlights the improper application of the CPO guidelines, often resulting in overpayments/underpayments due to incorrect application of incremental points, classification of leave etc.

The delay is often caused by the officers responsible for the preparation of the records who usually ignore the directives issued by the Civil Service Regulations, the Minister of Finance and Comptroller of Accounts Circulars. Quite often the input documents required to process benefits are submitted after the officer's retirement date and are often inaccurate. The implication here is that the required competence, experience and training would be necessary for persons in any organisation that attempts to prepare a pension and gratuity computation for an officer to receive his/her benefits upon retirement.

Members of the Assembly

The Draft Constitution (Amendment) Tobago Self Government Bill, 2020, Sub Section 12 (3) speaks to a pension scheme for the Members of the House of Assembly only. It is assumed that benefits payable to the members of the assembly be in line with the provisions of the Retiring Allowances (Legislative Service) Act, Chapter 2:03. Alternatively, consideration can be given to the establishment of a private contributory pension plan.

With respect to the effect of Secondment on the payment of pension and gratuity in Sub Sections 20 (14) and (15), it will be necessary to adhere to the guidance in *Comptroller of Accounts Circular No. 3 dated January 16, 1989* which pertains to the preservation of pensions benefits – seconded/transferred officers.

Note that the general requirement is for the receiving organization to pay to the Treasury a contribution of 25% calculated on the officers' substantive salary based on the position which the officer holds during the relevant period of secondment.

Further, based on the *Devolution of Functions from the Personnel Department*, the duration of secondment is usually governed by certain conditions. However, the maximum period on secondment is generally five (5) years.

Care must be taken to ensure equity in the assignment of positions, salaries, and pension payable as Tobago is still part of the unified state of Trinidad and Tobago i.e. The Civil Service must be regarded as one and on an even basis.

It should be noted that the Integrated Financial Management Information System (IFMIS) which is currently being implemented is also meant to integrate the accounting functions at the THA. Therefore the impact of the IFMIS at the THA must be taken into consideration when looking at the structure of a Treasury for Tobago.

5. *In regard to the Board of Inland Revenue, the Minister of Finance comments is sought regarding:*
 - a. *The separation of taxes for the Island of Trinidad and the Island of Tobago, and the effect of same on the administrative duties of the Board of Inland Revenue;*

As the Tobago Island Government will not have administrative powers over taxation, taxes for the Island of Tobago would still be collected by the Board of Inland Revenue.

Therefore, these taxes would not be not monies that would be “lawfully collected” by the Tobago Island Government but would be monies collected by the BIR in Tobago that *ought to be held in account for Tobago*.

- b. *The sharing of taxpayer information with the Fiscal Review Commission of the Tobago Island Government in light of section 4 of the Income Tax Act.*

Under Section 4 of the Income Tax Act, the IRD can share general information with the Fiscal Review Commission on revenue collection, but not the personal or private information of taxpayers. It is not recommended that Section 4 of the Income Tax Act be amended as it could lead to serious challenge about the right to privacy