

# **PUBLIC STATEMENT OF THE ENVIRONMENTAL COMMISSION**

## **In compliance with Sections 7, 8 and 9 of the Freedom of Information Act, 1999 (FOIA)**

In accordance with Sections 7, 8 and 9 of the Freedom of Information Act, 1999 (FOIA), the Environmental Commission is required by Law to publish the following statements, which list the documents and information generally available to the public.

The Act gives members of the public –

1. A legal right for each person to access certain information held by the Environmental Commission;
2. A legal right for each person to have official information relating to him/herself amended where it is incomplete, incorrect or misleading;
3. A legal right to obtain reasons for adverse decisions made regarding an applicant's request for information under the FOIA;
4. A legal right to complain to the Ombudsman and to apply to the High Court for Judicial Review to challenge adverse decisions made under the FOIA.

## **SECTION 7 – STATEMENTS**

### **Section 7(1)(a)(i) – Structure, Function and Particulars**

#### **Establishment of the Environmental Commission**

The Environmental Commission was established by Section 81(1) of the Environmental Management Act, 2000, for the purpose of exercising the jurisdiction conferred upon it by that Act or by any other written law. The Commission was operationalized in October 2000 with the appointment of the first cadre of Commissioners.

#### **Vision Statement**

The Environmental Commission, a superior court of record, will be a court characterised by excellence, which strives to attain justice through the rule of law. The Commission will be the premier environmental court in the region setting the trend in environmental decision-making and the utilisation of case management methodology and court and information technology.

## **Mission Statement**

The Environmental Commission shall, in a fair, accessible, effective, and efficient manner, resolve environmental disputes arising under the law and shall interpret and apply the law consistently, impartially, and independently to protect the rights of citizens while being cognizant of the need for the balancing of economic growth with environmentally sound practices.

## **Constitution of the Environmental Commission and Organizational Structure**

The Judicial Arm of the Commission is supported by an Administrative Staff which, as at January 24, 2005, consist of twenty-one persons ( Nineteen (19) Public Service Posts and two (2) contracted posts with the Registrar, Mr. Andrew Dalip as the Administrative Head of the Registry. The Chairman of the Commission is Her Honor Ms. Sandra Paul.

The membership of the Commission comprises a full-time Chairman, a full-time Deputy Chairman and four part-time members. In accordance with the Environmental Management Act, 2000. His Excellency the President of the Republic of Trinidad and Tobago appoints Members of the Commission for a term of not less than three (3) years under such conditions of service as determined by the President. The Chairman and Deputy Chairman are required to be Attorneys-at-Law of not less than ten (10) years standing. The part-time Members are required to be appointed by the President from among such persons as are qualified in the areas of environmental issues, engineering, natural sciences or the social sciences. The composition of the Commission is designed to ensure that the Commission is comprised of persons with qualifications, training and experience in both the legal and technical aspects of the complex environmental matters ventilated before the Commission.

The Organizational Chart of the Commission as at January 24, 2005 is contained herein at Appendix I.

## **Functions of the Environmental Commission**

The functions of the Environmental Commission are a direct corollary of its specific jurisdiction under the Environmental Management Act, 2000. This is set out in Section 81(5) of that Act and includes jurisdiction to hear and determine:

- (a) Appeals from decisions or actions of the Environmental Management Authority (“EMA”) (as specifically authorized under the Environmental Management Act, 2000);
- (b) Applications for deferment of decisions made under Section 25 (for the EMA to undertake emergency response activities) or under Section 41 (to designate environmentally sensitive areas or environmentally sensitive species);

- (c) Applications by the EMA for the enforcement of any Consent Agreement or any final Administrative Order;
- (d) Administrative civil assessments;
- (e) Appeals from the designation of environmentally sensitive areas or environmentally sensitive species by the EMA;
- (f) Appeals from a decision by the EMA under Section 36 of the Environmental Management Act, 2000 to refuse to issue a Certificate of Environmental Clearance or to grant such Certificate with conditions;
- (g) 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 Environmental Management Act, 2000;
- (h) Direct private party actions under Section 69 of the Environmental Management Act, 2000; and
- (i) Such other matters as may be prescribed by or arise under the Environmental Management Act, 2000 or any other written law where jurisdiction in the Commission is specifically provided.

**Effects of Functions of the Environmental Commission on Members of the Public:**

The work of the Environmental Commission impacts directly and indirectly on members of the public as well as future generations of citizens of the Republic of Trinidad and Tobago. The Commission in its judgements and orders elucidates the principles by which the EMA and members of the public are to be guided in seeking to comply with the Environmental Management Act, 2000 and the subsidiary legislation made thereunder. The Commission also has a statutory duty to encourage and promote the use of alternative dispute resolution, being any mechanism for resolving disputes other than by way of litigation.

Thus in the exercise of its functions the Commission helps to lay the foundation for a consensus based approach to the co-management of national environmental resources by the different stakeholders in society.

**Section 7(1)(a)(ii) – Categories of Documents in the possession of the Environmental Commission**

1. Documents filed with the Registrar as provided in the Environmental Commission Rules of Practice and Procedure and the Environmental Management Act 2000, including:

- (i) Notices of Application;
- (ii) Notices of Appeal;
- (iii) Notices of Application for Administrative Civil Assessment;
- (iv) Notices of Direct Party Action;
- (v) Notices of Interlocutory Application;
- (vi) Witness Summonses;
- (vii) Affidavits; and
- (viii) Other documentary evidence

(All categories of documents filed with the Registry are listed in the Environmental Commission Rules and Practice of Procedure, 2001, copies of which are available for purchase at the Government Printer).

2. Copies of written judgements of the Commission;
3. Copies of verbatim notes of proceedings before the Commission;
4. Files dealing with accounting and the financial management of the Environmental Commission;
5. Other financial records relating to expenditure by the Environmental Commission (including cheques, vouchers, receipts etc.);
6. Personnel files relating to members of staff including appointment, transfer, job descriptions, resignations, vacation leave etc.;
7. Files dealing with general administration of the Environmental Commission including the procurement of goods and services;
8. Files related to internal and external correspondence of the Environmental Commission, including circulars, memoranda, notices etc.;
9. Copies of primary and subsidiary legislation and other legal instruments;
10. Library material including texts and periodicals on law, environmental chemistry, environmental sciences, environmental health, and environmental engineering.

### **Section 7(1)(a)(iii) – Materials prepared for publication or inspection**

The public may inspect the following material/s between the hours of 8.00 a.m. to 4.00 p.m. on normal working days at the Environmental Commission, E.F. 'Telly' Paul Building, Corner New and St. Vincent Streets, Port of Spain.

- Orders and judgments of the Environmental Commission;
- Documents filed with the Registry;

- The Environmental Management Act, 2000 and subsidiary legislation made thereunder;
- The Environmental Commission Rules of Practice and Procedure, 2001 and
- The Environmental Commission Annual Report 2003.

While copying facilities are not available at the Commission at this time, every effort will be made to facilitate requests by the public for copies.

Copies of:

- the Environmental Management Act, 2000 together with the subsidiary legislation made thereunder; and
- the Environmental Commission Rules of Practice and Procedure, 2001

are available for purchase at the offices of the Government Printer.

### **Section 7(1)(a)(iv) – Literature available by subscription**

The Environmental Commission does not currently publish any documents that are available by way of subscription.

### **Section 7(1)(a)(v) – Procedure to be followed when accessing a document from the Environmental Commission**

#### **How to request information**

##### **General Procedure**

The policy of the Environmental Commission is to answer all requests (both oral and written) for information. However, in order to exercise the rights conferred by the FOIA (for example the right to challenge a decision if your request for information is refused), you must make a request in writing. In order to access information that is not already available in the public domain, an application must be completed in the appropriate form, (“Request for access to Official Documents”), available at the Registry of the Environmental Commission or any Public Authority.

##### **Addressing Request**

To facilitate prompt handling of your request, please address it to the Designated Officer of the EC. (See Section 7(1)(a)(vi)).

##### **Details in Request**

Applicants should provide details that will allow for ready identification and location of the records/documents that are being requested. If insufficient information is provided clarification will be sought from the applicant. If you are not sure how to write your request or what details to include, please communicate with our Designated Officer.

## **Request not handled under FOIA**

A request under the FOIA will not be processed to the extent that it asks for information, which is currently available in the public domain, either from this public authority or from another public authority (for example brochures, pamphlets, Acts and Legal Notices etc.)

## **Responding to your Request**

### - **Retrieving Documents**

The Environmental Commission is required to furnish copies of documents only when they are in our possession or we can retrieve them from storage. Information stored in the National Archives or another storage center will be retrieved in order to process your request.

### - **Furnishing Documents**

An applicant is entitled to copies of information we have in our possession, custody or power. **We are required to furnish only one copy of a document.** If we cannot make a legible copy of a document to be released, we may not attempt to reconstruct it. Instead, we will furnish the best copy possible and note its quality in our reply.

Please note we are not compelled to do the following:

- (a) Create new documents. For example, we are not required to write a new program so that a computer will print information in the format you prefer.
- (b) Perform research for you.

## **Time Limits**

### - **General**

The FOIA sets certain time limits for us to decide whether to disclose the documents you have requested. If we fail to meet the deadlines, the FOIA gives you the right to proceed as if your request has been denied. We will try diligently to comply with the time limits, but if it appears that processing your request may take longer than the statutory limit, we will acknowledge your request and advise you of its status. Since there is a possibility that requests may be misaddressed or misrouted, you may wish to call or write to confirm that we have received the request and to ascertain its status.

## **Time Allowed**

We will determine whether to grant your request for access to information as soon as practicable but no later than 30 days after the request has been made as required by Section 15 of the FOIA. If a decision is taken to grant access to the information requested, you will be permitted to inspect the documents or be provided with copies, if you so request.

## - **Fees and Refunds**

The Freedom of Information Fees and Charges Regulations prescribe the fees related to the search, retrieval and provision of documents. Where such fees are payable, you are entitled to receive the document(s) within seven days of payment of the relevant fees. If the Environmental Commission fails to provide information within the seven-day period, you are entitled to a refund of the fees in addition to access to the document(s) requested.

## **Section 7(1)(a)(vi) – Officers in Environmental Commission are responsible for:**

- (1) The initial receipt of and action upon notices under section 10;
- (2) Request for access to documents under section 13; and
- (3) Applications for corrections of personal information under section 36 of the FOIA.

### **The Designated Officer is:**

Name: Mr. Clyde Pryce,  
Title: Librarian  
Address: The Environmental Commission of Trinidad and Tobago,  
E. F. 'Telly' Paul Building,  
Cor. St. Vincent and New Streets, Port-of-Spain.  
Tel.: 625-7353 Ext. 12  
Fax: 627-0871

### **The Alternate Officer is:**

Name: Ms. Geeta Persad,  
Title: Clerk IV,  
Address: The Environmental Commission of Trinidad and Tobago,  
E.F. 'Telly' Paul Building,  
Cor. St. Vincent and New Streets, Port-of-Spain.  
Tel.: 625-7353 Ext. 35  
Fax: 627-0871

### **Section 7(1)(a)(vii) – Advisory Boards, Councils, Committees and Other Bodies**

At this time, there are no bodies that fall within the meaning of this section of the FOIA.

### **Section 7(1)(a)(viii) – Library/Reading Room Facilities**

Information can be accessed at the Library situated on the First Floor of the Commission's Office at E.F. 'Telly' Paul Building, Corner St. Vincent and New Streets, Port of Spain between the hours of 8.00 a.m. to 4.00 p.m., Monday to Friday.

All documents are available for reference. Textbooks in the Environmental Commission's Library are not available for loan.

## **SECTION 8 STATEMENTS**

### **Section 8 (1) (a)(i) – Documents Guiding the Environmental Commission or its Officers**

The documents listed at 1 – 8 below are used to guide officers within the Commission. The documents listed at 1 to 8 can be purchased at the sales office of the Government Printer. Judgments and Rulings of the Court are available for use in the Commission's Library. While facilities are not yet in place to make copies of library documents available to members of the public, every effort will be made to facilitate requests for photocopies of parts of documents.

- (1) The Environmental Management Act, 2000;
- (2) The Certificate of Environmental Clearance Rules, 2001;
- (3) The Certificate of Environmental Clearance (Fees and Charges) Regulations, 2001;
- (4) The Certificate of Environmental Clearance (Designated Activities) Order, 2001;
- (5) The Noise Pollution Control Rules, 2001;
- (6) The Noise Pollution Control (Fees) Regulations, 2001;
- (7) The Environmentally Sensitive Areas Rules, 2001; and
- (8) The Environmentally Sensitive Species Rules, 2001.

### **Section (8) (1) (b) – Documents Guiding the Public**

The following documents are available for the guidance of the public:

1. The Environmental Commission Rules of Practice and Procedure, 2001.

### **SECTION 9 STATEMENTS**

The whole of this section is not applicable at this time.



**APPENDIX I**  
**ORGANISATIONAL CHART**  
**ENVIRONMENTAL COMMISSION**



