

- dismissing it; or
- allowing it and making an Order for deferment of the decision or designation.

Can the Commission award Costs?

Yes.

Can I appeal the Commission's decisions?

Yes. If a party to the proceedings is dissatisfied with the decision of the Commission as being wrong in law, such party has the right to appeal to the Court of Appeal. However, the decisions of the Commission on questions of fact are final.

When can an appeal of the Commission's decision be filed?

The appeal must be filed within twenty-one (21) days after delivery of the decision of the Commission. It is commenced by filing with the Registry a notice in writing identifying the specific points of law alleged to be in error and requesting the Commission to state and sign a case for the opinion of the Court of Appeal. A copy of this notice must be served on the Secretary of the EMA or other respondent or appellant in the action, as the case may be.



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Get More Information

For further information on this topic you should refer to:

- The Environmental Management Act, 2000;
- The Environmentally Sensitive Areas Rules, 2001;
- The Environmentally Sensitive Species Rules, 2001; and
- The Environmental Commission Rules of Practice and Procedure, 2001.

Parties may also consult an attorney-at-law before proceeding with any litigation before the Commission.



DR. EUGENE LAURENT

THIS BROCHURE IS NOT A SUBSTITUTE FOR INDIVIDUAL PROFESSIONAL ADVICE. THE ENVIRONMENTAL COMMISSION HAS PREPARED THIS DOCUMENT MERELY AS A GUIDE, AND EACH PERSON'S SITUATION OR CASE MAY DIFFER. IT IS RECOMMENDED THAT YOU SEEK LEGAL ADVICE FOR YOUR PARTICULAR CASE.

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A Guide to

APPLICATIONS FOR DEFERMENT OF DECISIONS MADE BY THE ENVIRONMENTAL MANAGEMENT AUTHORITY

UNDER SECTIONS 25 AND 41 OF
THE ENVIRONMENTAL MANAGEMENT ACT, 2000



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SCOPE OF THIS GUIDE

This guide is intended to assist members of the public in understanding how applications are made for deferment of decisions made by the Environmental Management Authority (EMA) under section 25, and designation under section 41 of the Environmental Management Act, 2000. Section 25 refers to emergency response activities undertaken by the Environmental Management Authority to address threats to human health or the environment caused by the release of pollutants or hazardous substances. Section 41 deals with the designation of Environmentally Sensitive Areas or Environmentally Sensitive Species.

The specific rules governing practice and procedure with respect to actions before the Environmental Commission are contained in the Environmental Commission Rules of Practice and Procedure, 2001, copies of which are available at the Government Printer. You and/or your attorney should therefore consult the Rules of Practice and Procedure before initiating or participating in any action before the Commission.

Guidelines regarding other applications or appeals over which the Environmental Commission has jurisdiction are also available.



What is the Environmental Commission?

The Environmental Commission, an impartial and independent body, is a superior court of record established by the Environmental Management Act, 2000.

The Commission comprises a full-time Chairman and Deputy Chairman, as well as three part-time members. The Chairman and Deputy-Chairman are required to be attorneys-at-law of not less than ten (10) years standing while the part-time members are appointed on the basis of their knowledge of, or experience in environmental issues, engineering, the natural sciences or the social sciences. Members of the Environmental Commission are appointed by His Excellency the President of the Republic of Trinidad and Tobago.

How are the members of the Environmental Commission Addressed?

The members are referred to as "His Honour" or "Her Honour" as appropriate. In court a member is addressed as "Your Honour."

What are the Powers of the Environmental Commission?

The Commission has specific powers under the Environmental Management Act, 2000, as well as all the powers inherent in a superior court of record. The Commission therefore has the same powers as the High Court of Justice on the occasion of an action to:

- punish contempts of court;
- enforce its own orders;
- require the attendance and examination of witnesses;
- permit the entry on and inspection of property; and
- require the production and inspection of documents.

Who can apply for deferment of decisions made under sections 25 and 41 of the Environmental Management Act, 2000?

Any aggrieved person may apply to the Commission for deferment of a decision or designation. The Environmental Management Act, 2000 defines a person as including any individual or any firm, business, company, enterprise, body corporate, trust, unincorporated association, partnership, or governmental entity, however constituted.

How is an application made?

An application is commenced by filing with the Registry the original and four copies of the Notice of Application specified in Schedule I Form 1 of the Environmental Commission Rules of Practice and Procedure, 2001. The Notice of Application must:

- (a) include a title of the application;
- (b) include a full description of the nature of the application;
- (c) specify any remedy that is being sought by the applicant;
- (d) state the names and addresses of all persons intended to be served with the notice of application;
- (e) state whether the proceedings are filed out of time and if so, shall be endorsed with a reason for late filing; and
- (f) be accompanied by the decision or order of designation.

Do I need a lawyer?

No. However you may retain a lawyer if you wish.

How does the Commission make its decision?

The Commission's objective is to conduct a fair, efficient and impartial hearing at which all relevant evidence and principles will be considered. The Commission makes its decision on the basis of the oral, written and other evidence that is admissible in the proceedings, as well as on the basis of all relevant provisions of the law. Evidence may include that of technical and expert witnesses.

Mediation

The Commission has identified mediation as the preferred method of alternative dispute resolution. The practice and procedure with respect to mediation is set out in Rule 10 of the Environmental Commission Rules of Practice and Procedure, 2001.

The Commission on its initiative or at the request of the parties may at any time before or during the proceedings schedule a mediation session. The purpose of a mediation session is to attempt to resolve as many issues, whether substantive or procedural, as possible. The mediator will either be a member of the Commission, Commission staff or a person appointed by the Commission.

What can be the outcome of the proceedings?

After hearing all the evidence in the matter, the Commission may dispose of an application for deferment of a decision or designation by:

