



THE PARLIAMENT OF  
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## BILL ESSENTIALS

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# BILL ESSENTIALS

BILL ESSENTIALS NO. 6, 2018–19

29 JANUARY, 2019

## The National Statistical Institute Bill, 2018

### TABLE OF CONTENTS

BACKGROUND .....	2
KEY FEATURES OF THE BILL .....	2
Commencement .....	2
Interpretation .....	2
Establishment of National Statistical Institute .....	3
Functions of the NSITT .....	3
Establishment of Board of NSITT .....	3
Functions of the NSITT Board .....	4
Duties and Functions of the Director General .....	5
Ad Hoc Advisory Committees .....	5
Tenure of the Director General and other Members of the Board .....	5
Resignation from the NSITT Board .....	6
Removal of Director General .....	6
Meetings, Quorum and Voting Rights of the Board .....	6
Declaration of Interest .....	7
Remuneration of Director General and Board Members .....	7
Employment of Staff by NSITT .....	7
Options available to Public Officers .....	7
Secondment from and to the NSITT .....	8
Establishment of Pension Fund .....	8
Preservation and Accrual of Superannuation Benefits .....	8
Payment of Superannuation Benefits by the NSITT prior to establishment of Pension Fund Plan .....	9
Payment of Superannuation Benefits by Pension Fund Plan .....	9
Association deemed to be Certified Recognized Majority Union .....	9
Application for Certification of Recognition .....	10
Funding of the NSITT .....	10
Financial Year of NSITT .....	10
Accounts and Audit of NSITT .....	10
Taking of Census .....	10
Collection and Publication of Official Statistics .....	11
Authorised Official .....	11
Access to Data and Information including from Public Bodies .....	12
Power to collect Records and Documents .....	12
Power to require persons to supply information .....	12
Restrictions on Publication of Individual Returns .....	12
Power of Entry .....	13
Oath of Secrecy .....	13
Publication of Metadata .....	13
Offences .....	14
Appeal against requisition of NSITT .....	16
Delegation of Functions by the Director General .....	16
Confidentiality .....	17
Regulations .....	17
Exemptions .....	17
Provisions of this Bill to prevail when proclaimed .....	18
Repeal and Savings .....	18
Schedule .....	18
Comparative Legislation .....	18
REFERENCES .....	24

## BACKGROUND

1. **The National Statistical Institute of Trinidad and Tobago Bill, 2018**<sup>1</sup> (hereinafter referred to as “**the Bill**”) aims to repeal and replace the **Statistics Act Chap. 19:02** and to establish a National Statistical Institute of Trinidad and Tobago.
2. The Bill was introduced in the House of Representatives by the Minister of Planning and Development on June 20, 2018 and was brought forward from the previous Session.<sup>2</sup>
3. The Bill is inconsistent with **Sections 4 and 5** of the **Constitution of the Republic of Trinidad and Tobago** and would therefore be required to be passed by a special majority of three-fifths of the members of each House.

## KEY FEATURES OF THE BILL

### COMMENCEMENT

4. **Clause 2** of the Bill provides for the Act to come into effect on such date as is fixed by the President by Proclamation.

### INTERPRETATION

5. **Clause 4** defines certain terms used in the Bill, *inter alia*:
  - “*microdata*” means data on the characteristics of the units of a population, such as individuals, households or establishments;
  - “*National Statistical System*” means the ensemble of public bodies in Trinidad and Tobago that collect and process statistics or disseminate official statistics;
  - “*official statistics*” means statistics disseminated by the National Statistical Institute of Trinidad and Tobago or such public bodies within the National Statistical Institute as are authorised by the National Statistical Institute of Trinidad and Tobago to do so;
  - “*public body*” means a Ministry, government department, statutory body, body corporate or unincorporated entity which exercises any function on behalf of the State or which is supported directly or indirectly by government funds;
  - “*Registrar*” means the Registrar of Births and Deaths in accordance with the Births and Deaths Act<sup>3</sup>;

<sup>1</sup> <http://www.ttparliament.org/publications.php?mid=28&id=806>

<sup>2</sup> Pursuant to Standing Order 79 of the Standing Orders of the House of Representatives

<sup>3</sup> **Chap 44:01**: [http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical\\_List/lawspdfs/44.01.pdf](http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/44.01.pdf)

- “*statistics*” means numerical or other data or information in connection with, or incidental to any census or survey or any of the matters specified in Schedule 1, including information relating to the collection, compilation, analysis and interpretation of such data or information.

## ESTABLISHMENT OF NATIONAL STATISTICAL INSTITUTE

6. A body corporate<sup>4</sup> to be known as the National Statistical Institute of Trinidad and Tobago (hereinafter referred to as “the NSITT”) is established at **Clause 6** of the Bill.

## FUNCTIONS OF THE NSITT

7. **Clause 7** of the Bill outlines the functions of the NSITT, *inter alia*:
  - collecting, compiling, abstracting and analysing statistics and disseminating or authorising such dissemination of official statistics;
  - conducting of censuses and surveys;
  - ensuring compliance with standards for statistical purposes;
  - collaborating with individuals, firms, partnership, associations, unincorporated bodies and companies;
  - promoting, developing, maintaining, directing the operations and monitoring and evaluating the functioning of the National Statistical System;
  - liaising with other countries and regional and international organisations on statistical matters;
  - analysing data and providing reports for public information.

## ESTABLISHMENT OF BOARD OF NSITT

8. The Board of the NSITT is established by **Clause 8** of the Bill, which lists the composition and qualifications for members of the Board. The Board shall comprise:
  - six (6) persons appointed by the Minister<sup>5</sup> from disciplines or groups of statistics, data sciences, academia, socio-economic research, accounting, finance, human resource management, law, business or labour;
  - one (1) person representing the Tobago House of Assembly (THA);
  - the Director General<sup>6</sup> *ex officio* who shall have qualifications in statistics or applied statistics and at least ten years’ experience at a senior managerial level and be appointed by the Board, with the approval of the Minister; and

<sup>4</sup> Pursuant to the **Companies Act Chap 81:01** “*body corporate*” includes a company or other body corporate wherever or however incorporated, other than a corporation sole;

<sup>5</sup> Under Clause 4 of the Bill “*Minister*” means the Minister to whom responsibility for statistics is assigned;

<sup>6</sup> The Director General is appointed under clause 12(1) of the Bill

9. The Minister shall also appoint two (2) members other than the Director General, to be the Chairman and Deputy Chairman of the Board.
10. **Clause 8** also provides that if any member of the Board is temporarily unable to perform their duties by reason of illness or otherwise then the Minister may appoint a suitably qualified person to act in the same capacity as a member of the Board during the period of absence.

## FUNCTIONS OF THE NSITT BOARD

11. **Clause 9** of the Bill outlines the functions of the Board. The Board shall be responsible for approving and ensuring the implementation of management policies in relation to:
  - the monitoring of the performance of the NSITT in the carrying out of its functions;
  - the finances, real property and other assets and other resources of the NSITT, the securing of contracts, the procurement of goods and services and other administrative activities;
  - human resources, including those related to recruitment, remuneration, promotion, training and development, performance assessment, conditions of work, discipline, termination of employment and superannuation benefits;
  - service standards and performance targets;
  - a code of conduct for the employees of the NSITT;
  - the strategic plan, budget and annual report of the NSITT;
  - the mandate for collective bargaining and approving collective agreements in relation to the terms and conditions of employment of persons employed by the NSITT;
  - probity in the use and allocation of resources;
  - the principles of good corporate governance procedures and practice; and
  - the internal audit of the NSITT.
12. Additionally, **Clause 9** provides that in exercising its functions the Board shall not be responsible for the functions of the NSITT and shall not provide specific directions to the Director General or any employee of the NSITT or have access to any specific information concerning an individual or other person, whether incorporated or not which may be obtained as a result of the NSITT functions.
13. The Minister is empowered under **Clause 9** to give general or specific policy written directives to the Board as considered necessary and expedient in relation to carrying out its functions. However, the Minister may only give general policy directives in writing to the Director General as considered necessary and expedient.

## DUTIES AND FUNCTIONS OF THE DIRECTOR GENERAL

14. **Clause 10** of the Bill provides that the Director General must perform his duties and functions independently. These duties include:
- day to day management and administration of the NSITT;
  - promoting the credibility, integrity and impartiality of the NSITT and official statistics;
  - producing an annual plan for administration and management;
  - determining and issuing guidelines for the NSS;
  - directing the conduct of censuses and surveys and the collection of administrative records;
  - coordinating the NSS and ensuring it fulfills its role in supporting the development goals of Trinidad and Tobago;
  - preparing strategic plans of the NSITT for the Board's approval;
  - developing a National Statistics Development Strategy and Plan in consultation with the NSS;
  - reporting quarterly to the Board of the NSITT etc. and presenting to the board annual or multi-annual programmes, human resource development programmes and any other programmes to develop national statistics; and
  - advising the Minister upon request or of his own volition.
15. Additional functions created under **Clause 10** include the determination and issuance of guidelines on the methods or procedures for the collection, compilation, abstraction and analysis of statistics and the dissemination of official statistics in accordance with regional and international standards.

## AD HOC ADVISORY COMMITTEES

16. **Clause 11** of the Bill enables the Director General to appoint ad hoc advisory committees to advise on particular or special circumstances as they may arise or whenever necessary.

## TENURE OF THE DIRECTOR GENERAL AND OTHER MEMBERS OF THE BOARD

17. The appointment and tenure of the Director General are provided for at **Clause 12** of the Bill. The Director General must be appointed by the NSITT Board with the approval of the Minister, to serve for a term not exceeding four (4) years, with eligibility for reappointment.

18. **Clause 12** also establishes the procedure for the other six (6) members of the Board appointed under **Clause 8(a)**.
19. Three (3) members must be appointed for a term not exceeding three (3) years with eligibility for reappointment for no more than one (1) consecutive term. The other three (3) members must be appointed for a term not exceeding four (4) years with eligibility for reappointment for no more than one (1) consecutive term.
20. Additionally, the member appointed under **Clause 8(b)** must be appointed for a term not exceeding four (4) years with eligibility for reappointment for no more than one (1) consecutive term.

## RESIGNATION FROM THE NSITT BOARD

21. **Clause 13** of the Bill establishes the procedure for resignation from the Board by the Chairman and Members. The Chairman of the Board may resign from his office by submitting a formal written notice to the Minister. Any other Board member may resign from their office by submitting a formal written notice to the Chairman of the Board.

## REMOVAL OF DIRECTOR GENERAL

22. The conditions for the removal of the Director General are established under **Clause 14** of the Bill as follows:
  - if he is declared bankrupt, becomes of unsound mind;
  - is incapable or unable to perform his duties;
  - neglected his duties or brought his office into disrepute;
  - absent without leave of the board for three consecutive meetings;
  - convicted of an offence involving dishonesty or under the Integrity in Public Life Act<sup>7</sup> and is in breach of confidentiality contrary to his oath of secrecy.

## MEETINGS, QUORUM AND VOTING RIGHTS OF THE BOARD

23. **Clause 15** of the Bill establishes the procedure for meetings of the Board, quorum and the voting rights of members of the board. The Board is required to meet at least once every month at a time and place designated by the Chairman. The Board may establish its own rules to govern the conduct of its affairs.

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<sup>7</sup> [http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical\\_List/lawspdfs/22.01.pdf](http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/22.01.pdf)

24. **Clause 15** also provides that at every Board meeting the Chairman will preside, except that in his absence the Vice-Chairman will preside. However, in the absence of both the Chairman and the Vice-Chairman, members present shall elect from among themselves a person to preside.
25. The quorum of the Board shall be five (5) members and each member is entitled to vote on any matter before the Board, subject to **Clause 15(2)**. The Board shall take its decision by majority vote of members present and in the event of a tie then the person presiding shall have a casting vote.

### DECLARATION OF INTEREST

26. **Clause 16** provides that where members of the Board have a direct or indirect interest in any matter under consideration by the Board, they shall declare this interest to the Board.
27. Failure by a member to disclose an interest (whether knowingly or willfully) is an offence and is punishable on summary conviction by a fine of five hundred thousand dollars (\$500,000.00) and imprisonment for two (2) years.

### REMUNERATION OF DIRECTOR GENERAL AND BOARD MEMBERS

28. **Clause 17** of the Bill establishes the remuneration of the Director General and members of the Board. The salary and allowances of the Director General are determined by the Salaries Review Commission whilst the remuneration for the other Board members would be determined by the Minister.

### EMPLOYMENT OF STAFF BY NSITT

29. **Clause 18** of the Bill establishes that the NSITT may employ staff deemed necessary by the Board for the efficient performance and functions of the NSITT. Such staff would be appointed on such terms and conditions as determinable by the Board.

### OPTIONS AVAILABLE TO PUBLIC OFFICERS

30. The options available to public officers who may wish to be employed by the NSITT are established via **Clause 19** of the Bill. On the date of commencement, this clause applies to an officer who:
  - holds a permanent appointment to; or

- holds a temporary appointment to, and has served at least two continuous years in; a public office specified in Schedule 2.
31. **Clause 19** also provides that persons to whom this section applies can within six (6) months of the date of commencement of this section exercise the option of:
- voluntarily retiring from the public service on terms and conditions agreed upon between him or the requisite recognized association and Chief Personnel officer,
  - seeking employment in the NSITT on terms and conditions no less favourable than those enjoyed in the Public Sector; or
  - remain in the Public Service provided that an office commensurate with the office held while working in the Public Service prior to the date of commencement of this Bill is available.

## SECONDMENT FROM AND TO THE NSITT

32. **Clause 20** of the Bill establishes the procedure for public officers in relation to secondment from and to the NSITT. Public officers or any person employed by any public body can with the approval of the appropriate Service Commission or public body and with the consent of the officer or employed person be seconded to the service of the NSITT.
33. Once the secondment is effected, the NSITT shall make the necessary arrangements with the appropriate Service Commission or public body to preserve the rights of the officer or employed person to superannuation benefits for which the officer or employed person would have been eligible had the officer or employed person remained in the service from which the secondment was effected. Such period of secondment shall not exceed five (5) years.

## ESTABLISHMENT OF PENSION FUND

34. **Clause 21** of the Bill requires the establishment of a pension fund within five (5) years of the date of commencement of this Bill. All employees of the NSITT are required to be members of the pension fund plan.

## PRESERVATION AND ACCRUAL OF SUPERANNUATION BENEFITS

35. **Clause 22** of the Bill provides for the preservation and accrual of superannuation benefits under the **Pensions Extensions Act Chap. 23:53**<sup>8</sup> up to the date of the

<sup>8</sup> [http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical\\_List/lawspdfs/23.53.pdf](http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/23.53.pdf)

establishment of the pension fund plan on the basis of applicable salaries to the office held immediately prior to employment by the NSITT.

### PAYMENT OF SUPERANNUATION BENEFITS BY THE NSITT PRIOR TO ESTABLISHMENT OF PENSION FUND PLAN

36. **Clause 23** of the Bill requires the payment of superannuation benefits by the NSITT prior to the establishment of the pension fund plan. An employee of the NSITT who dies or retires prior to the establishment of the pension fund plan and at the date of their death or retirement was in receipt of a higher salary than that referred to in **Clause 22** will be entitled to superannuation benefits based on the higher salary that they received.
37. Additionally, any difference between the superannuation benefits payable on the basis of the higher salary and those payable under the **Pensions Extensions Act** shall be paid by the NSITT.

### PAYMENT OF SUPERANNUATION BENEFITS BY PENSION FUND PLAN

38. **Clause 24** of the Bill provides for the payment of superannuation benefits by the pension fund plan under certain circumstances.
39. Pursuant to **Clause 24**, an employee of the NSITT who retires or dies and is a member of the pension fund plan shall be paid superannuation benefits by the pension fund plan at the amount which when combined with the superannuation benefits payable (**Clause 22**) would be equivalent to the benefits based on his pensionable service in the public service combined with the service within the NSITT and calculated at the pensionable salary applicable upon retirement or death.
40. The definition of pensionable salary for this Clause would share the meaning given to it by the pension fund plan.

### ASSOCIATION DEEMED TO BE CERTIFIED RECOGNIZED MAJORITY UNION

41. **Clause 25** of the Bill establishes that the Public Services Association of Trinidad and Tobago would be deemed to be the certified recognized majority union under **Part III** of the **Industrial Relations Act Chap. 88:01**<sup>9</sup> for the bargaining unit comprising of the monthly paid and monthly rated employees of the NSITT.

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<sup>9</sup> [http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical\\_List/lawspdfs/88.01.pdf](http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/88.01.pdf)

## APPLICATION FOR CERTIFICATION OF RECOGNITION

42. **Clause 26** of the Bill provides that any application for certification of recognition under **Part II** of the **Industrial Relations Act Chap. 88:01** shall not be processed or dealt with where the application is made earlier than two (2) years from the date of commencement of this Clause. However, an application may be made with leave of the court although the two (2) years has not expired in which case the procedures established under **Section 38(2) and (3)** of the **Industrial Relations Act** would apply.

## FUNDING OF THE NSITT

43. **Clause 27** of the Bill provides that the funding of the NSITT would consist of monies appropriated by Parliament, monies borrowed by the NSITT for its obligations and functions and fees, dues and charges collected by the NSITT.

## FINANCIAL YEAR OF NSITT

44. **Clause 28** of the Bill establishes that the financial year of the NSITT would consist of twelve (12) months commencing on the 1st day of October in any year to the 30th of September in every year. The period from the date of commencement of this Bill to the end of September in the next year following would stand as the first financial year.

## ACCOUNTS AND AUDIT OF NSITT

45. **Clause 29** of the Bill provides that the NSITT must keep proper books of accounting and records in accordance with International Financial Reporting Standards for accounting and auditing purposes in respect of all monies received and extended and matters in which sums of money were received and expended must be recorded.
46. Additionally, that the accounts of the NSITT are to be considered public accounts and must be submitted to the Auditor General following which the Auditor General's Report along with a copy of the Statement of Accounts must be forwarded to the Minister of Finance at the end of each financial year.

## TAKING OF CENSUS

47. Pursuant to **Clause 30** of the Bill the NSITT is mandated to conduct a national population and housing census in Trinidad and Tobago at specific times.

48. The census shall be conducted on or between such dates as the Minister (acting on the advice of the Director General) may by Order specify (subject to negative resolution of Parliament).
49. A census shall, as far as practicable, be taken—
  - between 1st May and 31st July; and
  - at ten-year intervals or such other time as the Minister may direct.
50. However, the first census to be taken after this Bill comes into force would be in the year 2020 or such other year as the Minister (acting on the advice of the Director General) may specify.
51. Additionally, the Minister (acting on the advice of the Director General) may direct that a census is to be taken in Trinidad and Tobago or any part thereof and this Order may specify the dates on or between which the census is to be taken and the information which is to be obtained in the census (**Schedule 1**).

## COLLECTION AND PUBLICATION OF OFFICIAL STATISTICS

52. **Clause 31** of the Bill provides that the Director General is responsible for collecting (whether in conjunction with a census, survey or otherwise) statistics relating to all or any of the matters set out in Schedule I either in Trinidad and Tobago generally or part thereof.
53. Such statistics shall be compiled, tabulated, analysed and subject to this Bill published with or without observation.
54. The NSITT must also publish on or before 31<sup>st</sup> December in each year in at least two (2) newspapers in daily circulation within Trinidad and Tobago, a release calendar specifying the dates in the following year on which the official statistics shall be released.

## AUTHORISED OFFICIAL

55. **Clause 32** of the Bill empowers the Director General to appoint in writing any person to be an authorised official to perform any function specified in this Bill. For such purposes, the Registrar of Births and Deaths would also be deemed to be an authorised official.

## ACCESS TO DATA AND INFORMATION INCLUDING FROM PUBLIC BODIES

56. **Clause 33** of the Bill requires the NSITT to be granted access to all records, documents, returns and certificates, whether individual or corporate including those from public bodies such as the National Insurance Board and the Board of Inland Revenue from which information is sought.

## POWER TO COLLECT RECORDS AND DOCUMENTS

57. **Clause 34** of the Bill authorises and empowers the NSITT to collect any and all requested records and documents as necessary from all public bodies.

## POWER TO REQUIRE PERSONS TO SUPPLY INFORMATION

58. **Clause 35** of the Bill establishes that an authorised official may lawfully require any person to supply him with desired particulars considered necessary by the NSITT relating to the taking of a census or the collection of other statistics. Such person shall to the best of their knowledge and belief complete such forms, returns and answer all questions truthfully in an effort to provide all relevant information within the requisite manner and timeframe as required by the NSITT.
59. Further to this, the document issued by the authorised official requiring particulars to be supplied to any person must specifically state the purpose for which such particulars are needed.
60. Additionally, **Clause 35** provides exceptions to this requirement in instances where the information is of a secret or confidential nature, involves legal professional privilege, parliamentary privilege or any other privilege. Additional exemptions relate to banking affairs where disclosure would involve information concerning the business or personal affairs and accounts of a client or where disclosure involves a technical process or trade secret.

## RESTRICTIONS ON PUBLICATION OF INDIVIDUAL RETURNS

61. **Clause 36** of the Bill establishes restrictions on the publication of individual returns and information except in certain specific circumstances and with the specific previous consent in writing of the person in question.
62. **Clause 36** also provides that any information published should be done in a manner that the specific individual cannot be identified definitively by such disclosure.

## POWER OF ENTRY

63. **Clause 37** of the Bill establishes that an authorised official has powers of entry into any premises where it appears likely that persons are employed or dwelling therein between the hours of 7:00am to 7:00pm on any day for the taking of a census relating to the collection of labour, household, gated facility or community, business or agricultural statistics.
64. **Clause 37** prohibits an authorised official from the NSITT from entering onto any premises where any persons are employed or dwelling therein without the consent of the occupier or owner for the purposes connected with taking of a census.
65. Additionally, the authorised official can apply to a Magistrate for a warrant to have the authority to enter such premises where necessary. The Magistrate by virtue of information on oath must be satisfied that there are reasonable grounds for believing that there are persons employed on any premises for which information or data is required and the owner or occupier of such premises is unreasonable in refusing the authorised official entry to collect such information or data in order to issue a warrant to the authorised official. This warrant permits the authorised official named therein accompanied by a constable to enter such premises at any time within one (1) month from the date issued to conduct the census.

## OATH OF SECRECY

66. **Clause 38** of the Bill requires all persons employed in the execution of any duty with the NSITT to take an oath of secrecy before a Magistrate, prior to assumption of such duties, in the form as set out in **Schedule 3**.
67. Persons who breach this oath of secrecy commits an offence and would be liable on summary conviction to a fine of ten thousand dollars (\$10,000.00) and to imprisonment for one (1) year or on indictment to a fine of twenty five thousand dollars (\$25,000.00) and to imprisonment for three (3) years.

## PUBLICATION OF METADATA

68. The NSITT is required to publish metadata relating to official statistics pursuant to **Clause 39** of the Bill. All data dissemination and access to such data are subject to the confidentiality provisions of the Bill.

## OFFENCES

69. The following offences are created under **Clauses 40, 41, and 42** of the Bill:

Clause	Offence	Penalty
40 General Offences	Any person employed in the execution of any duty under this Bill who by virtue of such employment becomes possessed of any information which might exert influence upon or affect the market value of any share, interest, product or article before its made public and directly or indirectly utilizes such information for personal gain.	On summary conviction: a fine of <b>twenty-five thousand dollars (\$25,000.00)</b> and imprisonment for <b>one (1) year</b>  <b><u>OR</u></b> On conviction on indictment: a fine of <b>seventy-five thousand dollars (\$75,000.00)</b> and imprisonment of <b>three (3) years</b> .
	Without lawful authority publishes or communicates to any person unaffiliated with the ordinary course of employment, information acquired by him in the course of his employment.	
	Knowingly compiles or issues any false statistics or information.	
	Knowingly destroys, defaces or mutilates any document or suppresses any statistics without lawful authority.	
	Any person in possession of any information which to his knowledge was disclosed in breach of this Bill who utilizes, publishes or communicates such information to any person.	
	Any person who hinders or obstructs an authorised official in the execution of any functions and duties under this Bill.	On summary conviction: A fine of <b>ten thousand dollars (\$10,000.00)</b> and to imprisonment for <b>six (6) months</b> .
	Any person who refuses or neglects to fill out and submit the particulars required in any return form or other document required or to answer any questions or inquiries lawfully requested under the authority of the Bill.	
	Any person who fails to comply with the requirement of any notice issued by the NSITT.	

	<p>Any person who knowingly makes in any return, form or document completed or supplied under this Bill or in answer to any question or inquiry under the authority of this Bill, any statement which is untrue.</p>	
	<p>Any person who knowingly and willfully makes frivolous, indecent or derogatory remarks on any return, form or document under this Bill</p>	
	<p>Any person who impersonates an authorised officer of the NSITT or makes an inquiry under the authority of this Bill.</p>	<p>On summary conviction: a fine of <b>twenty-five thousand dollars (\$25,000.00)</b> and imprisonment for <b>one (1) year</b></p>
	<p>Any person who is in custody or charge of any documents or records maintained in any Government department or local authority, statutory board, corporation, business or organization, from which such information was sought relating to the object and purpose of this Bill obtained which would aid in the completion or correction of this information and knowingly or willfully refuses or neglects to grant access to such information to any NSITT employee for any purpose requested by the Director-General</p>	<p><u>OR</u> On conviction on indictment: a fine of <b>seventy-five thousand dollars (\$75,000.00)</b> and imprisonment of <b>three (3) years.</b></p>
<p><b>41</b> Unlawful exercise of Statutory Functions</p>	<p>Any person employed in the execution of any official duties under this Bill who in the pretended performance of such functions as employee or officer obtains or attempts to obtain from a person or undertaking any information not lawfully entitled to be obtained from that person or undertaking.</p>	<p>On summary conviction: a fine of <b>twenty-five thousand dollars (\$25,000.00)</b> and imprisonment for <b>one (1) year</b></p> <p><u>OR</u></p>
	<p>Any person who abandons his duties or willfully makes any false declaration, statement or return in the performance of his duties.</p>	<p>On conviction on indictment: a fine of <b>seventy-five thousand dollars (\$75,000.00)</b> and imprisonment of <b>three (3) years.</b></p>
	<p>Any person who willfully fails to return to the NSITT any document or record collected from a person or undertaking under this Bill or fails to keep any such document or record containing any information collected, under this Bill, in his</p>	

	<p>custody in such manner as to prevent unauthorized access.</p>	
<p><b>42</b>                  Offences by Directors,                  Officers and Body                  Corporate</p>	<p>Any director or body corporate who fails to give a truthful or complete answer to statistical inquiries and any officer, director or agent of the body corporate who directed, authorised, assented to or participated in the commission of the offence is a party to and liable for the offence.</p>	<p><b>DIRECTOR/OFFICER:</b>                  On summary conviction: A fine of <b>fifty thousand dollars (\$50,000.00)</b> and to imprisonment for <b>two (2) years</b>.  <u><b>OR</b></u>                  On conviction on indictment: a fine of <b>one hundred thousand dollars (\$100,000.00)</b> and imprisonment of <b>four (4) years</b>.   <b>BODY CORPORATE:</b>                  On summary conviction: A fine of <b>two hundred and fifty thousand dollars (\$250,000.00)</b>.  <u><b>OR</b></u>                  On conviction on indictment: a fine of <b>five hundred thousand dollars (\$500,000.00)</b>.</p>

### APPEAL AGAINST REQUISITION OF NSITT

70. **Clause 43** of the Bill establishes the process to appeal against a requisition of the NSITT where any such person aggrieved by or through any demand or requisition of the NSITT can appeal to the High Court against the demand or requisition upon giving notice in writing to the NSITT within twenty-eight (28) days of the date of the requisition or demand.

### DELEGATION OF FUNCTIONS BY THE DIRECTOR GENERAL

71. **Clause 44** of the Bill empowers the Director General to delegate any of his functions under **Clause 10**, subject to the Minister’s approval and Notification in the Gazette, to the Registrar General or any other public officer or the Central Bank or any other statutory body.

## CONFIDENTIALITY

72. **Clause 45** of the Bill establishes that no statistics collected by the NSITT or any other body authorised by the Director General can be divulged to any third party except in accordance with the prescribed conditions contained within the Regulations.
73. Additionally, this clause also provides that official statistics compiled shall not be published or disseminated in any manner which permits the identification of a specific person, business or entity unless such persons, business or entity consented to the publication or dissemination in that manner or such information is already in the public domain.

## REGULATIONS

74. **Clause 46** of the Bill empowers the Minister to make Regulations subject to the negative resolution of Parliament and based on the recommendations of the Board for carrying out the objectives of this Bill.
75. Such Regulations may prescribe the particulars and information to be furnished on the taking of a census or relating to any matter in which statistics are collected, it may prescribe the manner and form in which times and places at which and persons by whom such particulars and information shall be furnished or it may prescribe the fees and charges to be paid to the NSITT for any special information or report supplied or any special investigation conducted by the NSITT.
76. Additionally, such Regulations must provide that the contravention of any Regulation constitutes an offence and penalties may be prescribed for any offence not exceeding a fine of **fifty thousand dollars (\$50,000.00)** and imprisonment of **two (2) years**.

## EXEMPTIONS

77. **Clause 47** of the Bill exempts the NSITT from stamp duties, corporation taxes, customs duties, purchase taxes, value added taxes, motor vehicle taxes and all other taxes, levies and imposts on any assets acquired for its own use in carrying out its functions.

## PROVISIONS OF THIS BILL TO PREVAIL WHEN PROCLAIMED

78. **Clause 48** of the Bill provides that in the event that any of the provisions of this Act or Regulations made thereunder conflict with any other written law relating to statistics then the provisions of this Act and Regulations contain thereunder shall prevail.

## REPEAL AND SAVINGS

79. **Clause 49** would repeal the **Statistics Act Chap. 19:02** except in relation to statistics which commenced before the assent of the Bill. Clause 49 also provides that where any proceedings were already in force upon the commencement of the Act, they shall be deemed to be valid for the purposes of the Act.

## SCHEDULE

80. **Schedule 1** of the Bill contains a list of items under which a census or survey may be carried out.
81. **Schedule 2** of the Bill contains a current list of the offices in the Public Service on the establishment of the Central Statistical Office.
82. **Schedule 3** of the Bill contains the Oath to be taken by employees.

## COMPARATIVE LEGISLATION

NAME OF ACT	SIMILARITIES WITH THE BILL	DIFFERENCES WITH THE BILL
JAMAICA		
The Statistics Act, Act 11 of 2003	<ul style="list-style-type: none"> <li>▪ This Act establishes a body called the Statistical Institute of Jamaica, a body corporate which establishes similar functions of the Statistical Institute as outlined in the Bill.</li> <li>▪ A Director-General of the Institute is appointed by the Minister who will be in charge of the day to day management and operation of the Institute.</li> </ul>	<ul style="list-style-type: none"> <li>▪ The Act provides further for the functions of the Statistical Institute to include the general promotion and development of integrated social and economic statistics pertaining to Jamaica and the coordination of programmes for the integration of such statistics.</li> <li>▪ The Act makes provision for the Minister after consultations with the Director-General to give the</li> </ul>

	<ul style="list-style-type: none"> <li>▪ The Act provides that the Institute with the approval of the Minister can enter into arrangements in respect of medical benefits, insurance policies, pensions, gratuities and other retiring, disability or death benefits.</li> <li>▪ The Act provides that the Institute must keep accounts and other records relating to its business and must prepare annually a statement of accounts in prescribed form. Such accounts would also be audited annually.</li> <li>▪ The Act also seeks to exempt the Institute from customs duty however, the Commissioner of Customs and Excise must be satisfied that such items are required for the Institute's use in the performance of its functions.</li> <li>▪ The Act further exempts the Institute from income tax, stamp duties and transfer taxes.</li> <li>▪ The Act requires that employed persons must swear an oath in prescribed form as contained in the schedule before the commencement of their official duties. However, the Act requires that this oath be sworn before a Justice.</li> <li>▪ The Act requires persons from whom particulars are lawfully required to complete and submit such forms when</li> </ul>	<p>Institute general directions of policy to be followed by the Institute in discharging its functions necessary for the public interest which must be followed.</p> <ul style="list-style-type: none"> <li>▪ The Act makes provisions for the Institute to appoint and employ personnel at such remuneration and on terms and conditions provided that the salary is not in excess of the prescribed rate without the prior approval of the Minister.</li> <li>▪ The Act also makes provision for the Governor General to approve the appointment of any person employed in the public service to the Institute.</li> <li>▪ The Act makes provisions for the Institute to establish and maintain a Deposit Account and General Reserve Fund.</li> <li>▪ The Act requires the Institute to forward a report to the Minister on the general activities of the Institute during the preceding financial year within four months after the end of each financial year or longer period as approved by the Minister.</li> <li>▪ The Act grants the power to the Minister to direct that a census be taken for Jamaica. The Minister is also empowered to make regulations for the purposes of making such an order directing that a census be taken.</li> <li>▪ The Act allows for a notice to be left at the home or office of an individual and allows for service on</li> </ul>
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	<p>required to do so to the best of their knowledge.</p> <ul style="list-style-type: none"><li>▪ The Act grants the right of entry to persons employed with the institute or authorized persons to enter the premises of a person's home or office provided that the Minister has authorised the collection of statistics.</li><li>▪ The Act allows for the Institute to have access to public records in the collection of statistics relating to any matter.</li><li>▪ The Act also prohibits or restricts the publication of returns except in instances where the</li><li>▪ The Act creates offences in relation to:<ul style="list-style-type: none"><li>• Employed persons directly or indirectly utilizing any information obtained to exert influence upon or effect the market value of any product or article before it is made public for personal gain;</li><li>• Publishing or communicating to any unauthorized person any information acquired in the course of their employment without lawful authority;</li><li>• Knowingly compiling false statistics or information for issuance;</li><li>• Hindering or obstructing any duly authorised person or refusing or neglecting to</li></ul></li></ul>	<p>a relative or member of the firm or company.</p>
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	<p>comply with the Institute’s directives; and</p> <ul style="list-style-type: none"> <li>• Destroying, defacing, mutilating any document or form or writing any indecent, obscene, blasphemous or insulting remarks, drawing or other matter.</li> <li>▪ Additionally, the Act allows for the Minister to make general Regulations to give effect to the provisions contained in the Act.</li> </ul>	
<b>BARBADOS</b>		
<p>Statistics Act Cap. 192</p>	<ul style="list-style-type: none"> <li>▪ The Act establishes the Statistical Service which is responsible for the taking of any census in Barbados as well as similar functions to the Statistical Institute in the Bill.</li> <li>▪ The Act also provides for the ability of the Director to delegate in writing his powers and functions.</li> <li>▪ The Act also establishes the Director’s responsibilities in relation to the collecting and compilation of statistics which is similar to the Bill.</li> <li>▪ The Act grants the Director or any authorised person the power to lawfully obtain information by requiring persons to supply such information in prescribed form.</li> <li>▪ The Act grants the Director and any authorised persons the power of entry to access the premises of a person’s home or</li> </ul>	<ul style="list-style-type: none"> <li>▪ The Act provides for the Minister by order to direct a census to be taken for Barbados.</li> <li>▪ The Act also creates the additional offence for any person to be in possession of any information knowing that it was disclosed in Breach of the Act and publishes or communicates such information to anyone.</li> <li>▪ The Act provides that employed persons must swear an oath, in prescribed form as contained in the schedule, before the commencement of their official duties. However, the Act requires that this oath be sworn before the Director instead of a Justice or Magistrate.</li> <li>▪ The Act also provides that the Director must swear an oath or make an affirmation, in prescribed form as contained in the schedule, before the commencement of official duties which would be administered by the Registrar.</li> </ul>

workplace to take a census or collect other statistics.

- The Act prohibits/ restricts the publication of individual returns or the answers contained therein unless the previous consent in writing of the person is first obtained.
- The Act also creates offences in relation to:
  - Employed persons directly or indirectly utilizing any information obtained to exert influence upon or effect the market value of any product or article before it is made public for personal gain;
  - Publishing or communicating to any unauthorized person any information acquired in the course of their employment without lawful authority;
  - Knowingly compiling false statistics or information for issuance;
  - Hindering or obstructing the Director or any duly authorised person or refusing or neglecting to comply with the Institute's directives; and
  - Destroying, defacing, mutilating any document or form or writing any indecent, obscene, blasphemous or insulting remarks, drawing or other matter.
- The Act provides for the Minister to make general and specific regulations for the

	<p>purposes of giving effect to the provisions contained in the Act.</p>	
<p><b>CANADA</b></p>		
<p>The Statistics Act</p>	<ul style="list-style-type: none"> <li>▪ The Act establishes the Statistics Bureau under the Minister which is responsible for the taking of any census of population in Canada as well as similar functions to the Statistical Institute in the Bill.</li> <li>▪ The Act establishes the basic and general duties and functions of the Chief Statistician.</li> <li>▪ The Act requires that every person employed or deemed to be employed must take an oath or solemn affirmation before commencing their official duties.</li> <li>▪ The Act provides that temporary employees may be hired if deemed necessary by the Chief Statistician.</li> <li>▪ The Act allows for the sharing of information and for the Statistics Bureau to have access and to obtain public records.</li> <li>▪ The Act prohibits/ restricts the divulging of information obtained or the publication of individual returns unless the disclosure is consented to in writing by the person or organisation concerned.</li> <li>▪ The Act creates the following offences:             <ul style="list-style-type: none"> <li>• Wilful making of false declaration, statement or</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▪ The Act also provides for an additional function of the Statistics Bureau which is to promote the avoidance of duplication in the information collected by government departments.</li> <li>▪ The Chief Statistician appointed holds a term of office of not more than five years during good behavior and can only be removed for cause. The Chief Statistician is also eligible for reappointment for an additional term of not more than five years. The Act also provides for an Interim Appointment of any qualified person for six months in the event of the absence, incapacity or vacancy of the office of the Chief Statistician.</li> <li>▪ The Act requires the Chief Statistician to forward a report to the Minister in each fiscal year on the general activities of the Bureau during the preceding fiscal year, which is included as a separate part of the Minister’s annual report to Parliament.</li> <li>▪ The Act provides that directives on any methods, procedures and operations can only be issued to the Chief Statistician by the Governor in Council on recommendation of the Minister. The Minister can also issue</li> </ul>

	<p>return in performance of duties;</p> <ul style="list-style-type: none"> <li>• Obtaining or seeking to obtain information which not duly authorised to obtain;</li> <li>• Refusal or neglecting to provide requested information to the best of their knowledge and belief as required or knowingly gives false and misleading information;</li> <li>• Refusal to grant access to records to aid Chief Statistician;</li> <li>• Wilfully disclosing or divulging directly or indirectly to any person information obtained during the course of employment which might exert influence on or affect the market value of any stocks, bonds, securities, product or article or utilising such information to speculate on any stocks, bonds, securities, product or article; and</li> <li>• Impersonation of an employee of the Canadian Statistics Bureau for the purpose of obtaining information from any person.</li> </ul>	<p>directives to the Chief Statistician on the statistical programs.</p> <ul style="list-style-type: none"> <li>▪ The Act also requires that the Chief Statistician along with any incorporated contractors retained to perform special services must also take an oath or solemn affirmation before commencing their official duties.</li> <li>▪ The Act establishes an advisory council known as the Canadian Statistics Advisory Council which is tasked with advising the Minister and Chief Statistician on any question referred on the overall quality of the national statistical system and making public an annual report on the state of the national statistical system.</li> <li>▪ The Act also provides that none of the personnel in the execution of the Act including the Minister and Chief Statistician shall discriminate or prejudice any individual or company.</li> <li>▪ The Act allows for a notice to be left at the home or office of an individual and allows for service on a relative or member of the firm or company if the intended occupant is not able to be served personally with it.</li> </ul>
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## REFERENCES

### COMPARATIVE LEGISLATION

JAMAICA

- **The Statistics Act, Act 11 of 2003**

<http://moj.gov.jm/sites/default/files/laws/Statistics%20Act.pdf>

BARBADOS

▪ **Statistics Act, Cap. 192**

<http://aceproject.org/ero-en/regions/americas/BB/barbados-statistics-act-1985>

CANADA

▪ **The Statistics Act**

<https://laws-lois.justice.gc.ca/PDF/S-19.pdf>



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