

The Environmental  
Commission of  
Trinidad and Tobago

# FREQUENTLY ASKED QUESTIONS



The  
Environmental  
Commission  
OF TRINIDAD & TOBAGO





# CONTENTS

<b>3</b>	INTRODUCTION	<b>8</b>	ACCESS TO THE ENVIRONMENTAL COMMISSION
<b>4</b>	WHAT IS THE ENVIRONMENTAL COMMISSION	<b>11</b>	DIRECT PRIVATE PARTY ACTION
<b>5</b>	ROLE OF THE ENVIRONMENTAL COMMISSION	<b>13</b>	LEGISLATION
<b>6</b>	THE ENVIRONMENTAL COMMISSION'S JURISDICTION	<b>16</b>	CONTACT PAGE



# INTRODUCTION

As part of a vision for sustainable development, in 2000, the Government of the Republic of Trinidad and Tobago enacted the Environmental Management Act Chapter, 35:05 of the Laws of the Republic of Trinidad and Tobago (the Act).

The Act defines “the environment” as meaning:

***“all land, area beneath the land surface, atmosphere, climate, surface, surface water, groundwater, sea, marine and coastal areas, seabed, wetlands and natural resources within the jurisdiction of Trinidad & Tobago.”***

The Act and its related Rules and Regulations are public information and can be accessed at the website of the Environmental Commission.

## WHAT IS THE ENVIRONMENTAL COMMISSION

### What is the Environmental Commission?

The Environmental Commission is a specialist environmental court. It is a Superior Court of Record created by the Act (Section 81). The term “Superior Court of Record” means that it has all the powers that are necessary or required in order to enable it to perform its judicial functions efficiently and effectively, and to protect its dignity, independence and integrity.

The Environmental Commission is made up of six members who hear the environmental matters brought before it. Its’ Chairman and Deputy Chairman must be attorneys of law of not less than ten years standing. The other members must have knowledge and experience in environmental issues, engineering, the natural sciences or the social sciences. All six members are appointed by the President to hold office for term of not less than three years (Section 82).

## ROLE OF THE ENVIRONMENTAL COMMISSION

### What is the Difference Between The Environmental Commission and the Environmental Management Authority (EMA)?

Since the Environmental Commission is a court, it falls under the “Judicial arm” of the Government. As a court, its primary responsibility is to resolve disputes. This includes resolutions without an actual trial.

The Environmental Management Authority (EMA) on the other hand, falls under the “Executive arm” of Government.

The EMA is responsible for coordinating, facilitating and overseeing the execution of the national environmental strategy and programmes.

The EMA is also responsible for establishing an effective regulatory regime to protect, enhance and conserve the environment.

The EMA has the responsibility to bring alleged violators of environmental requirements before the Environmental Commission.





## THE ENVIRONMENTAL COMMISSION'S JURISDICTION

### What does the Environmental Commission Do?

- a) The Commission hears and determines appeals from decision or actions of the Environmental Management Authority (EMA). Persons may challenge the EMA's findings, decisions and actions by appealing to the Commission.
- b) The Commission hears and determines applications for a deferment of a decision of the EMA made under Section 25 and 41 of the Act (Sections 25, 41, 81(5) and 88).
- c) The Commission hears and determines applications by the EMA for enforcement of Consent Agreements. This consent agreement contains among other things, an admission of breach by the party in default, an agreement to apply for and obtain the necessary approvals and an agreement to pay compensation to the EMA.
- d) The Commission hears applications made by the EMA for injunctive relief or restraining orders to prohibit the continued violation of an environmental requirement or prevent the activity which leads to the violation.

## THE ENVIRONMENTAL COMMISSION'S JURISDICTION

### What does the Environmental Commission Do? (continued):

- e) The Commission hears and determines complaints that are brought by private persons (the Applicant) against any other person (the Respondent) on the basis that the Respondent has violated the environmental requirements that are specified in the Act. This is known as a Direct Private Party Action.

It is the only type of action before the Commission that does not involve the EMA as a Party since one private individual brings an action against another individual or institution.

- f) The Commission determines the amount of civil assessment that is compensation to the EMA for damage and loss incurred as a result of the violation of an environmental requirement.
- g) The Commission hears and determines appeals from decisions of the EMA to refuse to grant CEC's or from conditions imposed on CEC's.
- h) The Commission hears and determines appeals from designations of environmentally sensitive areas or environmentally sensitive species by the EMA.

# ACCESS TO THE ENVIRONMENTAL COMMISSION

## How do you bring matters to the Commission?

This depends on the type of action. In most of the actions described in the previous section, the EMA is the Applicant, that is, the entity that is responsible for bringing the matter to the Commission and a member of the public (or a company) is the Respondent.

However, members of the public may directly bring matters to the Commission as the Applicant in three types of matters:

- Appeals to the Environmental Commission against a decision made by the EMA
- Application for the deferment of a decision made by the EMA
- Direct Private Party Actions



# ACCESS TO THE ENVIRONMENTAL COMMISSION

## How do you bring matters to the Commission? (Continued)

### Appeals to the Environmental Commission against a decision made by the EMA

A person against whom the EMA makes a certain decision or takes certain action may make an application to the Environmental Commission to appeal against an action made or a decision taken, if he feels that it was either wrong or excessive.

### Application for the deferment of a decision made by the EMA

Under Section 25 of the Act, the EMA is authorised to make a decision that a release or threat of release of a pollutant or hazardous substance or any other environmental condition is a threat to the environment. Under Section 41 the EMA may make a decision designating portions of the environment as an environmentally sensitive area or any species of plant or animal as an environmentally sensitive species.

When the EMA has made a decision under Sections 25 or 41 the person who is affected by that decision may apply to the Commission for a deferment of the decision on the grounds that it is unreasonable.



# ACCESS TO THE ENVIRONMENTAL COMMISSION

## How do you bring matters to the Commission? (Continued)

### Direct Private Party Actions –

The Direct Private Party Action is a civil action or complaint which is brought by private persons (the Applicant) against any other person (the Respondent) on the basis that the Respondent has violated certain environmental requirements that are specified in Section 62 of the Act and in the appropriate Rules and Regulations.

As such the Direct Private Party Action provides the ideal opportunity for persons, institutions and organisations such as environmental interest groups and community interest groups to assist in regulating the use of the environment by bringing their concerns before the Court.

### Procedures:

- The procedure for making an appeal to the Environmental Commission is set out at Sections 85 and 86 of the Act.
- The procedure for making a deferment of a decision is set out at Section 88 of the Act
- The procedure for making a direct private party action application is set out in Sections 69 and 89 of the Act.



## DIRECT PRIVATE PARTY ACTION

### Who Can Take Action?

Any person can bring a direct private party action.

The Act defines a “person” as an individual, firm, business, company, enterprise, body corporate (company), trust, unincorporated association (NGOs), partnership or government entity.

Therefore, private persons and independent institutions are given the opportunity to participate in the process of environmental governance by exerting oversight on public and private institutions and individuals with respect to violations of environmental requirements.

## DIRECT PRIVATE PARTY ACTION

### What is Your Role as a Stakeholder?

All persons living or residing in Trinidad and Tobago are stakeholders in ensuring that there is sustainable development.

This is a balance of economic growth with environmentally sound practices, in order to enhance the quality of life and meet the needs of our present and future generations.

The Direct Private Party Action is unique because it empowers private persons to engage in enforcement by bringing environmental issues directly before the Commission.

## Frequently Asked Questions

### LIST OF ENVIRONMENTAL RULES AND REGULATIONS SUPPORTING THE ENVIRONMENTAL MANAGEMENT ACT

RULES	DATE CREATED	GAZETTED	AMENDED	DATE EFFECTED
Certificate of Environmentally Clearance Rules, 2001	2001	LN 104 / 2001		8 <sup>th</sup> May 2001
Noise Pollution Control Rules, 2000	2001	LN 60 / 2001		19 <sup>th</sup> April 2001
Noise Pollution Control (Fees) Regulations	2001	LN 51 / 2001		27 <sup>th</sup> March 2001
Certificate of Environmental Clearance (Fees and Charges) Regulations, 2001	2001	LN 91 / 2001 24 <sup>th</sup> May 2001	LN 217 / 2001	17 <sup>th</sup> October 2001
Certificate of Environmental Clearance (Designated Activities) Order	2001	LN 103 / 2001 13 <sup>th</sup> June 2001	LN 186 / 2008	8 <sup>th</sup> December 2008
Environmentally Sensitive Species (ESS) Rules 2001:	2001	LN 63 / 2001		25 <sup>th</sup> April 2001
• ESS (White-Tailed Sabrewing) Notice 2005	2005	LN 123 / 2005		17 <sup>th</sup> June 2005
• ESS (Pawi) Notice 2005	2005	LN 124 / 2005		17 <sup>th</sup> June 2005
• ESS (Manatee) Notice 2005	2005	LN 125 / 2005		17 <sup>th</sup> June 2005
• ESS (Ocelot) Notice 2013	2013	LN 31 / 2013		21 <sup>st</sup> February 2013
• ESS (Golden Tree Fog) Notice 2013	2013	LN 32 / 2013		21 <sup>st</sup> February 2013
• ESS (Leatherback Turtle) Notice 2014	2014	LN 88 / 2014		28 <sup>th</sup> March 2014
• ESS (Loggerhead Turtle) Notice 2014	2014	LN 89 / 2014		28 <sup>th</sup> March 2014
• ESS (Green Turtle) Notice 2014	2014	LN 90 / 2014		28 <sup>th</sup> March 2014
• ESS (Hawksbill Turtle) Notice 2014	2014	LN 91 / 2014		28 <sup>th</sup> March 2014
• ESS (Olive Ridley Turtle) Notice 2014	2014	LN 92 / 2014		28 <sup>th</sup> March 2014
• ESS (Scarlet Ibis) Notice 2018	2018	LN 143 / 2018		11 <sup>th</sup> October 2018
Environmentally Sensitive Areas (ESA) Rules 2001:	2001	LN 37 / 2001		22 <sup>nd</sup> February 2001
• ESA (Matura National Park) Notice 2004	2004	LN 323 / 2004		25 <sup>th</sup> November 2004
• ESA (Nariva Swamp Managed Resource Protected Area) Notice 2006	2006	LN 334 / 2006		29 <sup>th</sup> December 2006
• ESA (Aripo Savannas Strict Nature Reserve) Notice 2007	2007	LN 152 / 2007		17 <sup>th</sup> August 2007
Water Pollution Rules, 2001	2001	LN 230 / 2001 24 <sup>th</sup> October 2001	LN 12 / 2007	17 <sup>th</sup> January 2007
Water Pollution (Fees) Regulations	2001	LN 142 / 2001 19 <sup>th</sup> July 2001	LN 330 / 2006	29 <sup>th</sup> December 2006
Air Pollution Rules	2015	LN 12 / 2015		23 <sup>rd</sup> January 2015
Air Pollution (Fees) Regulations	2015	LN 13 / 2015		23 <sup>rd</sup> January 2015





ON BEHALF OF THE CHAIRMAN AND STAFF OF THE  
ENVIRONMENTAL COMMISSION OF TRINIDAD AND TOBAGO

# THANK YOU!

This booklet is intended to be used to highlight some key points but is not a substitute for the Act and subsidiary legislation, the Environmental Commission Rules of practice and procedure or any other applicable law.

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