

Who may bring a Direct Private Party Action to the Commission?

Under section 69(2) of the EM Act, any individual or group of individuals expressing a general interest in the environment or a specific concern with respect to the claimed violation can bring a Direct Private Party Action.



Procedure for commencing proceedings before the Commission

Members of the public are advised that the procedures for commencing proceedings before the Commission are set out in the Environmental Commission Rules of Practice and Procedure 2001, copies of which are available at the Government Printer, Corner of Victoria Avenue and Tragarete Road, Port of Spain.

Guidelines regarding applications and appeals over which the Environmental Commission has jurisdiction are available.



Contacting the Commission

Correspondence to the Commission should be addressed to the Registrar or the Chairman as appropriate.

Please note that while the Registrar is available to answer queries on practice and procedure and to interface with members of the public, he cannot, as an officer of the court, dispense legal advice to persons.



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.

TO CONTACT THE ENVIRONMENTAL COMMISSION:



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A Guide to

THE ENVIRONMENTAL COMMISSION OF TRINIDAD AND TOBAGO



What is the Environmental Commission?

The Environmental Commission is a superior court of record, established by and under the Environmental Management Act, 2000 (the EM Act).

It is the first specialized environmental court in the history of Trinidad and Tobago and is charged with the resolution of environmental disputes.

What are the kinds of matters that can be dealt with by the Environmental Commission?

The Environmental Commission has the jurisdiction to hear and determine the following matters: -

- appeals from decisions or actions of the Environmental Management Authority (EMA) as specifically authorised under the EM Act;
- applications for deferment of decisions by the EMA to undertake certain emergency response activities (under section 25 of the EM Act);
- applications for deferment of designations by the EMA of "environmentally sensitive species" or "environmentally sensitive areas" (under section 41 of the EM Act);
- applications by the EMA for the enforcement of any Consent Agreement or any final Administrative Order (under Section 67 of the EM Act);
- administrative civil assessments (under section 66 of the EM Act);
- appeals from the designation by the EMA of "environmentally sensitive areas" or "environmentally sensitive species" (under section 41 of the EM Act);

- appeals from a decision of the EMA under section 36 of the EM Act to refuse to issue a certificate of environmental clearance or to grant such a certificate with conditions;
- appeals from any determination by the EMA to disclose information or materials claimed as a trade secret or confidential business information (under section 23(3) of the EM Act);
- complaints brought by persons pursuant to section 69 of the EM Act, otherwise known as Direct Private Party Actions;
- an appeal against an Administrative Order issued by the EMA (under section 65(2)(a) under the EM Act);
- an appeal where the EMA has failed to comply with the requirement for public participation (under section 28 of the EM Act);
- an appeal against a decision of the EMA to reject a claim under the Certificate of Environmental Clearance Rules, 2001 that information supplied in an application is a trade secret or confidential business information and should be excluded from the National Register of Certificates of Environmental Clearance;
- an appeal against a decision of the EMA under the Noise Pollution Control Rules, 2001 to:
 - refuse to grant a variation;
 - refuse to transfer a variation;
 - refuse to renew a variation;
 - revoke a variation;
 - impose any conditions of a variation; or
 - reject a claim that information supplied in an application is a trade secret or confidential business information and should be excluded from the Noise Variation Register;
- such other matters as may be prescribed by or arise under the EM Act or any other written law where jurisdiction in the Commission is specifically provided for.



DR. EUGENE LAURENT

How is the Commission Constituted?

The Commission comprises a full-time Chairman, a full-time Deputy Chairman and three part-time members.

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 for a term of not less than three years and under such terms and conditions as he may determine.

Who are the members of the Commission?

- Chairman: Her Honour Sandra Paul – Attorney-at-Law
- Deputy Chairman: Her Honour Indira Ramrekersingh – Attorney-at-Law
- His Honour Dr. Eugene Laurent – Environmental Health Specialist
- Her Honour Dr. Judith Gobin – Environmental Scientist
- Her Honour Anne-Marie Sirju – Environmental and Industrial Chemist.

Mrs. Nicole Ramcharan-Ramdass is the Registrar of the Commission.

What is an "Administrative Civil Assessment"?

The Commission may be called upon to make what is termed an "administrative civil assessment" which is defined in section 66 of the EM Act as an assessment of: -

- (a) **compensation** for actual costs incurred by the EMA to respond to environmental conditions or other circumstances arising out of a violation of any environmental requirement(s) referenced in an Administrative Order issued by the EMA;
- (b) **compensation** for damages to the environment associated with public lands or holdings which arise out of the violation referenced in the Administrative Order;
- (c) **damages** for any economic benefit or amount saved by a person through failure to comply with applicable environmental requirements;
- (d) **damages** for the failure of a person to comply with applicable environmental requirements in an Administrative Order;

What is a Direct Private Party Action?

A Direct Private Party Action is defined in section 69 of the EM Act.

Generally, it is an action that any private party can bring against any other person for alleged violation of specified environmental requirements identified in section 62. Certain formalities have to be observed relating to the complainant notifying the EMA before bringing such an action to the Commission.

Once a complaint is filed and the EMA is duly notified of it, the EMA may decide to take such action as it thinks necessary. In the event that the EMA elects not to take responsibility for enforcement action, the complainant can then proceed with the complaint before the Commission. On the hearing of a complaint, the Commission is empowered to issue any Administrative Order which the EMA could have appropriately made, or refer the matter back to the EMA for reconsideration.



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