

**TWENTY-FIRST REPORT OF THE SALARIES REVIEW COMMISSION**

**Review of terms and conditions of services  
of the Ombudsman of Trinidad and Tobago**

The President of the Republic of Trinidad and Tobago by letter dated March 23, 1990 conveyed his approval for a revision by the Salaries Review Commission of the terms and conditions of service of the Ombudsman. This approval is in keeping with Section 141 (1) of the Constitution of the Republic of Trinidad and Tobago.

2. In considering the matter of the remuneration package for the Ombudsman, the Commission examined its review of this office as contained in its Second Report of July, 1980. The Commission also studied the recent documents submitted by the current holder of the office of Ombudsman in support of his claim that there has been a steady decline in his compensation package.

3. In its Second Report, the Commission noted that from its assessment of the duties attaching to the office, it was of the view that the salary payable to the Ombudsman should be the same as that of a Justice of Appeal and that in terms of allowances, he should be provided with allowances "which relate as closely as possible" to those of an Appeal Court Judge. The Commission, in that said Report, went on to specifically identify the allowances which should be applicable to the office of Ombudsman. The package was not identical to that of a Justice of Appeal. There were certain differences, relating to transport facilities, vacation leave and superannuation arrangements.

4. With respect to transport facilities, the Ombudsman has an option to elect to receive either an official car with cost of upkeep borne by the State or a loan to facilitate the purchase of a private motor vehicle. A Justice of Appeal on the other hand is provided only with the loan facility.

5. On the matter of vacation leave, the Judges (Conditions of Service and Allowances) Regulations, Chapter 6:02 provide for a Judge to be on vacation during all court vacations. These Regulations also provide that, in every alternate year, a Judge shall be entitled to go abroad during such long vacations and be paid a Passage Allowance for himself, his wife and children, if any, subject to a minimum of the equivalent of three adult first class return fares from Trinidad to the United Kingdom. By comparison, the Ombudsman's remuneration package provides for forty-five (45) working days' vacation per year. A vacation Passage Allowance equivalent to the maximum of three adult first class passages is also provided.

6. In respect of superannuation arrangements, Judges' pensions are provided for under Judges' Salaries and Pensions Act, Chapter 6:02 while the Ombudsman's remuneration package provides for a gratuity at the expiration of his contract of service.

7. The Commission noted that further differences were created by the decision recorded in the Budget Speech of 1981, which led to the amendment in 1981 of the Judges' (Conditions of Service) Regulations. The Regulations were amended to provide for:

- (1) A Judges' Allowances whereby provision was made for payment to every Judge, by virtue of his office as a Judge, a personal allowance of two thousand dollars (\$2,000) per month; and
- (2) An additional Passage Allowance whereby a Judge shall be entitled once every two years to a passage to any part of the Commonwealth to establish contacts with judicial colleagues, attend conferences, seminars or similar gatherings; such passage to cover the Judge, his wife and not more than two of his children who have not yet attained the age of eighteen years, are unmarried and maintained by him.

It was specifically emphasized at the time that the abovementioned measures were to apply to Judges only, having regard to the unique position of the Judiciary in our society.

8. It is the understanding of the Commission that consequent on the introduction of these measures, questions were raised as to whether certain persons should be entitled to the allowance of \$2,000 per month. These were mainly persons who are by statute designated Judges, or who, whether by statute or by contract, have been given terms and conditions of service which in some way are equated or similar to those of a Judge of the High Court or of a Justice of Appeal.

9. With respect to the office of Ombudsman, it was pointed out that while Section 97 (1) of the Constitution of the Republic of Trinidad and Tobago confers on the Ombudsman the powers of the High Court with respect to summoning of witnesses and the taking of evidence, no legal or judicial qualification or experience is prescribed for the office and there is no stipulation that the Ombudsman is required to be a Judge.

10. The Commission has taken cognizance of the fact, that notwithstanding the strict applicability of the Judges' Personal Allowance to Judges only, an allowance of a similar quantum in the form of an Inducement Allowance or Incentive Allowances has been provided to certain office holders. The Commission has noted, however, that those arrangements are to be explained either in terms of binding legislative provisions or agreement for expressed provisions to be made in the respective contracts of employment. In the latter case, it would appear that where the contracted officer was a former Judge and had been in receipt of a Personal Allowance of \$2,000, the benefit was preserved in the subsequent remuneration package as an allowance personal to that person.

11. Apart from the \$2,000 Personal Allowance, the Commission further understands that in 1982 consideration was given to a proposal to provide the Ombudsman with an arrangement similar to the additional Passage Allowance granted to Judges in 1981. The decision was taken however, that the provision of a Passage Allowance for the purpose of establishing contacts with legal and Ombudsman colleagues and to attend conferences, seminars and lectures abroad should not form part of the terms and conditions of the contract of services but that participation in such overseas arrangement should be handled as a matter of Government policy from time to time.

12. Having reviewed the terms and conditions of service of the Ombudsman, the Commission does not recommend any change in the terms and conditions of the officer. In this regard, the Commission sees no justification for extending the additional Passage Allowance now granted to Judges since the 1981 Budget Speech provided same.

13. With respect to the Personal Allowance that is now paid to Judges, the post of Ombudsman is not one that is stipulated must be filled by a Judge. The payment of the Personal Allowance there is not obligatory.

14. In light of the foregoing, the Commission is unable to recommend a change in the compensation package of the existing holder of the office of Ombudsman. However, Government may wish to review his special circumstances particularly the fact that he was a Justice of Appeal prior to assuming office as the first Ombudsman of Trinidad and Tobago and his expectations based on his claim, that there had been an agreement, albeit oral, between himself and the Government prior to his term of engagement, that he would be remunerated no less favorably than a Justice of Appeal.

Dated this day of July, 1990.

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Leonard Williams(Chairman)

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Rowell Debysingh

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Clive Forgenie

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Edward Collier

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Michael Namssoo