

TWENTY-SECOND REPORT OF THE SALARIES REVIEW COMMISSION

Review of conditions of service of
Legal Officers in the Office of
the Attorney General

In accordance with section 141 (1) of the Constitution of the Republic of Trinidad and Tobago, the Salaries Review Commission is empowered to review from time to time, with the approval of the President, the salaries and other conditions of service of offices under its purview. His Excellency, the President has given approval for the revision by the Salaries Review Commission of the conditions of service of Legal Officers in the Office of the Attorney General, such officers being part of the Judicial and Legal Service which falls under the purview of the Commission.

2. The Commission has noted that following a decision of Government in September 1989 to equate the terms and conditions of service of the Chief Legal Officers (i.e. the Solicitor General, the Chief Parliamentary Counsel and the Director of Public Prosecutions) with those of a High Court Judge, the matter of revised terms and conditions of service for the other officers of the Judicial and Legal Service was raised.

3. The Commission has given consideration to a Report of a Committee which had been appointed to make recommendations for revised terms and conditions of service for Legal Officers. The Commission deliberated on the main problems besetting the Legal Service at present, as follows:-

- (1) there is a critical shortage of staff which has been exacerbated by a spate of withdrawals in recent times. As a result of the depleted staff situation there is an excessive backlog of work and a steady stream of complaints from client Ministries about their inability to receive advice expeditiously;
- (2) the gross inadequacy of salaries attaching to the various posts continues to be a demotivating factor so that there is no incentive for persons to make a career in the legal service.
- (3) persons leaving are those with high levels of experience and new recruits are without the experience necessary to carry out the work of the Departments.

4. The recommendations of the Committee abovementioned focused on the need to establish encouraging and meaningful salary differentials between the posts of Chief Legal Officers and the rest of the legal staff and the matter of recruiting and retaining suitable personnel for a career in the legal service.

5. The Commission notes that the representations put forward by the Committee with respect to inadequate pay, staff shortages and the need for meaningful salary differentials between the various grades of officers were addressed as early as 1956 by the Napier Committee. Later, in its 1979 Interim Report on salaries and other conditions of service for officers of the Judicial and Legal Service the Commission made a thorough review of terms and conditions of service for the Judicial and Legal Service, which took into account various submissions made by the Judicial and Legal Officers themselves.

6. In 1979, the representations were extremely critical of the existing remuneration arrangements which were seen as a major contributor to what was reported to be the chronic inability of Government to recruit and retain suitable legal personnel at all levels. The same difficulties with respect to severe staff shortages were highlighted. The Commission was also asked to examine relativities between the various grades of legal officers and the need to establish meaningful salary differentials.

7. Following the 1979 Interim Report of the Salaries Review Commission the offices of the Judicial and Legal Service were accorded their own unique classification structure consisting of seven (7) salary groupings. In so doing, the Commission was careful to provide meaningful salary differentials between promotional grades. The salaries fixed at that time also took into account certain salient factors as documented in Appendix I hereto.

8. The matter of the earnings of legal personnel outside of the Government has once again been used as the yardstick for judging the pay of Government's legal personnel as inadequate. The Commission in 1979 dealt with this matter comprehensively, pointing out that the high incomes earned in the private sector were to a large extent indicative of an overall shortage of experienced lawyers on the whole and the great demand for their services and that, in time, such shortage might well be overcome by the flow of trained personnel from regional law schools and by the grant of scholarships in the field. The Commission had underscored the point that it would be imprudent to use that yardstick to fix pay scales for legal personnel in the Government service which could be out of all relation to what is paid for other work of comparable value to the community. In the view of the Commission these observations are still valid.

9. With respect to legal personnel employed in the State Enterprises and other Government Agencies similar caution needs to be exercised. The two main considerations are:-

- (1) the organization usually employs only one or two such professionals so that that pay structure cannot be used as a basis for fixing pay for the large groups of persons employed in the Government Service; and
- (2) the entry point requirements are invariably higher, for example, a minimum of 3 to 4 years experience is required at the junior (entry point) level and about 7 years experience at the senior levels.

10. Notwithstanding the recommendations which have been submitted by the Committee, the Commission understands that further proposals dealing with an extensive review of the Judicial and Legal Service are being formulated and the Committee has indicated that such an exercise will require considerable time and inputs from various sources. In view of the long term nature of that exercise the Commission has been asked to consider the following interim measures for legal officers in the Office of the Attorney General:-

- (a) a Housing Allowance of \$750 per month without tax;
- (b) a Professional Allowance of \$1000 per month without tax;
- (c) a Robing Allowance of \$500 per annum.

11. The Commission is concerned about the partial review which it is being asked to consider as an interim measure pending the extensive proposals which the Committee is due to submit some time later. We are of the view that such an approach will compromise any general review which may be conducted in the future.

12. The Commission also wishes to state its reservation with respect to treating with only the legal side of the Judicial and Legal Service. We believe that we should avoid adopting measures which will tend to separate the two groups of officers and that in any review the Judicial and Legal Service should be considered as a whole.

13. Those considerations apart, the Commission wishes to address the broader issue of a general review of the salaries and other conditions of service of officers in the Judicial and Legal Service at this point in time.

14. The Commission is aware that all categories of staff in the Public Service have had to suffer loss of income and all have been seeking, through their respective representatives, varying measures of relief. The Commission is mindful therefore of the likely repercussions which could ensue from a review of terms and conditions of employment for a single group of public officers.

15. We are likewise concerned about the impact on other professional groups in the Public Service, particularly the medical and engineering professionals. The present salary structure of officers in the Judicial and Legal Service maintains parity with that applicable to holders of posts with similar levels of training and experience in the professional class of the Civil Service. Any upward adjustment of the salaries in the Judicial and Legal Service therefore would automatically change these existing relativities.

16. With respect to the specific interim measures which are being sought the Commission's views are as follows:-

1. HOUSING ALLOWANCE

The proposal is for a Housing Allowance of \$750 per month, without tax. At present, an allowance of \$750 per month is provided only to certain office-holders under the purview of the Salaries Review Commission. Generally, the provision is restricted to top management and administrative personnel. In the case of the Judicial and Legal Service, the provision is applicable only to the Chief Judicial and Legal Officers in Group I and to the Senior Magistrate and Magistrate in Groups II and III respectively. In its 1979 Interim Report the Commission noted that in respect of the Chief Judicial and Legal Officers the allowance is to be regarded essentially as an appropriate fringe benefit in keeping with the status and responsibility of their position while in respect of the Senior Magistrates and Magistrates, the need for them to be assigned for duty any where in the country at short notice is the underlying rationale for the provision of housing.

There are no other groups of officers in the Government Service who are provided with housing as a perquisite. There are arrangements instead for the provision of Quarters, the eligibility conditions being that:-

- (1) the officer was recruited from overseas or provided under technical assistance; and

- (2) the officer is required to reside in or near the district in which he is stationed or be within easy call of the institution or establishment to which he is assigned for duty.

By way of example, medical officers fall for consideration under (1) and (2) above. Generally, accommodation is provided for Interns, House Officers and Registrars but where Government Quarters are not available, officers may obtain appropriate and approved privately rented premises, the Government meeting the difference between the officer's contribution of 10% of his salary and certain maximum rental limits according to the geographical location of the premises.

With respect to taxation, in all cases where the Housing Allowance of \$750 per month is paid it is taxable except in the case of Judges where all allowances payable to the holders of these offices are wholly exempt from tax by statute.

Accordingly, the Commission sees no justification for extending a Housing Allowance to all members of the Judicial and Legal Service and does not recommend acceptance of the proposal.

2. PROFESSIONAL ALLOWANCE

The Committee has proposed that Legal Officers be paid a Professional Allowance of \$1,000 per month without tax. At present, such an allowance is only paid to the holder of the office of Attorney General since this is the only Minister of Government who is specifically required to possess a professional qualification for the appointment. The allowance is paid in lieu of private practice.

Among medical personnel, certain senior executives are paid an administrative allowance in lieu of private practice, for example, the Chief Medical Officer, the Principal Medical Officer and the Director, Veterinary Public Health, in view of the fact that these persons are employed fully in administrative duties.

In the circumstances, the Commission is of the view that the singling out of one group of professionals - the legal officers - for the payment of a Professional Allowance would be very discriminatory having regard to the many other groups of professionals in the Government Service who are required to have similar levels of training and experience. The Commission therefore does not recommend acceptance of the proposal for a Professional Allowance.

3. ROBING ALLOWANCE

The Committee has proposed that Legal Officers be paid a Robing Allowance of \$500 per year. The Commission observes that the robe is a requirement for appearances in Open Court and therefore should be a basic acquisition by all members of the legal fraternity. The Commission sees no need for an employer to undertake to subsidize an item which falls in the area of personal professional responsibility and moreso on an ongoing basis.

17. In the light of all these considerations, the Commission finds no justification for the interim measures proposed and recommends that the existing terms and conditions of service of Legal Officers should not be amended.

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 Nanson~~

*Out of the country.

"133. After taking into account the merits and demerits of the numerous criteria suggested, we have based our recommendations on the following principal factors:-

- (a) the necessity to recruit and retain a sufficient number of persons of suitable competence and experience to service the judicial and legal system;
- (b) prevailing rates of pay and other terms and conditions of employment for comparable work in the country;
- (c) the implications of salary revisions for judicial and legal offices on the pay structure of the Public Service;
- (d) the desirability of fostering mobility between the various branches of the judicial and legal service so as to develop officers with well-rounded experiences and capabilities;
- (e) the aim of structuring a remuneration system which would not only encourage young professionals to enter the service but to become long-service career officers;
- (f) the need to establish appropriate salary differentials between promotional grades and to ensure that these grades reflect significant differences in the levels of duties and responsibilities."

Source: Interim Report of the Salaries Review Commission on Salaries and other Conditions of Service for officers of the Judicial and Legal Service.