

# **LAWS OF TRINIDAD AND TOBAGO CENTRAL BANK ACT**

## **CHAPTER 79:02**

**Amended by Act No. 2 of 1986 Act No. 10 of 1993 Act No. of 1994**

**An Act to provide for the establishment of a Central Bank to define the powers and duties thereof and for matters incidental thereto.**

### **PRELIMINARY**

#### **1. Short title.**

**This Act may be cited as the Central Bank**

#### **Act. 2. Interpretation.**

**In this Act-**

**"the Bank" means the Central Bank of Trinidad and Tobago;**

**"Board" means the Board of Directors of the Bank as constituted and appointed under sections 5 and 7;**

**"convertible currency" means any currency that is freely negotiable and transferable in international exchange markets;**

**"Corporation" means the Deposit Insurance Corporation established under section 44P;**

**"Deputy Governor" means a Deputy Governor appointed pursuant to section 7;**

**"director" means a member of the Board of Directors appointed pursuant to section 7; "dollar" means the Trinidad and Tobago dollar;**

**"financial institution" means a company licensed under the Financial Institutions Act, 1993; "Governor" means the Governor of the Bank appointed pursuant to section 7;**

**"Inspector of Banks" means the Inspector of Banks appointed under section 30 of the Financial Institutions Act, 1993;**

**"Minister" means the Minister to whom the responsibility for finance is assigned, except as otherwise provided in this Act;**

**"municipal corporation" means a municipal corporation continued or established under the Act No. 21 of 1990 Municipal Corporations Act, 1990;**

**"Ordinary Director" means a Director other than the Governor and the Deputy Governors and the public service directors;**

**"public service director" means a director referred to in section 8(2A);**

**"service of the Government" means permanent pensionable service in any Ministry or Department of the Government;**

**"statutory authority" means a municipal corporation or any commission, board, committee, council or body, whether corporate or unincorporated, established by or under an Act other than the Ch. 31 No. 1 Companies Ordinance and declared by the Chap. 24:01 President under section 3 of the Statutory Authorities Act to be subject to the provisions of that Act.**

## **PART 1 ESTABLISHMENT, CONSTITUTION AND MANAGEMENT OF THE BANK**

### **3. Establishment**

**(1) There is hereby established a Bank to be and incorporation known as the Central Bank of Trinidad and Tobago.**

**(2) The Bank is hereby created a body corporate.**

**(3) The Bank shall have as its purpose the promotion of such monetary credit and exchange conditions as are most favourable to the development of the economy of Trinidad and Tobago, and shall, without prejudice to the other provisions of this Act-**

**(a) have the exclusive right to issue and redeem currency notes and coin in Trinidad and Tobago;**

**(b) act as banker for, and render economic, financial and monetary advice to the Government;**

**(c) maintain, influence and regulate the volume and conditions of supply of credit and currency in the best interest of the economic life of Trinidad and Tobago;**

**(d) maintain monetary stability, control and protect the external value of the monetary unit, administer external monetary reserves, encourage expansion in the general level of production, trade and employment;**

**(e) undertake continuously economic, financial and monetary research; and**

**(f) review -**

**(a) legislation affecting the financial system; and**

**(b) developments in the field of banking and financial services, which appear to it to be relevant to the exercise of its powers and the discharge of its duties.**

**(4) Neither the Bank, a director, an officer nor an employee of the Bank is liable in damages for anything done or omitted in the discharge or purported discharge of the functions of the Bank under this Act or the Financial Institutions Act, 1993, unless it is shown that the act or omission was reckless or in bad faith.**

### **4. Place**

**(1) The Bank shall have its head office in the Business City of Port of Spain in the Island of Trinidad.**

**(2) The Bank may establish branches and agencies and appoint agents and correspondents in Trinidad and Tobago and elsewhere.**

### **5 Board**

**The Bank shall be managed by a Board of Directors comprised of a Governor, not more than two Deputy Governors and not less than six other directors, two of whom may be public service directors.**

#### **6. Custody**

- (1) The seal of the Bank shall be kept in the and use custody of the Governor or a Deputy Governor and of seal shall be authenticated by the Governor or a Deputy Governor and a director authorised by the Board to act in that behalf.**
- (2) All documents, other than those required by law to be under seal, made by, and all decisions of, the Board may be signified under the hand of the Governor or a Deputy Governor.**

#### **7. Appointment**

- (1) The Governor, Deputy Governors and and tenure of the other directors shall be appointed by the President**

**Office of Governor, by instrument in writing.**

#### **Deputy Governors and other Directors**

- (2) The Governor shall be appointed for a term of five years.**
- (3) The term of office of a Deputy Governor shall be for such period as the President may fix in the instrument of appointment.**
- (4) The ordinary directors and the public service directors shall be appointed for a term of three years.**
- (5) All directors shall be eligible for re appointment.**

#### **8. Qualifications**

- (1) The Governor and Deputy Governors shall be men of proven financial experience and Governor, the Deputy Governors and Directors, each shall devote the whole of his time to the service of the Bank and while holding office shall not occupy any other office of employment whether remunerated or not.**
- (2) The ordinary directors shall be selected from amongst persons drawn from diverse occupations appearing to the President to be qualified by reason of their experience and capacity in matters relating to finance, economics, accountancy, industry, commerce, law or administration.**
- (2A) The public service directors shall be -**
  - (a) an officer of the Ministry of Finance; and**

(b) an officer of the Ministry or appropriate department of Government responsible for economic planning.

(3) Notwithstanding subsection (1), the Governor and Deputy Governors may, with approval of the Minister-

(a) act as members of any committee or commissions appointed by the Government to enquire into any matter affecting currency, banking or economic or financial matters relating to Trinidad and Tobago;

(b) become governors, directors or members of the Board of any international bank, monetary authority or other agency to which the Government subscribes, contributes or gives support;

(c) become directors of any company or corporation or other body in which the Government or the Bank holds stock, shares or otherwise participates.

## **9. Disqualification**

No person shall hold office as Governor of Directors or Deputy Governor or shall be appointed or continue to hold office as a director who-

(a) is a member of Parliament, the Tobago House of Assembly or a municipal corporation;

(b) is, save as is provided in section 5, employed in any capacity in the service of the Government;

(c) is, save as is provided in section 8 (3) (c), a director, officer or employee of any financial institution or has an interest as a shareholder in any financial institution which is or becomes subject to regulation by the Bank.

## **10 Governor**

(1) The Governor shall be the chief executive officer of the Bank and shall be entrusted with day to day management, administration, direction and the Bank. Control of the business of the Bank with authority to act in the conduct of the business of the Bank in all matters which are not by this Act or by the Rules and Regulations made thereunder specifically reserved to be done by the Board and shall be answerable to the Board for his acts and decisions.

Duties of:

(2) A Deputy Governor shall perform such Deputy duties as may from time to time be assigned to him by Governor the Board on the advice of the Governor.

(3) In the event of absence or inability of the Governor from whatever cause arising, the Board may appoint a Deputy Governor to exercise the powers and functions of the Governor.

(3A) In the event of absence or inability of the Governor or the Deputy Governor appointed under subsection (3), the other Deputy Governor, if any, has and may exercise all the powers and functions of the Governor.

**(4) In the event of absence or inability of the Governor and any Deputy Governor, the Board may appoint a Director to act temporarily in place of the Governor.**

**(5) In the event of absence or inability of any director from whatever cause arising, the Board may appoint any qualified person to act temporarily in place of any such director.**

### **11 Resignation**

**(1) The Governor or a Deputy Governor and his Directors may resign from office by giving to the President six months notice in writing (or such shorter period as the Governor President may agree to accept) of his intention to do so. At the expiration of such period he shall be deemed to have resigned his office.**

**(2) An ordinary director may at any time resign his office by instrument in writing addressed to the President through the Governor, and the resignation takes effect from the date of the receipt by the President of the instrument.**

### **12 Termination of appointment**

**The President may terminate the appointment of the Governor or a Deputy Governor or any director if the Governor, Deputy Governor or any director -**

- (a) becomes of unsound mind or incapable of carrying out his duties;**
- (b) becomes bankrupt or compounds with, or suspends payment to, his creditors;**
- (c) is convicted and sentenced to a term of imprisonment;**
- (d) is convicted of any offence involving dishonesty;**
- (e) is guilty of misconduct in relation to his duties;**
- (f) is absent, except on leave granted by the Board, from all meetings of the Board held during two consecutive months or during any three months in any period of twelve months;**
- (fa) fails to comply with section 16(1);**
- (fb) contravenes any provision of any prescribed Code of Ethics in respect of which he is liable to termination of his appointment; or**
- (fc) becomes disqualified for holding office by virtue of section 9;**
- (g) fails to carry out any of the duties or functions conferred or imposed on him under this Act.**

### **13. Publication of names of members of the Board in the Gazette**

**The names of all members and every change in the membership thereof shall be published in the Gazette.**

### **14. Remuneration**

**The Governor, Deputy Governors and the other of Directors shall be paid such remuneration and allowances as the Board may determine.**

#### **15 Procedure at meetings of the Board**

- (1) The Governor shall be the Chairman of the Board and shall preside at the meetings of the Board.**
- (2) Meetings. The Board shall meet for the transaction of the business of the Bank as may be necessary or expedient, but at least once in every two months and not less than nine times in any calendar year.**
- (3) Special. The Chairman may at any time call a special meeting of the Board.**
- (4) The Chairman shall, within seven days of the receipt by him of a request in writing addressed to him by any member of the Board, call a special meeting of the Board.**
- (5) Quorum. The quorum of the Board shall consist of the Chairman and three other members of the Board.**
- (6) Decisions of the Board. The decisions of the Board shall be adopted by a majority of the votes and in addition to an original vote, in any case in which the voting is equal, the Chairman presiding at the meeting shall have a casting vote.**

#### **16 Directors**

- (1) Any member of the Board, whose interest is likely to be affected whether directly or indirectly by a decision of the Board on any matter whatsoever, shall disclose the nature of his interest at the first meeting of the Board at which he is present after the relevant facts have come to his knowledge.**
- (2) A disclosure under subsection (1) shall be recorded in the minutes of the Board and after the disclosure the member making the disclosure shall, unless the Board otherwise directs, not be present or take part in the deliberations or vote at any meeting during the time when such matter is being decided by the Board.**
- (3) A person who fails to comply with subsection (1) is liable on summary conviction to a fine of six thousand dollars and imprisonment for two years.**

#### **17 Power to employ and train employees**

- (1) The Bank may appoint such officers and, at such remuneration and on such terms and conditions as it considers necessary or appropriate for the efficient conduct of the business of the Bank.**
- (3) The Bank may provide out of its funds and make such arrangements for the training of any of its officers or employees or other persons as it may consider expedient for the efficient conduct of the business of the Bank.**
- (4 Ch. 23:53) Nothing contained in the Pensions Extension Act shall apply or be deemed to apply to officers and employees appointed by the Bank under subsection (1).**

## **18. Pension**

The Bank shall provide pension benefits for benefits officers and employees of the Bank.

## **19 Transfer**

(1) Subject to subsection (2), the Minister and the secondment. Bank may make appropriate arrangements for the transfer on secondment of any officer in the service of the Government to the service of the Bank or from the service of the Bank to the service of the Government.

(2) Where a transfer on secondment contemplated by subsection (1) is effected, the Government or the Bank, as the case may require, shall make such arrangements as may be necessary to preserve the rights of the officer so transferred to any pension, gratuity or other allowance for which he would have been eligible had he remained in the service of the Government or of the Bank, as the case may be.

(3) A period of transfer on secondment shall not in any case exceed five years.

(4) Notwithstanding anything contained in any law to the contrary, an officer or employee appointed by the Bank under section 17(1) or an officer transferred on secondment to the service of the Bank from the service of the Government shall not during the period of such appointment or transfer on secondment, as the case may be, be regarded as the holder of an office in the service of the Government.

(5) The Bank may make appropriate arrangements for the transfer on secondment of any person -

(a) in its employ to an organisation; or

(b) from an organisation to its employ, on such terms and conditions as may be acceptable to the Bank, the person concerned and the organisation.

(6) In this section, "organisation" means the Tobago House of Assembly, a statutory authority and a company registered under the Companies Ordinance.

## **20. Transfer of**

(1) An officer in the service of the Government officers of may, with the approval of the Minister, be Government transferred to the service of the Bank and upon such to the Bank. transfer shall become a member of the Pension Scheme referred to in section 18, or if such officer's transfer becomes effective before the establishment of that Scheme, he shall become a member within one year of its establishment .

(2) A transfer described in subsection (1) shall be on such terms as may be acceptable to the Government, the Bank and the officer concerned.

## **PART 1A PERSONNEL**

### **20A Interpretation.**

**In this Part –**

**"allowance" means compensation payable -**

**(a) in respect of a salary group or in respect of a job in a salary group, by reason of duties of a special nature;**

**(b) for duties that an employee is required to perform in addition to the duties of his job where those duties relate to a job in the same or a higher salary group;**

**"classification" means the assignment of a job to a salary group;**

**"compensation" includes salary, merit increase, allowance, bonus and other benefits;**

**"dispute", except in section 20B(3), means any matter respecting employees upon which agreement has not been reached between the Bank and the recognised association and which is deemed to be a dispute under section 20D;**

**"employee" does not include a director;**

**"Estate Police Association" means the organisation established under section 38(1) of the Supplemental Police Act;**

**"merit increase" means a performance related increase in salary;**

**"Minister" means the Minister to whom responsibility for labour is assigned;**

**"recognised association" means an association representing employees other than estate constables in one or more salary groups, certified by the Registration Recognition and Certification Board;**

**"Registration Recognition and Certification Board" means the Registration Recognition and Certification Board established by the Industrial Relations Act;**

**"salary" means the rate of pay assigned to an employee in a job;**

**"salary group" means a division into which a job in the Bank is assigned by reason of the size of the job;**

**"salary range" means a scale of pay applicable to jobs in a salary group;**

**"Special Tribunal" means the Special Tribunal Ch. 23:01 established by the Civil Service Act and referred to in Ch. 88:01 Section 4(2c) of the Industrial Relations Act.**

## **20B Consultation**

**(1) The Bank shall provide for and establish procedures for consultation and negotiation between the Bank and - with the Bank**

**(a) in the case of employees other than estate constables, a recognised association; and**

**(b) in the case of employees who are estate constables, the Estate Police Association, in respect of -**

**(c) the classification of jobs;**

**(d) the terms and conditions of employment;**

**(e) the rights, privileges or duties of the Bank, the recognised association, the Estate Police Association, employees or estate constables;**

**(f) the regulation of the mutual relationship between the Bank and the recognised association or the Estate Police Association; and**



(g) grievances connected with or arising out of the employment relationship between the Bank and the employees, including grievances related to the termination or suspension of employment of any employee.

(2) The Bank shall from time to time consult and negotiate with representatives of a recognised association or the Estate Police Association with respect to the matters specified in sub-section (1)-

(a) at the request of those representatives; or

(b) whenever in the opinion of the Bank such consultation is necessary or desirable.

(3) Sections 40 to 43 of the Supplemental Police Act shall apply to consultations, negotiations, disputes and agreements between the Bank and the Estate Police Association.

#### **20C Where**

(1) Where the Bank and the recognised agreement association reach agreement on any of the matters reached. specified in section 20B(1) after consultation and negotiation in accordance with section 20B(2), the agreement shall be recorded in writing and shall be signed by the Bank and by the recognised association.

(2) Subject to such modifications as may be necessary, the registration of an agreement shall be governed by Part IV of the Industrial Relations Act.

(3) An agreement recorded and signed in accordance with subsection (1) is binding upon the Bank and the employees to whom the agreement relates.

#### **20D Where no**

(1)Where the Bank consults and negotiates agreement with a recognised association under section 20B (2) reached. and the Bank and the recognised association are, within twenty - one days of the commencement of the consultation and negotiation, or within such further period as may be agreed upon, unable to reach agreement on any matter, the Bank or the recognised association shall report the matter on which no agreement has been reached to the Minister, and on the report being made, a dispute shall be deemed to exist as to such matter.

(2) the Minister shall be soon as possible after a dispute has been reported to him, take such steps as he may consider advisable to secure within fourteen days next after the date of the report, a settlement of the dispute by means of conciliation.

(3) The Bank and the appropriate recognised association may agree in writing to extend the time specified in subsection (2), including any further extension of time under this subsection, within which the Minister may take steps to secure a settlement of the dispute by means of conciliation.

#### **20E Disputes**

(1) Where in pursuance of section 20D(3) to be it is agreed to extend the time within which the Minister referred to may secure by means of conciliation, a settlement of the Special dispute, he may continue to take such steps.

**(2 Tribunal.) Where the Minister is satisfied -**

- (a) that no useful purpose would be served by continuing to conciliate; or**
- (b) that either the Bank or the appropriate recognised association or the Estate Police Association refuses to enter into conciliation in good faith, he shall refer the dispute to the Special Tribunal within twenty one days from the date on which the dispute was reported to him.**

**(3) For the purposes of this Part, the parties to a dispute are the Bank and the recognised association.**

#### **20F Powers of the Special Tribunal**

- (1) The Special Tribunal shall hear and determine any dispute referred to it under section 20E and, for that purpose, has all powers and duties of the Essential Services Division of the Industrial Court that are vested by the Industrial Relations Act.**
- (2) An award, order or other determination of the Special Tribunal is final.**

#### **20G Awards to parties**

- (1) An award of the Special Tribunal under be binding section 20F is binding on the parties to the dispute and on all employees to whom the award relates and continues to be binding for a fixed period, to be specified in the award, not less than five years from the date upon which the award takes effect.**
- (2) The Special Tribunal may, with the agreement of the parties to an award, review the award at any time after the expiry of the third year.**

#### **20I Association**

- (1) Every recognised association shall make Rules providing for the good government of the association and rules for carrying out the objects of the association and, with respect to such Rules, the following shall have effect:**
  - (a) the Rules shall contain provisions in respect of the several matters mentioned in the Schedule;**
  - (b) a copy of the Rules and every amendment thereto shall be delivered by the association to every financial member of the association, on payment of the prescribed sum.**
- (2) The Rules of the association and every amendment thereto shall be filed by the association with the Registrar General and shall have effect from the date of filing, unless a later date is specified from which they shall have effect".**

## **PART II CURRENCY AND LEGAL TENDER**

### **21 Currency of**

(1) The currency of Trinidad and Tobago are Trinidad and the notes and coins issued by the Bank under this Act. Tobago.

(2) The Bank has the sole right to issue notes and coins in Trinidad and Tobago and such notes and coins are legal tender in Trinidad and Tobago.

(4) Notwithstanding sub-sections (1) and (2), currency notes and coins issued by the Currency Board under Section 4(1) (a) of the repealed Currency Ordinance shall be deemed to continue to be legal tender in Trinidad and Tobago until the 1st January 1966 or at such earlier date as the Minister may determine by notice published in the Gazette; but the holders of any such notes or coins are entitled to claim from the Bank payment of the face value of those notes or coins within one year after the commencement of the Central Bank (Amendment) Act ,1994.

## **22 Unit of**

The unit of currency is the Trinidad and Tobago dollar which shall be divided into one hundred cents.

## **23 Par**

(1) The par value of the Trinidad and Tobago Value of dollar shall be determined on such basis as the President may, by Order, declare.

(2 the Trinidad and Tobago ) An Order made under this section shall be dollar subject to negative resolution of the House of Representatives.

## **24 Notes and coins exempt from taxation**

Notes and coins issued by the Bank are exempt from the payment of stamp duties and from all levies, taxes and other impositions, both before and after issue.

## **25 Issue of Currency**

The Bank shall -

(a) arrange for the printing of notes and minting of coin for circulation in Trinidad and Tobago;

(b) issue, re-issue and exchange notes and coins at the Bank's offices and at such branches and agencies as the Bank may from time to time establish or appoint;

(c) arrange for the safe custody of unused stocks of currency and for the preparation, safe custody and destruction of plates and paper for the printing of notes and of dies for the minting of coins;

## **Denominations 26**

(1) Notes and coins issued by the Bank - and form of notes and coins.

(a) shall be in such denominations of the dollar or fractions thereof as may be approved by the Minister;

(b) shall be of such forms and designs and bear such devices as may be approved by the Minister.

(2) Coins issued by the Bank shall be of such standard weight and composition and the amount of remedy or variation from the standard weight or composition as may be prescribed by the Minister.

(3) Subject to subsections (5) and (6) and section 27 (2), a tender of payment of money is legal if made as follows:

(a) in the case of notes, for the payment of any amount;

(b) in the case of coins of a denomination of one dollar or over, for the payment of an amount not exceeding five hundred dollars;

(c) in the case of coins of a denomination of twenty-five cents and over, for the payment of an amount not exceeding two hundred dollars;

(d) in the case of coins of a denomination of under twenty five cents, for the payment of an amount not exceeding one hundred dollars.

(4) The Minister may by Order vary the amounts in paragraphs (a), (b), (c) and (d) of subsection (3)

(5) A note that is mutilated, defaced or impaired or that has been reduced in size so that the identification marks have become unrecognisable is not legal tender.

(6) A coin that is bent, mutilated or defaced, or that has been reduced in weight, otherwise than by abrasion through ordinary use, is not legal tender.

## **27 Redemption of notes and coins**

(1) The Bank, with the approval of the Minister, may on giving three months' notice published in the Gazette call in any of its notes and coins on payment of the face value thereof and any such notes or coins with respect to which a notice has been given under this section shall, on the expiration of the notice, cease to be legal tender, but shall be redeemed at face value by the Bank upon such conditions as may be prescribed.

(2 Refund of lost and stolen coins). A person is not entitled to recover from the Bank the value of any lost, stolen, mutilated or impaired note, or the value of any coin lost, stolen or tampered with.

(3 Discretion of the Bank to refund impaired or mutilated notes and coins). Notwithstanding subsection (2), the Bank may in its absolute discretion as an act of grace refund the value of a mutilated or impaired note or a coin which has been tampered with.

## **28 Bills and notes payable on demand**

(1) Except as provided by subsection (2), no person shall for the purpose of putting such instrument into circulation draw, accept, make or issue any bill of exchange, promissory note or engagement for the payment of money payable to bearer on demand or borrow, owe or

take up any sum or sums of money, or any bill of exchange, promissory note or engagement for the payment of money payable only to bearer on demand of any such person.

(2) Cheques or drafts payable to bearer on demand, may, in the usual course of commercial practice, be drawn on bankers or agents by their customers.

(3) Subsection (1) of this Act does not apply to bank notes issued before the coming into operation by banks duly authorised to issue such notes.

(4) Any person contravening subsection (1) is, notwithstanding anything to the contrary in any other law, liable on summary conviction to a fine of thirty thousand dollars and to a term of imprisonment for four years.

(5) A prosecution under this section shall not be instituted except with the approval of the Board.

## **29 Imitation of currency notes**

(1) Subject to subsection (2), any person who makes or causes to be made or uses for any purpose whatsoever, or utters any document purporting to be or in any way resembling or so nearly resembling as to be calculated to deceive, any currency note or any part thereof, is liable on summary conviction to a fine of one hundred thousand dollars and to a term of imprisonment of seven years; and the court shall order the document in respect of which the offence was committed and any copies of that document and any plates, dies or other instruments used for or capable of being used for printing or reproducing any such documents, which are in the possession of the offender to be delivered to the Bank.

(2) A person who, with the prior approval of the Bank, reproduces a currency note or part thereof that resembles a currency note issued by the Bank, is not liable for that reproduction.

(3) In this section, "document" includes any form or manner of reproduction.

## **30 Mutilating or defacing**

Any person who willfully and without lawful authority or excuse (the onus of proof of such currency notes. lawful authority shall be on the person accused) mutilates, cuts, tears or perforates with holes any note issued by the Bank under this Act or in any way defaces a note whether by writing, printing, drawing or stamping thereon, or by attaching or affixing thereto anything in the nature of an advertisement, is liable on summary conviction to a fine of two thousand dollars and to imprisonment for six months.

## **31 Definition of "note"**

For the avoidance of doubt it is hereby declared that the expression "note" in this Act is within the meaning of the expression "currency note" in the Ch. 11:13 Forgery Act.

## **33 Assets to cover currency in circulation**

(1) The Bank shall at all times hold assets of an amount in value sufficient to cover fully the value of the total amount of notes and coins for the time being in circulation.

**(2) Such assets shall consist of all or any of the following:**

- (a) gold coin or gold bullion;**
- (b) notes and coins in convertible currencies which the Minister may, on the advice of the Bank, designate;**
- (c) bank balances, money at call and time balances with financial institutions in countries having convertible currencies, which institutions the Minister may, on the advice of the Bank, designate;**
- (d) treasury bills and other securities issued by the Governments of countries having convertible currencies which the Minister may, on the advice of the Bank, designate;**
- (e) treasury bills and securities issued or guaranteed by the Government which in the aggregate do not exceed in value fifty per cent of the amount in value of the total assets held under the provisions of this section;**
- (f) contributions to the capital of, or advances to international financial organisations made by the Bank under section 36(h);**
- (g) special drawing rights (and any foreign exchange proceeds resulting from their use) constituting assets of the account authorised by section 4(6) of the International Financial Organisations Ch. 70:01 Act.**

### **PART III CAPITAL AND RESERVE**

#### **34 Capital of the Bank**

- (1) The authorised capital of the Bank is one hundred million dollars.**
- (3) The paid-up portion of the authorised capital may be increased by such amount as the Minister may from time to time approve, and the Government shall subscribe and pay the amount of such increase to the Bank from the Consolidated Fund.**
- (4) The authorised capital of the Bank may, with the approval of the Minister, be increased by resolution of the Board and any such resolution shall be ratified by Parliament.**
- (5) Notwithstanding subsection (3), the paid-up portion of the authorised capital shall be increased each year by not less than fifteen per cent of the amount to be paid into the Consolidated Fund until the paid up portion of the authorised capital is equal to the authorised capital.**

#### **35 General and**

- (1) The Bank shall establish and maintain a Special General Reserve Fund.**
- (2 Reserve Funds) The Bank may, with the approval of the Minister, establish Special Reserve Funds of specified amounts.**

**(3) The Bank may place in the General Reserve Fund or the Special Reserve Funds, or in both the General Reserve Fund and the Special Reserve Funds, an amount that does not exceed ten per cent of the net profit of the Bank for a financial year.**

**(4) The net profit of the Bank for a financial year shall be determined after -**

**(a) allowing for the expenses of operations, including replacement and acquisition of assets for the operations of the Bank;**

**(b) provision has been made for bad and doubtful debts, depreciation in assets, contribution to staff pension benefits and other contingencies.**

**(5) Subject to subsection (7), at the end of each financial year, after allowing for the amount referred to in subsection (3), the net profit of the Bank shall be paid into the Consolidated Fund.**

**(6) When the sum standing to the credit of the General Reserve Fund equals the authorised capital of the Bank, no further contribution to the General Reserve Fund shall be made.**

**(7) Any loss incurred by the Bank during a financial year may be met from the General Reserve Fund or from the Special Reserve Funds where the General Reserve Fund is insufficient.**

**(8) Where the General Reserve Fund and the Special Reserve Funds are insufficient for the purpose referred to in subsection (7), the Bank, with the approval of the Minister, may carry forward and recoup the losses from future profits before further payment is made into the Consolidated Fund.**

## **PART IV THE BUSINESS OF THE BANK**

### **36 Authorised business of Bank (1)**

**Subject to this Act, the Bank may-**

**(a) issue and redeem notes and coins in accordance with Part II;**

**(b) issue demand drafts and other kinds of remittances made payable at its head office or at the office of its branches, agencies or correspondents;**

**(c) purchase, and sell gold coin and bullion;**

**(d) open accounts for and accept deposits from-**

**(i) the Government;**

**(ii) the Tobago House of Assembly and statutory authorities;**

**(iii) such other public authorities as the Minister may from time to time approve; and**

**(iv) financial institutions;**

(e) purchase from, sell to, discount and rediscount on behalf of the bodies, authorities and institutions referred to in paragraph (d) bills of exchange and promissory notes issued for commercial, industrial or agricultural purposes and maturing within one hundred and eighty days from the date of acquisition;

(f) purchase and sell treasury bills and securities of or guaranteed

by- (i) the Government;

(iii) such other Governments or international financial institutions as may be designated by the Minister on the advice of the Bank;

(g) with the approval of the Minister, acquire, hold and sell shares or other securities of Ch. 31 No. 1 any statutory body or any company (1950 Ed.) registered under the Companies Ordinance for the purpose of promoting the development of a money or securities market in Trinidad and Tobago or for financing the economic development of Trinidad and Tobago so, however, that total holdings of the shares do not exceed the aggregate total of the paid up capital and the General Reserve Fund of the Bank;

(h) with the approval of the Minister, make contributions to the capital of, or advances to international financial organisations;

(i) grant to the bodies, authorities and institutions referred to in paragraph (d)(ii), (iii) and (iv) on such terms and conditions as the Bank may from time to time determine, advances for fixed periods not exceeding six months on the security of any of the following:

(i) gold coins or gold bullion;

(ii) Treasury Bills of the Government;

(iii) securities issued or guaranteed by the Government;

(iv) such bills of exchange and promissory notes as are eligible for purchase, discount or rediscount by the Bank;

(v) warehouse warrants or their equivalent securing possession of goods in respect of finished or semi-finished products duly insured and secured with a letter of hypothecation from the owner; but in the event of any such debt due to the Bank becoming in the opinion of the Bank endangered, the Bank may secure the debt on any real or personal property of the debtor and may in the event of default secure that property, which may be sold as soon as practicable thereafter;

(vi) such other securities as may from time to time be approved by the Bank;

(j) purchase and sell foreign currencies and foreign bills of exchange;

(k) open accounts with and keep accounts for central banks and international financial institutions and with other banks outside of Trinidad and Tobago and utilise any such accounts as the Bank thinks expedient for due performance of the functions of the Bank;



- (l) make arrangements or enter into agreements with any commercial bank or financial institution outside of Trinidad and Tobago to borrow, in such manner at such rate of interest and upon such other terms and conditions as it may think fit, such sums as the Bank may think it expedient to acquire for the purpose of its operations;**
- (m) underwrite any Government loans in which it may invest;**
- (n) undertake the issue and management of loans to be issued in Trinidad and Tobago by the Government or by any public authority;**
- (o) act as agent to the Government in respect of exchange control;**
- (p) accept for custody securities and other articles of value;**
- (q) undertake on behalf of customers and correspondents the purchase, sale, collection and payment of securities and credit instruments within and outside of Trinidad and Tobago and the purchase or sale of gold and silver;**
- (r) establish and maintain in conjunction with commercial banks operating in Trinidad and Tobago a clearing house in Port of Spain and in such other places as the Bank may consider necessary;**
- (s) acquire, hold and transfer or otherwise dispose of special drawing rights (and any foreign exchange proceeds resulting from their use) constituting assets of the account authorised by section 4(6) of the Ch. 70:01 International Financial Organisations Act;**
- (t) purchase, acquire, lease, sell, let, sublet or create licences over, or otherwise dispose of, real property or any part thereof and provide in connection therewith ancillary services;**
- (u) lend, borrow or invest in securities other than those specified in this section, but such loans, borrowings and investments shall not exceed ten per cent of the total assets of the Bank for the financial year in which the loans, borrowings or investments are initially made;**
- (v) give a guarantee and pay any sums and any interest thereon in fulfillment of any such guarantee in respect of any activities in discharge of its functions under this Act or the Financial Institutions Act, 1993;**
- (w) promote the establishment or expansion of bodies to develop and expand the money and capital markets and to provide assistance, including financial assistance to such bodies;**
- (x) establish subsidiary companies;**
- (y) provide, for the benefit of -**
  - (i) the Bank, or for value for any of its subsidiaries or affiliates;**
  - (ii) the State, any of its agencies, organs, departments, the Tobago House of Assembly or any statutory authority; or**

(iii) any international financial institution, research functions, computer maintenance and security services and such other services as may be related to any activities under this Act.

(z) trade in notes or coins;

(aa) engage in the following:

(i) effect contracts, the purpose of which is to manage its assets and liabilities;

(ii) borrow through the issue of bonds or other appropriate instruments in the exercise of its functions under paragraphs (c) and (d) of section 3(3), subject to the condition that the amount outstanding on such borrowings shall not exceed twenty-five per cent of the total assets of the Bank or such other amount as the Minister may approve;

(iii) establish sinking funds for the redemption of the instruments referred to in subparagraph

(ii);(bb) do any other banking business or carry on any activity not prohibited by this Act which may be requisite advantageous, convenient or incidental to or consequential upon the discharge of its functions.

### **37 Restrictions on business of the Bank**

Except as authorised by this Act the Bank may not engage in any trade or accept for discount or as a security for advances made by the Bank, bills or notes signed by members of the Board or by the Bank's officers or employees.

## **PART V RELATIONS WITH FINANCIAL INSTITUTIONS**

### **38 Bank as banker**

The Bank may act as banker to financial institutions in Trinidad and Tobago and as agent of and correspondent to banks abroad.

### **39 Minimum discount and rediscount rates**

The Bank shall from time to time fix and announce rates and charges and its minimum rates for discount and rediscount.

### **44A Fixing of interest rates**

(1) The Bank may fix the maximum and minimum interest rates payable on deposits received, and may fix the maximum and minimum interest rates, fees and charges to be charged on loans, advances or other credit facilities, by a financial institution.

(2) The Bank, after consultation with the Minister, may set the maximum spread between interest rates chargeable on loans and interest rates payable on deposits which a financial institution may earn, carry or charge.

#### **44B Penalties**

**(1) Every financial institution shall pay or charge contravention of interest as the case may be, at the rate fixed by Section 44A the Bank under section 44A and where such institution contravenes this section -**

**(a) it is liable on summary conviction to a fine of ten thousand dollars for each day the offence is committed and any monetary benefit accruing to it as a result of the contravention shall be deemed to be moneys due and owing by the financial institution to the Bank and such moneys shall be recoverable by the Bank as a debt; and**

**(b) its manager is liable on summary conviction to a fine of five thousand dollars and to imprisonment for two years.**

**(2) Where a financial institution is convicted of an offence under this section, the Minister may in his discretion suspend or revoke its licence.**

### **PART V A SPECIAL EMERGENCY POWERS OF BANK**

#### **44C Definitions**

**(1) In this Part, the expression -**

**"agent" in relation to an institution, includes its bankers and any persons, whether officers of the institutions or not, who are employed as its auditors, but does not include its legal advisers;**

**"affiliated institution", in relation to an institution, means a company which is or has at any relevant time been -**

**(a) a holding company or a subsidiary of the institution,**

**(b) a subsidiary of a holding company of the institution,**

**(c) a holding company of a subsidiary of the institution, or**

**(d) a holding company of a holding company or a subsidiary of a subsidiary of the institution. the expressions "holding company" and "subsidiary" having the meanings assigned to them in the Companies Ordinance;**

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**"directors" includes any category of persons performing the functions of directors or analogous functions;**

**"Inspector of Banks" means the Inspector of Banks appointed under section 18(1) of the Banking Act; Chap. 79:01 "institution" means a bank within the meaning of the Banking Act or a financial institution within the meaning of the Act No. 52 of 1979 meaning of the Financial Institutions (Non-Banking) Act; "officer" in relation to an institution, includes any category of manager as well as any person in the employment of the institution.**

**(2) In this Part a reference to a director, officer or agent of an institution includes a reference to a person who has been but is no longer a director, officer or agent thereof.**

**44D Circumstances where Bank may take over control etc**

**(1) Where the Bank is of the opinion -**

- (a) that the interests of depositors or creditors of an institution are threatened;**
- (b) that an institution is likely to become unable to meet its obligations or is about to suspend or has suspended payment; or**
- (c) that an institution is not maintaining high standards of financial probity or sound business practices; the Bank shall, in addition to any other powers conferred on it by any other law, have power -**
  - (i) to investigate the affairs of the institution concerned and any of its affiliated institutions and to appoint a person or persons for that purpose;**
  - (ii) to such extent as it thinks fit, to assume control of and carry on the affairs of the institution and, if necessary, to take over the property and undertaking of the institution;**
  - (iii) to take all steps it considers necessary to protect the interests, and to preserve the rights of depositors and creditors of the institution;**
  - (iv) to restructure the business or undertaking of the institution or to reconstruct its capital base;**
  - (v) to provide such financial assistance to the institution as it considers necessary to prevent the collapse of the institution;**
  - (vi) to acquire or sell or otherwise deal with the property, assets and undertaking of or any shareholding in the institution, at a price to be determined by an independent valuer;**
  - (vii) to appoint such persons as it considers necessary to assist in the performance of the functions conferred by paragraphs (i) to (vi);**
  - (viii) to ensure that each member of the Fund established under Part VB maintains high standards of financial probity and sound business practices and for that purpose to examine and supervise the operations of all member institutions and stipulate prudential criteria to be followed by the institutions as it may deem necessary.**

**(2) The powers of the Bank under subsection (1) shall not be exercised unless the Bank is also of the opinion that the financial system of Trinidad and Tobago is in danger of disruption, substantial damage, injury or impairment as a result of the circumstances giving rise to the exercise of such powers.**

**(3) Pursuant but without prejudice to its powers under subsection (1), the Bank may appoint any person or persons to act as Receiver or Manager and such appointment shall take effect as though made by the depositors and other creditors of the Company pursuant to a charge**

over all the fixed and floating assets of the institution and without prejudice to any other powers vested in such Receiver or Manager the Receiver or Manager shall have power -

(a) to take possession of, collect and get in any property of the institution and for that purpose to take any proceedings in the name of the institution or otherwise as may seem expedient;

(b) to carry on, manage or concur in carrying on and managing the business of the institution or any part thereof and for any of those purposes to raise or borrow any money that may be required on the security of the whole or any part of the property of the institution;

(c) forthwith to sell or concur in selling (but where necessary with the leave of the Court) and to let or concur in letting and to accept surrenders of leases or tenancies of all or any of the property of the institution and to carry any such sale, letting or surrender into effect by conveying, leasing, letting or accepting surrenders in the name and on behalf of the institution; and any such sale may be for cash, debentures, other obligations, shares, stock or other valuable consideration and may be payable in a lump sum or by instalments spread over such period as the Bank shall think fit and plant machinery and other fixtures may be severed and sold separately from the premises containing them without the consent of the institution being obtained thereto;

(d) to make any arrangement or compromise which he shall think expedient;

(e) to make and effect or repair renewals and any improvements of the institution's equipment and effects and to maintain or renew all insurances;

(f) to appoint managers, agents, officers, servants and workmen for any of the aforesaid purposes at such salaries and for such periods as he may determine;

(g) to do all such other acts and things as may be considered to be incidental or conducive to any of the matters or powers aforesaid and which he or they lawfully may or can do as agent for the Company.

(4) In the event of a natural disaster, internal disorder or, where in the opinion of the Governor a financial crisis exists in the country, the Governor, with the approval of the Minister, may take such action with respect to the operations of financial institutions and monetary policy as he deems to be necessary in the interest of the financial system.

(5) If the Governor is unable to obtain prior approval of the Minister because of any of the events mentioned in subsection (1), he shall notify the Minister and the Board of the action taken as soon as possible thereafter.

(6) The Board shall designate the following persons to exercise the powers of the Governor under subsections (4) and (5) in the event that the Governor is absent or otherwise unable at the appropriate time to do so:

(a) a Deputy Governor and in the event of the absence or inability of that Deputy Governor, the other Deputy Governor; and

(b) in the event of the absence or inability of the Deputy Governors, a director.

(7) Within fourteen days of taking action under subsection 4, or as soon as possible thereafter, the Governor shall submit to the Minister, a statement setting out the reasons on which his decision to act under subsection 4 was based.

(8) The Minister shall cause a copy of the statement referred to in subsection 7 to be laid before Parliament as soon as possible after his receipt of the statement.

#### **44E Notification of takeover of property and control**

(1) Where the Bank proposes to exercise powers under section 44D (1) (ii), it shall publish in the Gazette and in such newspapers as it thinks appropriate a notification to that effect.

(2) The notification shall state -

(a) the property and undertaking it proposes to take over,

(b) the powers to control it proposes to exercise, and shall give such particulars as the Bank considers necessary for the information of persons having business dealings with the institution.

(3) Upon the publication of the notification the property and the powers of control stated therein shall vest in the Bank.

(4) A notification under this section may be amended or supplemented from time to time by subsequent notification in the Gazette and the notification shall have effect as so amended or supplemented.

#### **44F Duty to assist where Bank assumes control**

(1) Where the Bank has under section 44D assumed control of an institution, it may terminate or retain the services of any or all of the directors, officers and employees of the institution and the directors so retained shall manage the affairs of the institution subject however to any directions of the Bank; and no acts done or resolution, rules, bye-laws or decisions made or conveyances, transfers, assignments or instruments executed during such period relating to the business affairs, property, undertaking or management of the institution shall have effect unless they are approved by or are in conformity with the directions of the Bank.

(2) Where the Bank is exercising powers under section 44D in relation to any institution, that institution, its affiliated institutions and their directors, officers and agents other than its auditors shall give every assistance to the Bank for the purpose of facilitating the performance of functions under section 44D, including the supply of information or explanation in such form as may be required, the production of books, documents, minutes, cash, securities and vouchers, and generally the provision of all necessary facilities required for the performance of any function under section 44D, save that in the case of its auditors they shall only be required to supply any information which is in their possession or knowledge other than their internally generated working papers.

(3) Any person appointed under section 44D shall have all the powers of a commissioner under the Commissions of Chap. 19:01 Enquiry Act to summon and examine persons

required under subsection (2) to assist the Bank in the performance of its functions, and the provisions of section 12 of the Commissions of Enquiry Act, including the provisions imposing penalties, shall apply in all respects to persons summoned under this subsection.

(4) In any particular case, the Bank may appoint the Inspector of Banks to perform any or all of its functions under section 44D subject to such conditions as may be specified in the appointment.

(5) In the performance of its functions and in the exercise of its powers under section 44D the Bank shall comply with any general or special directions of the Minister and shall act only after due consultation with the Minister.

#### **44G Termination of control**

(1) Where the Bank has under section 44D assumed control of an institution, the Bank shall, subject to subsection (2), remain in control of, and may continue to carry on the business of that institution until such time as the Bank publishes in the Gazette and in such newspapers as it thinks appropriate a notification that it has ceased to be in control of the institution.

(2) The Bank shall relinquish control and shall not continue to carry on the business of an institution where -

(a) the circumstances on the basis of which the Bank assumed control of the institution under section 44D have ceased to exist;

(b) the Bank is of opinion that it is no longer necessary for it to remain in control of the business of the institution; or

(c) the Bank has sold or otherwise disposed of the property, assets and undertakings of the institution.

(3) Upon publication of a notification under subsection (1) and subject to such conditions as may be specified therein, all property not sold or otherwise disposed of by the Bank and all powers of control over the affairs of the institution vested in the Bank by or in consequence of the previous notification published under section 44E (1) shall vest in the institution if it still subsists as a corporate entity and be deemed to have been transferred from the Bank to the institution.

(4) Where the Bank has, in pursuance of section 44D, assumed control of an institution, the High Court may, upon the application of the directors of the institution acting independently of the Bank, if it is satisfied that it is no longer necessary for the protection of the depositors or creditors of the institution that the Bank should remain in control of the business of that institution, order that the Bank cease to control the business of that institution as from a date specified in the Order.

#### **44H Protection of persons**

The State, the Minister or the Bank, acting under this Part its directors and officers and any persons appointed by the Bank under section 44D are not subject to any action, claim or demand by, or any liability to, any person in respect of anything done or omitted to be done

in good faith and without negligence in the performance, or in connection with the performance of functions conferred on the Bank under this Part.

#### **44I Offences**

(1) Any person to whom section 44F (2) applies who -

- (a) fails to assist or to facilitate the Bank in any function conferred by section 44D, or
- (b) obstructs the Bank in the performance of any such function, or
- (c) in the performance of his obligations under section 44F (2), provides any false or misleading information, is guilty of an offence and liable on summary conviction to a fine of one hundred thousand dollars or five years imprisonment or both.

(2) While the Bank is in control of the business of an institution, any person who, without the approval or authority of the Bank or in a manner contrary to the directions of the Bank, receives, disposes of or otherwise deals with any assets of the institution, or who tampers whether by making entries in or otherwise, with any books, records or documents of the institution is guilty of an offence and liable on summary conviction to a fine of one hundred thousand dollars or to imprisonment for five years or both and on conviction on indictment to a fine of five hundred thousand dollars or ten years imprisonment or both.

(3) Any person to whom section 44F (2) applies who fails to comply with a requirement or demand by the Bank to do or refrain from doing any act or to assist or to facilitate the Bank in any function vested in it by section 44D is guilty of an offence and liable on summary conviction to a fine of one hundred thousand dollars or five years imprisonment or both.

### **PART VB DEPOSIT INSURANCE**

#### **44J Definitions**

In this Part -

"Board of Management" means the Board of Directors of the Corporation;

"Chairman" means the Chairman of the Board of Management;

"deposit" means-

- (a) the unpaid balance of money or its equivalent received or held by an institution from or on behalf of a person in the usual course of business and for which the institution has given or is obliged to give credit to that person's checking, savings, demand or time account, or for which the institution has issued a certificate, receipt, cheque, money order, draft or other instrument in respect of which it is primarily liable; but shall not include letters of credit, stand-by letters of credit or instruments of a similar nature, inter-bank deposits and deposits from affiliated companies; and
- (b) such other deposits as may be prescribed by the Minister on the recommendation of the Bank.

#### **44K Establishment of Deposit Insurance Fund**



**There is established for the protection of depositors a Deposit Insurance Fund (hereinafter referred to as "the Fund").**

#### **44L Membership in Fund compulsory**

**Membership in the Fund is compulsory for -**

- (a) every bank licensed under the Banking Act;**
- (b) every institution licensed under the Financial Institutions (Non-Banking) Act.**

#### **44M Financing of the Fund**

**(1) A compulsory initial contribution shall be**

**paid to the Fund at a time to be designated by the Minister, by every bank or other institution; such contribution shall be based on a percentage rate of deposits to be prescribed by the Minister by Order after consultation with the Bank.**

**(2) Every member of the Fund shall pay an annual premium to the Fund, such premium shall be based on a percentage rate of deposits to be prescribed by the Minister by Order after consultation with the Bank.**

**(3) The first annual contribution shall be levied within one year of the establishment of the Fund.**

**(4) The Bank shall contribute to the Fund sums equal in amount to the initial contribution made by members of the Fund.**

**(5) Where in the opinion of the Corporation the Fund has made or is likely to make payment to depositors which have exhausted or are likely to exhaust the Fund, the Corporation shall furnish the Minister with an estimate of the amount necessary to meet the obligations of the Fund in the year next succeeding and the Minister after consultation with the member institutions may by Order, require that special contributions be levied on them.**

**(6) The Bank shall pay into the Fund an amount equal to the special contributions paid by member institutions.**

**(7) Where the Corporation determines that the Fund has reached a satisfactory level it may refund any excess moneys to the institutions pro rata so however that all amounts so refunded shall be treated as income in the hands of the institution and chargeable to tax.**

#### **44N Insurance cover**

**(1) The Corporation shall insure each deposit in a member institution which is payable in Trinidad and Tobago in Trinidad and Tobago currency.**

**(2) Deposit Insurance coverage is limited to fifty thousand dollars or such other amount as the Minister may prescribe by Order save that where a depositor maintains deposits in more than one institution or in different capacities and rights, the limit shall apply to the total amount maintained on deposit in each institution in each capacity and right.**

- (3) A depositor is protected by deposit insurance only when the member institution in which he has a deposit is closed by or with the approval of the Bank as a result of financial difficulties.
- (4) Payment to the person prima facie entitled under this section by the Corporation in respect of any deposit insured discharges the Corporation from liability in respect of that deposit.
- (5) When payment is made by the Corporation under this section in respect of a deposit with a member institution the Corporation is subrogated up to the insured limit to all the rights and interests of the depositor as against that member institution and may maintain an action in respect of such rights and interests in the name of the depositor or in the name of the Corporation.
- (6) Subject to subsection (7) the benefit of insurance cover shall not be extended to any depositor who is shown to have been a party to or profited from the circumstances giving rise to the member institution's failure.
- (7) Subsection (6) does not apply to depositors who are professional advisors of the member institution and whose bona fides are not in question.
- (8) Payments to depositors of closed institutions shall commence not later than three months after the closure of the member institution.
- (9) The insurance coverage shall only benefit deposits which have been held with an institution for a minimum period of one year after the date this Act comes into operation, save where an institution is or has been closed by or with the approval of the Bank.
- (10) The Corporation shall in respect of rights to which it is subrogated have priority over other unsecured creditors of a closed institution.

#### **44O Contributions, etc. allowable tax deductions**

Contributions, levies and premia to the Fund by member institutions are allowable deductions to such institutions in computing their chargeability to tax.

#### **44P Management of the Fund**

The Fund shall be managed by a Board of Management which is established a body corporate called the Deposit Insurance Corporation and which shall have a common seal.

#### **44Q Composition of Board**

- (1) The Board of Management shall be appointed by the Minister and shall consist of -
- (a) two members representing the Bank;
  - (b) one member representing the Minister;
  - (c) two members who have knowledge and experience in banking, commerce, finance, accounting, insurance or law, save that no person may be appointed a member who is a director of a member institution.

(2) There shall be appointed with each member an alternate who shall be qualified for appointment in the same manner as the member to whom he is alternate.

(3) In the absence of a member his alternate shall have and exercise the same powers and enjoy the same privileges as the member to whom he is alternate.

#### **44R Term of office**

Members of the Board shall be appointed for a term of not less than three years and shall be eligible for members of re-appointment.

#### **44S Chairman of the Board**

(1 Board) The members shall elect a Chairman from among their number.

(2) The Chairman shall in the event of an equality in the voting, in addition to his original vote, have a casting vote.

#### **44T Procedure for meetings**

The Corporation shall determine its own procedure save that the quorum shall be four members.

#### **44U Validity of proceedings**

No vacancy in the membership of the Corporation or irregularity in the appointment of its members or their alternates shall invalidate its proceedings.

#### **44V Capital of Corporation**

(1) The authorised capital of the Corporation is one million dollars which may be increased by the Board of Management with the approval of the Minister.

(2) Upon the establishment of the Corporation, there shall be paid-up by the Bank in respect of the capital a sum of five hundred thousand dollars.

(3) The paid-up portion of the authorised capital may be increased by such amount as the Minister on the recommendation of the Bank may approve.

(4) Any increase in the authorised or paid-up capital shall be notified by publication in the Gazette.

#### **44W Powers of the Corporation**

For the proper management and administration of the Fund, the Corporation shall have power -

- (a) to appoint and employ such number of managers, employees and officers and other employers as it considers necessary or desirable for the efficient performance of its functions and upon such terms and conditions as agreed after consultation with the Bank;

- (b) to enter into agreement with the Bank for the secondment of staff and the provision of services;**
- (c) to establish committees;**
- (d) to levy authorised contributions and premia from member institutions;**
- (e) to recommend to the Bank the suspension of business or closure of any member where that member is in financial difficulty;**
- (f) in the event of a member becoming insolvent to act as receiver or liquidator of that member;**
- (g) to arrange after consultation with and on the advice of the Bank for the restructuring of a failed member whether by merger with a financially sound member or otherwise;**
- (h) to pay off depositors up to the insured limit;**
- (i) to accumulate, manage and to invest funds collected, to borrow, lend, give guarantees and acquire the undertaking of any institution which is in financial difficulty;**
- (j) subject to prior claims being paid, to deduct from moneys from the Fund due to a depositor, any loans due, call called-in guarantees and overdrafts and to set-off deposits pledged as collateral;**
- (k) to require from any director, manager, agent or employee of a member institution or from such person in its holding or parent company or any of its subsidiary companies any information in relation to its business or the production of any document or record under his custody or control.**

#### **44X Insurance payment procedures**

- (1) Where the Bank advises the Corporation that a member institution has failed, the Corporation shall notify each depositor in writing that the institution is closed and make public notification of the closure in such newspapers as may be considered appropriate, indicating the dates, times and places at which payment shall be made.**
- (2) No payment may be made unless a depositor produces satisfactory evidence of his deposit to the Corporation and that evidence shall be surrendered to the Corporation on receipt of payment.**
- (3) Persons who have deposits in excess of the insured limit shall be paid the insured portion of their deposits and shall be issued with a certificate for the amount in excess of the limit.**
- (4) Depositors may submit claims for deposit insurance up to one year after closure of the institution with which the deposit was made.**
- (5) Claims made after the time specified in subsection (4) shall be made against the assets of the institution and shall be paid pro rata as the assets of the institution are collected and sold.**

**(6) Claims shall be supported by evidence of deposit ownership and may be made by depositors in person or in writing supported by affidavit.**

**44Y Business with failed Institutions**

**(1) Persons who have borrowed money from institutions that have been closed by the Bank shall make payments to the Corporation on the same terms and conditions attaching to their loan contracts with the institutions.**

**(2) Subject to subsection (3) demand loans become due as soon as an institution is closed by the Bank.**

**(3) The Corporation may on the application of a borrower agree to enter into new arrangements for the repayment of a demand loan.**

**44Z Effect of closure**

**Where the Bank closes an institution -**

**(a) all accounts of the institution are frozen forthwith;**

**(b) interest on deposits immediately ceases to accrue whether or not the date of maturity of the deposit was beyond the date of the closure.**

**44AA Offences**

**(1) Where a member institution of the Fund, or any director, agent, servant or employee (including a former director, agent, servant or employee) of that institution fails to comply with any request by the Corporation for information relating to the affairs of the institution or to co-operate in the inspection or investigation of the institution, that institution or that director, agent, servant or employee is guilty of an offence and liable on summary conviction to a fine of fifty thousand dollars or imprisonment for two years or both.**

**(2) Where a director, agent, servant, employee (including a former director, agent, servant or employee) of a member institution deliberately conceals from the Corporation any material information regarding the financial affairs of the member institution or provides false or misleading information to the Corporation or falsifies or tampers with the books, records, accounts, papers or documents of the institution, so as to mislead the Corporation, that director, agent, servant or employee is guilty of an offence and liable on conviction on indictment to a fine of one hundred thousand dollars or imprisonment for five years or both.**

**(3) Where a depositor falsifies any passbook, certificate of deposit, bank statement or any document claiming title to a deposit with a failed member institution or where a person fraudulently claims to be a depositor either for payment or for the purpose of claiming an insured deposit, that depositor or person is guilty of an offence and liable on summary conviction to a fine of ten thousand dollars or two years imprisonment or both.**

**PART VI RELATIONS WITH THE GOVERNMENT**

**45 Bank as banker to the Government**

The Bank shall act as banker to the Government and shall be entrusted with such Government banking business in Trinidad and Tobago and abroad as may be assigned to it by the Minister.

**46 Power of Bank to make advances to Government**

(1) The Bank may make temporary advances to the Government on such terms and conditions as may be agreed upon between the Bank and the Minister.

(2) The total amount of outstanding advances made under this section shall not at any time exceed fifteen per cent of that portion of the estimates of annual revenue of the Government which comprises the sum of total recurrent revenues and capital receipts (exclusive of local and external loans) for the financial year in which the advances were initially made.

(3) All advances granted under this section shall be repaid as soon as possible and, in the event that any advances made in an earlier financial year remain outstanding in the current financial year, the power of the Bank to make further advances to the Government under this section shall be limited to the amount by which the total amount authorised in the year of the earliest outstanding advance exceeds the unpaid balance thereof.

**47 Maximum assets of Bank**

Apart from the assets held under section 33 the Bank shall not hold securities (including Treasury Bills) issued or guaranteed by the Government as calculated on the nominal value thereof which at any time exceed seven times the sum of the paid-up capital of the Bank and the amount standing to the credit of its General Reserve Fund.

**48 Power of Bank to act as agent for the Government**

The Bank shall on such terms and conditions as may be agreed between the Minister and the Bank, act as agent for the Government in the payment of principal and interest and generally in respect of the management of the public debt.

**49 Issues of policy.**

The Bank shall keep the Minister informed of the monetary and banking policy pursued or intended to be pursued by the Bank.

**50 Policy directives**

The Minister may, after consultation with the Governor, issue to the Bank such written directives of a general nature as may be necessary to give effect to the monetary and fiscal policies of the Government.

**PART VII ACCOUNTS, REPORTS AND STATISTICS**

### **51 Bank's financial year**

**The financial year of the Bank shall coincide with the financial year of the**

### **Government. 52 Accounts and audits**

- (1) The accounts of the Bank shall be audited annually by auditors who shall be appointed by the Board each year with the approval of the Minister.**
- (2) Notwithstanding subsection (1), the Minister may at any time require the Auditor General to examine and report on the accounts of the Bank and the Bank shall provide the Auditor General with all necessary and appropriate facilities for such examination.**

### **53 Reports**

- (1) The Bank shall, within three months after the end of each financial year, cause to be made and to be transmitted to the Minister-**
  - (a) a report dealing generally with the operation of the Bank during the last preceding financial year; and**
  - (b) a copy of the annual audited statement of accounts certified by the auditors.**
- (2) The Minister shall as soon as possible after their receipt-**
  - (a) cause a copy of the report together with the annual audited statement of accounts thereon to be laid before Parliament; and**
  - (b) cause a copy of the annual audited statement of account to be published in the Gazette.**
- (3) The Bank shall once in every week cause to be made out and transmitted to the Minister a statement showing its assets and liabilities and every such statement shall be published in the Gazette.**

### **54 Statistical information from financial institutions**

**The Bank may at any time for the purpose of carrying out its functions under this Act require financial institutions and such persons or classes of persons as may be subject to this Act to furnish such statistical information as the Bank may specify.**

## **PART VIII GENERAL**

### **55 Exemption from taxation and stamp duty**

- (1) The Bank and the Corporation are exempt from the provisions of any Act relating to income taxation or company taxation and from the payment of stamp duty.**
- (2) The Corporation shall be exempt from the Act No. 6 of 1980 provisions of the Insurance Act, 1980.**

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- (1) Except in so far as may be necessary for the due performance of its objects, every director, officer and employee of the Bank shall preserve and aid in preserving secrecy with regard to all matters relating to the affairs of the bank or of any financial institution or of any customers thereof that may come to his knowledge in the course of his duties.
- (2) Any such director, officer or employee who communicates any such matter to any person other than the Board or an officer of the Bank authorised in that behalf by the Governor or suffers or permits any unauthorised person to have access to any books, papers or records relating to the Bank or any financial institution, is liable on summary conviction thereof to a fine of six thousand dollars and to imprisonment for two years.
- (3) No director, officer or employee of the Bank shall be required to produce in any Court any book or document or to divulge or communicate to any Court any matter or thing coming under his notice in the performance of his duties under this Act except on the direction of the Court or in so far as may be necessary for the purpose of carrying into effect the provisions of this Act or for the purposes of any criminal proceeding.
- (4) Where the Attorney General or the Director of Public Prosecutions applies to a Court, including the Special Tribunal, and the application is supported by a certificate signed by the Governor that evidence prejudicial to the financial system or to the security of the Bank may be adduced in the course of a hearing before the Court, the Court may order that the hearing or any part thereof be held in camera.
- (5) The certificate of the Governor referred to in subsection (4) is conclusive as to its contents.

#### **57 Transfer of statements accounts or lists**

Any director, officer or auditor of the Bank, who, knowing it to be false in any material particular -

- (a) verifies any statement, account or report of the Bank of; or
- (b) causes to be delivered or transmitted any such statement, account or report, is liable on summary conviction to a fine of twenty thousand dollars and to imprisonment for two years.

#### **58 Transmission of false information by officers of financial institutions**

Any officer of a financial institution who, knowing a statement of that financial institution issued pursuant to this Act to be false in a material particular, transmits or causes to be transmitted to the Bank or such financial institution, such statement, is liable on summary conviction to a fine of six thousand dollars and to imprisonment for two years.

#### **59 Method of service**

Every notice served under this Act by the Bank may be served by post.

#### **60 Regulations and Rules**



- (1) The Minister may make such Regulations as are necessary in order to give effect to the provisions of this Act.**
- (2) The Bank, with the approval of the Minister, may from time to time -**
  - (a) make such Rules as are necessary for its internal administration and management; and**
  - (b) prescribe a Code of Ethics with which directors, officers and employees of the Bank, including estate constables shall conform.**
- (3) Any Code of Ethics prescribed under subsection 2(b) may provide that any breach thereof may result in disciplinary action including dismissal or suspension with or without pay.**
- (4) The Bank shall consult with the recognised associations and the Estate Police Association before prescribing or amending any Code of Ethics pursuant to this section but shall not so consult in respect of any Code of Ethics relating to directors of the Bank.**

## **PART IX TRANSITIONAL PROVISIONS**

### **62 Non-application of Exchequer and Audit**

**The Exchequer and Audit Act shall not apply to the Bank.**

**Act Ch. 69:01**

#### **SCHEDULE (Section 20I) MATTERS TO BE PROVIDED FOR IN THE RULES OF A RECOGNISED ASSOCIATION**

- 1. The name of the association and the place of meeting for its business.**
- 2. The whole of the objects for which the association is to be established, the purposes for which its funds are applicable, the conditions under which a member may become entitled to a benefit assured thereby, and the fines and forfeitures to be imposed on a member of the association.**
- 3. The manner of making, altering, amending, and rescinding the rules.**
- 4. A provision for the appointment and removal of an Executive Committee of management, of a trustee, treasurer and other officers.**
- 5. A provision for the investment of the funds, and for an annual or periodical audit of accounts.**
- 6. The inspection of the books and names of members of the association by any person having an interest in its funds.**
- 7. The manner of dissolution of the association.**
- 8. The protection of voting rights of members of the association and the general conduct of elections.**
- 9. The powers, duties and functions of the Executive Committee.**
- 10. Disputes between members of the association and the Executive Committee.**
- 11. A prohibition against admission to membership of an employee who is a member of another recognised association."**