

**Ministry of Planning and Development Comments on the
“The Draft Constitution (Amendment) (Tobago Self-Government) Bill 2020, and
the Draft Tobago Administration Bill, 2021”**

(i) The Draft Constitution (Amendment) (Tobago Self-Government) Bill, 2020

Page iii - The Financial Provisions (Part IV—Clauses 22-30) states that:

- According to clause 28, the Committee proposes that the Tobago Executive Council’s powers to borrow, should be exercised with the approval of the Minister of Finance and be generally granted.
- The Tobago Island Government will be empowered to make financial rules in accordance with the Exchequer and Audit Act Chap. 69:01.

Comment:

The Legal Authority of the Tobago Island Government (TIG), to act on behalf of the Government of the Republic of Trinidad and Tobago (GORTT), as the Executing Agency for any Multilateral Development Bank loan, is not clearly defined. Also, the issue of the financial process to be administered by the Ministry of Finance for the transfer of the loan funds to the Tobago Island Government in the event that the GORTT takes a loan and the TIG is to be the Executing Agency is not clearly stated.

Page 6 - Clause 11:

11. Section 75 of the Constitution is amended by repealing subsection (1) and substituting the following subsection:

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

- (a) the general direction and control of the Government of Trinidad and Tobago and shall be collectively responsible therefor to Parliament; and
- (b) in relation to Tobago, no responsibility for the matters set out in the Fifth Schedule, unless there is an emergency or unforeseen circumstance requiring the intervention of the Cabinet.”

Comment:

An emergency or unforeseen circumstance requiring the intervention of the Cabinet should be clearly defined in order to avoid any issues in the execution of this clause.

Page 32 - Fourth Schedule Section 53:

THE LIST OF SUBJECTS FOR WHICH THE TOBAGO LEGISLATURE SHALL HAVE EXCLUSIVE LAW-MAKING POWERS IN TOBAGO

- (5) 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 purposes
- (10) Economic planning and development other than national planning and development

Page 33 - Fifth Schedule Section 75:

THE LIST OF RESPONSIBILITY AREAS FOR WHICH THE TOBAGO ISLAND GOVERNMENT SHALL HAVE EXCLUSIVE ADMINISTRATIVE POWERS IN TOBAGO

5. Finance Except -
- Banking (Central and Commercial)
 - Borrowing (External)
 - Foreign Exchange and Exchange Control
 - Customs and Excise
 - Taxation
 - Financial Intelligence
 - National Insurance

Comment:

Clarity is required as the Fifth Schedule Section 75 (5) states that the TIG shall have exclusive administrative powers in Tobago for Finance except Borrowing (external). Does this mean that the TIG will not be allowed to borrow external finances or does not have the administrative powers in Tobago to borrow externally? However, the Fourth Schedule Section 53 (5) states that the Tobago Legislature shall have exclusive law-making powers in Tobago for borrowing of moneys, or obtaining grants of moneys, for the purposes of the TIG and the making of grants and loans for those purposes.

(ii) The Draft Tobago Island Administration Bill, 2021

Page 17 - Clause 28:

“(1) The Tobago Executive Council shall have the power to borrow locally and internationally such sums as the Tobago Executive Council considers necessary for the discharge of its functions.

- (2) The Tobago Executive Council may borrow -
- (a) for any purpose relevant to its functions under any written law;
 - (b) for the purpose of the prudent management of its financial affairs;
 - (c) for the purpose of any investment as approved by the Tobago Executive

Council; and
(d) for any other purpose approved by the Tobago Legislature,

subject to the approval of the Minister with responsibility for finance, which should not unreasonably be withheld.”

Comment:

This clause gives the Tobago Executive Council the authority to have power to borrow locally and internationally. Clarity on whether the TIG has administrative powers in Tobago for External Borrowing is required.