

FORTIETH REPORT

OF

THE SALARIES REVIEW COMMISSION

OF

**THE REPUBLIC OF
TRINIDAD AND TOBAGO**

November 28, 1996

Fortieth Report of the Salaries Review Commission.

Review of the salary and other terms and conditions of employment of the office of Chairman, Law Commission.

The President of the Republic of Trinidad and Tobago has conveyed his approval for a review by the Salaries Review Commission of the salary and other terms and conditions of employment of the office of Chairman, Law Commission. This office was placed within the purview of the Commission when it was added to the Second Schedule to the Constitution (Prescribed Matters) Act, Chap. 1:02 by Legal Notice No. 59 dated April 17, 1996.

The Law Commission - its role and function

2. The Law Commission Act, Chapter 3:04 provides for the establishment of the body known as the Law Commission for the purpose of promoting reform of the law. Section 4 of the Act mandates the Law Commission to keep under review all the laws applicable to Trinidad and Tobago with a view to their systematic development and reform including in particular the modification of any branch of the law and as far as is practicable, the elimination of anomalies, the repeal of obsolete and unnecessary enactments, the reduction of the number of separate enactments and generally the simplification and modernisation of the law. In order to accomplish this task the Law Commission is required to:-

- (a) receive and consider suggestions for the reform of the law which may be forwarded to it (either on the invitation of the Commission or otherwise) by judges, public officials, lawyers and members of the public generally;
- (b) receive and consider proposals for changes in the law referred to it by the Minister (Attorney General) or recommended by any law reform committee, association of lawyers or other learned bodies;
- (c) prepare and submit to the Minister from time to time specific programmes for the examination of different branches of the law with a view to reform including recommendations as to whether such examination should be carried out by the Commission or some other body;

- (d) undertake, in pursuance of any recommendation of the Minister, the formulation of draft Bills relating to the proposals for reform contained in such recommendation;
- (e) undertake, pursuant to any recommendations approved by the Minister, the examination of particular branches of the law and the formulation, by means of draft Bills or otherwise, of proposals for reform therein;
- (f) provide at the instance of the Minister advice and information to Ministries and Departments of Government and Statutory Authorities concerned with proposals for the amendment or reform of any branch of the law;
- (g) obtain such information in regard to the laws and legal systems of other countries as, in the opinion of the Commission, is likely to facilitate the performance of any of its functions; and
- (h) prepare an annual report of its proceedings for laying in Parliament.

3. Further to these statutory functions, the Salaries Review Commission has noted that the Government of Trinidad and Tobago recently announced that it would be making a concerted thrust in the development of legislation in areas where a lacuna exists. We are of the view that the Law Commission would be playing a significant role in pursuing that initiative. Indeed, we were made aware that the Law Commission had already begun to focus in that direction. For example, in its Strategic Plan for the period 1992 to 1997 there are proposals for the development of legislative packages in such fields as computer technology, biotechnology and medical ethics. Further, in the area of legislative reform the Plan includes proposals for examining the legislative framework covering the present system of administration of justice with a view to identifying shortcomings and formulating proposals to address them, such as, the establishment of a Family Court, a Small Claims Court and a Land Tribunal. We have taken note that the work of the Commission in the development of new legislation has resulted in the enactment of the Habeas Corpus Act and the Military Training (Prohibition) Act in 1996.

Duties and Responsibilities of The Chairman, Law Commission

4. The Commission observes that the duties and functions of the Chairman, Law Commission devolve mainly from the statutory obligations of the Law Commission of which he is the Head. Further, the Judicial and Legal Service Act Chapter 6:01 requires the Chairman to exercise administrative control and supervision of both the legal and public officers assigned to the Law Commission. Also, the Chairman may be called upon to serve as a member of the Law Revision Commission which is mandated by the Law Revision Act, Chapter 3:03, to prepare, publish and maintain a revised edition of the written laws of Trinidad and Tobago.

5. In terms of qualification for the office of Chairman, Law Commission, the Law Commission Act provides that the incumbent hold, or should have held judicial office, or be an Attorney-at-law or a Teacher of Law in a University. He is the only member of the Commission appointed on a full time basis.

EXISTING TERMS AND CONDITIONS OF SERVICE

6. We note that at present, the office of Chairman, Law Commission is filled by a contractual appointment and that the negotiated terms and conditions of employment of the incumbent are as follows:-

<u>Salary</u>	-	\$12,000 per month
<u>Personal/Incentive Allowance</u>	-	\$2,000 per month
<u>Housing</u>	-	Rent-free, fully furnished super-grade residence or a Housing Allowance of \$1,000 per month.
<u>Subsistence</u>	-	A rate of \$50 per day when required to travel beyond a radius of 16 kilometers from headquarters on official business.

Transport

- (i) A maximum loan of \$100,000 at a rate of interest of 6% per annum to facilitate the purchase of either:-
 - (a) a locally assembled motor vehicle with full exemption from Motor Vehicle Tax and Value Added Tax; or
 - (b) an imported vehicle with full exemption from Customs Duty, Motor Vehicle Tax and Value Added Tax;
- (ii) a loan to cover the cost of Motor Vehicle Insurance Premium;
- (iii) a Commuted Travelling Allowance of \$1200 per month;
- (iv) a Chauffeur Allowance.

Entertainment

- An Entertainment Allowance of \$250.00 per month.

Vacation Leave

- 35 working days vacation leave.

Overseas Travel

- A maximum of three adult first class return air passages for the Chairman, spouse and two unmarried children under the age of twenty:-
 - (a) at the expiration of the first year - to Jamaica
 - (b) at the expiration of his term of employment - to the United Kingdom.

the compensation package of Judges, which have been designed specifically to reflect the nature of their responsibilities and their unique position in the society. Accordingly, we consider that features such as, non-taxable salaries, vacation leave which coincides with the Court's vacation and overseas travel benefits for the purpose of establishing contact with judicial colleagues should continue to be peculiar to Judges only.

10. In the light of the foregoing we recommend that the remuneration package for the Chairman, Law Commission should be as follows:-

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|-------------------------------------|---|--|
| <u>Salary</u> | - | \$11,000 per month |
| <u>Personal Allowance</u> | - | \$2,000 per month |
| <u>Housing</u> | - | Rent-free, fully furnished super-grade residence or a Housing Allowance of \$1,000 per month in lieu. |
| <u>Subsistence Allowance</u> | - | A rate of \$50.00 per day when required to travel beyond a radius of 16 kilometres from headquarters or to Tobago on official business. |
| <u>Transport</u> | - | <ul style="list-style-type: none"> (i) A maximum loan of \$100,000 at a rate of interest of 6% per annum to facilitate the purchase of either:- <ul style="list-style-type: none"> (a) a locally assembled motor vehicle with full exemption from Motor Vehicle Tax and Value Added Tax; or (b) an imported vehicle with full exemption from Customs Duty, Motor Vehicle Tax and Value Added Tax; (ii) A loan to cover the cost of Motor Vehicle Insurance Premium. |

Medical Benefit

- Entitlement to operative treatment, x-ray, bacteriological and pathological examinations and physiological treatment and to all incidental hospitalisation services at any hospital or Government institution established and maintained by the Government under the Hospitals Ordinance or, when those services are not available at such hospital, the cost of such treatment and services at any other hospital, institution or nursing home in Trinidad and Tobago.

Gratuity

- 20% of salary earned over the term of employment.

Recommendations

7. The Salaries Review Commission has taken cognisance of the importance of the role of the Law Commission in effecting social change, its work being instrumental in keeping the laws abreast of social and economic developments. In accordance with the thrust of present Governmental policy towards reform and modernization of the law, we consider that increasingly the Law Commission will be relied upon to be innovative, proactive and timely in the exercise of its role. We regard as quite important also, the responsibility of the Commission for ensuring that intended legislation should be carefully researched, analysed and drafted in order that the desired effect is achieved when implemented.

8. In deliberating on an appropriate remuneration package for the office of Chairman, Law Commission, we took note of the practice in the past to align the remuneration for this office with that applicable to Judges of the Appeal Court having regard to the fact that in almost every case since 1971, appointees to the office have been former Judges of the Appeal Court.

9. Notwithstanding this historical development, we consider that the level of the duties and responsibilities attaching to the office of the Chairman, Law Commission does not equate with that demanded of a Judge of the Appeal Court as the duties of the latter office, in our view, are far more onerous and exacting. In our opinion it would be more appropriate to compare the level of the duties and responsibilities of the Chairman with that of a Puisne Judge. However, we hold that there are aspects of

- (iii) A Commuted Travelling Allowance of \$1200 per month.
- (iv) Provision of a Personal Chauffeur with the following arrangements:
 - (a) Salary of \$1800 per month;
 - (b) COLA at the rate payable to public officers;
 - (c) Vacation Leave:
 - 1-3 years service - 2 weeks per annum
 - over 3 to 6 years service - 3 weeks per annum
 - over 6 years service - 1 month per annum
 - (d) Sick Leave - 2 weeks in respect of each year of service
 - (e) Terminal Benefits
 - 1 year but less than 5 years service - 2 weeks pay per year
 - 5 years service and above - In addition to the above, for the fifth year and each succeeding year 3 weeks pay.
- (v) A Service Allowance of \$1500 per month in lieu of the benefit at (iv) above.

Entertainment

- (i) An Entertainment Allowance of \$250 per month;
- (ii) Actual expenses incurred for entertainment in excess of the amount at (i) above to be met from an official Entertainment Vote under the control of the Ministry of Finance.

Vacation Leave

- Thirty calendar days per annum.

Overseas Travel Facility

- (i) In every alternate year, entitlement to travel abroad during vacation leave and to be paid a passage allowance for self, spouse and children, if any;
- (ii) the total passage allowance not to exceed the cost of three adult first class return airfares on the first occasion from Trinidad to Kingston, Jamaica; and
- (iii) for every alternate occasion, entitlement to be in respect of three adult first class return airfares from Trinidad to London, England.

Medical Benefits

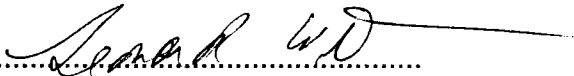
- Entitlement without charge to operative treatment, X-ray, bacteriological and pathological examinations and physiotherapy treatment and to all incidental hospitalization services at any hospital or other institution established and maintained by the State under the Hospitals Ordinance. When those services are not available at such hospitals, with the approval of the Minister, the cost of such treatment and services at any other hospital, institution or nursing home in Trinidad and Tobago to be paid.

Gratuity

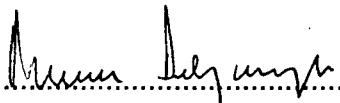
- Entitlement to a gratuity of 20% of salary earned over the term of employment.


11. The incumbent of this office who now holds a contractual appointment would continue to receive the remuneration set out in his contract.

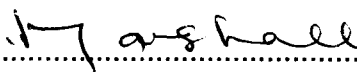
Dated this.....th28.....day of November, 1996.


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Leonard Williams
(Chairman)


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Edward Collier


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Rowell Debysingh


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Keith Ortiz


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Joyce Marshall