

THE GREEN FUND REGULATIONS, 2007

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LEGAL NOTICE NO. 34

REPUBLIC OF TRINIDAD AND TOBAGO

THE MISCELLANEOUS TAXES ACT, CHAP. 77:01

REGULATIONS

MADE BY THE MINISTER OF FINANCE UNDER SECTION 69 OF THE
MISCELLANEOUS TAXES ACT

THE GREEN FUND REGULATIONS, 2007

1. These Regulations may be cited as the Green Fund Regulations, 2007.

Citation

2. In these Regulations—

Interpretation

“Act” means the Miscellaneous Taxes Act;

Chap. 77:01
amended by
Act No. 6 of

“activity” means any activity, programme or project which is primarily engaged in remediation, reforestation and conservation of the environment;

1989
Act No. 5 of
2004

“application” means an application for certification of an activity;

“audit” in relation to an organization in receipt of money under these Regulations means a review or examination of any aspect of the operations of the organization in order to determine whether value for money has been attained in relation to the management of the money;

“approved credit union” means a society which is registered under the Co-operative Societies Act and which has as its objects the promotion of thrift and the creation of a source of credit for its members, the majority of whom are not agriculturists, for provision of productive purposes;

Chap. 81:03

“approved financial institution” means a financial institution which is licensed under the Financial Institutions Act;

No. 18 of
1993

“authorized person” means a person who is authorized in writing to act for and on behalf of a community group or an organization to represent the community group or organization for the purposes of these Regulations;

“certified activity” means an activity, programme or project certified as such by the Minister;

“community group” means a group of individuals from a particular locality within Trinidad and Tobago which is—

(a) primarily engaged in activities relating to the remediation, reforestation and conservation of the environment in that locality; and

(b) registered as a community-based organization by the Minister with responsibility for community development;

“financial year” has the meaning as assigned to it under section 3 of the Constitution:

Chap. 1:01

“Green Fund” means the Fund established by section 65 of the Act;

“Memorandum of Agreement” means the agreement entered into between a community group or organization and the Minister;

“Minister” means the Minister with responsibility for the environment;

“monitoring record” shall be kept in relation to an organization in receipt of money under these Regulations, and means a continuing review or examination of any aspect of the operations of the organization and the certified activities that the organization is engaged;

“National Environmental Policy” means the Policy prepared in accordance with section 18 of the Environmental Management Act;

Act No. 3 of
2000

“organization” means—

(a) a body incorporated by or under a law other than the Companies Act; or

(b) a group of persons registered by the Ministry with responsibility for community development as a non-governmental organization,

Chap. 81:01

which is primarily engaged in activities related to the remediation, reforestation and conservation of the environment;

“outcomes” means the impact or effects which the producing of outputs may have on the community;

“outputs” means the goods or services which are produced or delivered by a community group or organization for the benefit of persons outside of the group or organization; and

“terms and conditions” includes instructions as to the accounting standards issued by the Treasury, as well as the monitoring, reporting and audit requirements stipulated in the Memorandum of Agreement.

3. (1) An authorized person may apply to the Minister for certification of an activity for the purposes of receipt of public money to be disbursed from the Green Fund. Application for certification of activity

(2) The Minister shall only consider applications in respect of an activity that is related to the remediation, reforestation and conservation of the environment.

4. (1) The application referred to in regulation 3 shall be in the form determined by the Minister. Form of application

(2) The application shall be accompanied by—

(a) proof of incorporation or registration of the community group or organization;

(b) the constitution of the community group or organization;

(c) the names, addresses and where available, other contact details of the office holders of the community group or organization;

(d) the level of membership of the community group or organization;

(e) evidence that the activity in respect of which funding is required is to be undertaken in Trinidad and Tobago;

(f) details of the activity, including—

(i) the outputs and outcomes of the activity and the expected benefit to the environment;

(ii) the expected duration of the activity;

(iii) the human and other resources required;

(iv) the related contribution of the applicant to the activity by the use of its own monetary and other resources;

(v) targets and performance indicators of the activity;

(vi) costing of the activity;

(vii) details of the budget and related timelines for the activity;

- (viii) future projections and cost benefit analysis of the activity; and
- (ix) details of projects for which funding is already received or in respect of which an application has been made by the applicant together with the source of the funding.

Evaluation and determination 5. (1) The Minister shall evaluate and determine the application, and shall take into account the following criteria:

- (a) the funding already received by the applicant in respect of the same or similar activity and the meeting of the objectives of that funding;
- (b) the relevance of the activity to the promotion of Government's policies and programmes, particularly the National Environment Policy;
- (c) the outcomes and outputs of the activity;
- (d) the operational costs as identified in the application;
- (e) the clarity of the administrative arrangements and related cost;
- (f) the extent of consultation with interested parties to identify and resolve conflicting objectives or duplication of effort or areas of collaboration;
- (g) the potential for overlap or duplication of funding from the Green Fund with funding from other sources received or receivable by the applicant; and
- (h) compliance with legal and governmental requirements.

(2) The Minister shall, upon the evaluation of the activity proposed by the applicant, in writing—

- (a) certify the activity for the purposes of disbursement from the Green Fund; or
- (b) not certify the activity and advise the applicant accordingly, with reasons.

Request for review of non-certification of activity 6. (1) Where an applicant is informed of the Minister's decision not to certify the activity proposed by the applicant, the applicant may, if he disputes the decision of the Minister, in writing, request a review and reconsideration of the decision within thirty days of the receipt of the decision.

(2) The application for review or reconsideration shall state precisely the grounds upon which the review or reconsideration is sought.

(3) An application may be made after the thirty-day period if the Minister is satisfied that there was a reasonable excuse for not making the application within the time limit and that the application was made thereafter without unreasonable delay.

(4) In reconsidering his decision, the Minister may examine new information which is submitted by the applicant.

(5) The Minister shall be required to determine the review as soon as is practicable after the receipt of the applicant's request and shall in writing, notify the applicant of his determination.

7. (1) Where the Minister certifies an activity, he shall cause to be forwarded to the Minister with responsibility for finance— Disbursements from Green Fund

- (a) a copy of the application;
- (b) a copy of the certification of the activity; and
- (c) his recommendation with respect to the amount that should be withdrawn from time to time from the Green Fund to meet the expenditure of the certified activity.

(2) The Minister with responsibility for finance shall consider the information forwarded by the Minister in accordance with subregulation (1) and may, based on the projections for a financial year and on such terms and conditions as he sees fit, authorize the withdrawal from the Green Fund of an amount not exceeding the amount recommended by the Minister.

(3) The Minister with responsibility for finance may authorize the disbursement of money from the Green Fund for the duration of a certified activity in accordance with the Memorandum of Agreement entered into between the community group or organization and the Minister.

8. Notwithstanding the authorization by the Minister with responsibility for finance for the withdrawal of money from the Green Fund in respect of a certified activity, a community group or organization shall not be entitled to receive such money unless the Minister is satisfied that— Receipt of funds

- (a) the community group or organization has opened an account with an approved financial institution or an approved credit union, specifically for the purpose of receiving money in

respect of the certified activity and has stated the names of the persons duly authorized by the community group or organization to operate the account;

- (b) the account should be separate and apart from any other account operated by the community group or organization and should be maintained for the purpose of receiving funds from the Green Fund; and
- (c) a Memorandum of Agreement in respect of the certified activity has been executed by the Minister and the community group or organization.

Memorandum
of Agreement

9. (1) The Memorandum of Agreement shall include—

- (a) the performance measures and targets to be met as a condition for the disbursement of money from the Green Fund;
- (b) information required by the Minister;
- (c) a disbursement schedule;
- (d) a requirement for the repayment of money received by the community group or organization by way of restitution to the Green Fund in the event that targets are not met;
- (e) a licence shall be granted in favour of the Government of the Republic of Trinidad and Tobago for the use of any copyright, patent, trademark or other intellectual property right that may arise out of the certified activity; and
- (f) a stipulation that upon completion of a project, the community group or organization shall provide a report on the activities undertaken and the expenditure incurred, and such report shall be forwarded to the Minister.

(2) The disbursement schedule referred to in subregulation (1) shall include—

- (a) the name of the certified activity;
- (b) the name, address and registration number of the community group or organization together with the names and addresses of the authorized persons of such community group or organization;
- (c) the total amount recommended for disbursement by the Minister; and
- (d) the duration and schedule of payments to be made to the community group or organization.

10. The Minister with responsibility for finance may recover the amount disbursed in respect of a certified activity as a debt due and owing to the State, where he has a reasonable belief that there has been—

- (a) a misapplication of money received from the Green Fund; or
- (b) a misuse of property acquired, wholly or in part, with the money disbursed from the Green Fund.

11. The Minister shall cause a record to be kept of all certified activities in receipt of disbursements from the Green Fund.

12. (1) On or before the end of each quarter, the Minister shall submit to the Minister with responsibility for finance a report on the current expenditure and commitments for the Green Fund and provide an indication as to the resources that may be required for the subsequent quarter.

(2) The report shall also contain a list of certified activities recommended for funding in order of priority.

(3) In determining the order of priority of a certified activity recommended for funding, the Minister shall consider the following:

- (a) the efficiency of implementation of the certified activity;
- (b) the impact of the certified activity on the community and the environment;
- (c) the impact of the certified activity on the implementation of the National Environment Policy; and
- (d) the relative merits of continuing funding the community group or organization in receipt of funding as against funding the certified activities of new groups and organizations.

13. The Minister shall—

- (a) cause an ongoing monitoring record to be kept of each certified activity that is funded by the Green Fund to ascertain whether the certified activity is being delivered as agreed by the Memorandum of Agreement; and
- (b) in a report to be laid in Parliament in accordance with section 68 of the Act, specify—
 - (i) the total disbursements from the Green Fund in a financial year;
 - (ii) the status of each certified activity that is funded from the Green Fund in terms of performance indicators and achievement in relation to the targets set by the activity; and

Recovery of
money
disbursed

Record of
funded
certified
activities

Review of
certified
activities

Monitoring
record of
certified
activity for
which funds
have been
disbursed
from Green
Fund

- (iii) the amount actually spent by a community group or organization in respect of a certified activity together with the amount disbursed from the Green Fund in respect of that activity.

Audit by
Auditor
General

14. In the conduct of the annual audit to be carried out under section 67 of the Act, the Auditor General shall have access to the audit performed by the Minister on each certified activity.

Report
submitted to
Minister

15. A community group or organization shall submit to the Minister within two (2) months after the end of the Government's financial year the following:

- (a) a report on its activities comparing their approved plans with the actual outcomes; and
- (b) its financial statements including a balance sheet, income and expenditure statement and bank reconciliation statement in respect of the certified activities financed by the Green Fund.

Accounts of
Green Fund

16. The Treasury may issue instructions, in writing, with respect to the preparation of accounts, books and other records to be kept by a community group or organization in receipt of money from the Green Fund.

Cessation of
disburse-
ments from
Green Fund

17. (1) The Minister with responsibility for finance may, in respect of a certified activity, cease to approve disbursements of money or may cancel disbursements from the Green Fund where—

- (a) the Minister so recommends;
- (b) the Auditor General so recommends;
- (c) the recipient has ceased to be a community group or organization for the purposes of these Regulations;
- (d) the community group or organization fails to comply with a condition of a disbursement from the Green Fund as specified in the Memorandum of Agreement or these Regulations; or
- (e) the community group or organization is not conforming with the duties and responsibilities required by these Regulations.

(2) Where the Minister with responsibility for finance ceases to approve or cancels disbursements in respect of a certified activity, he shall notify the community group or organization, in writing, of the reasons for his decision and advise the Minister accordingly.

18. The failure by a community group or organization to comply with a condition of a disbursement from the Green Fund as specified in the Memorandum of Agreement or these Regulations may result in—
- (a) immediate cessation of funding;
 - (b) debt recovery proceedings; and
 - (c) the community group or organization being excluded from further consideration for funding out of the Green Fund.

Failure to
comply with
Memorandum
of Agreement
or
Regulations

Dated this 18th day of January, 2007.

P. MANNING
Minister of Finance