

EIGHTY-SECOND REPORT

OF THE

SALARIES REVIEW COMMISSION

OF THE

REPUBLIC OF TRINIDAD AND TOBAGO

March 22 , 2007

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Consideration of the recommendations of the Committee of the House of Representatives for the amendment of the Retiring Allowances (Legislative Service) Act, Chap. 2:03

The President of the Republic of Trinidad and Tobago, by letter dated August 5, 2004, conveyed his approval for the Salaries Review Commission (SRC) to consider the recommendations of the House Committee of the House of Representatives (the Committee) for the amendment of the Retiring Allowances (Legislative Service) Act, Chap. 2:03 (the Act).

2. The recommendations submitted by the Committee treat with the provision of superannuation benefits to Parliamentarians. The delay in completing the review was due, first of all, to the engagement of the Commission in the general review of salary and other terms and conditions of service of office holders, including parliamentarians, during 2005 and early 2006, and thereafter in other matters referred to us by His Excellency the President for review.

3. For the current review, we examined the written submissions of the Committee and also held discussions with representatives of the Committee who provided clarification of the proposals submitted as well as of the genesis of such proposals.

4. Generally, the Committee proposed the inclusion of new offices in the list of specified legislative offices as well as increases in existing benefits and the provision of new benefits.

5. We were advised by the representatives of the Committee that in developing its proposals, the Committee conducted research on retiring allowances provided to legislators in other jurisdictions, mainly Commonwealth countries. They expressed the view that retiring allowances currently provided to legislators in Trinidad and Tobago are inadequate. In this regard, they proffered:-

- (i) the nature of the duties of Parliamentarians is special;
- (ii) there has been a significant increase in the duties of Parliamentarians;
- (iii) the demands by the public on Parliamentarians to provide quality and a range of services have increased; and
- (iv) legislators in a number of Commonwealth countries, including Jamaica and Barbados enjoy superior benefits.

6. One of the issues raised by the representatives concerned Senators without ministerial portfolio. They argued that notwithstanding service to country, which in some cases spanned several parliamentary terms, those Senators were not eligible for benefits under the existing legislation.

7. Another concern expressed was that some Parliamentarians who serve as Ministers of Government, after demitting office, faced difficulties in securing gainful employment in Trinidad and Tobago.

8. The Commission last reviewed pensions and other terminal benefits for office holders within its purview in its Thirty-sixth Report in 1995. In preparing that Report, we considered proposals which included the provision of pensions for members of the House of Representatives who served for one term and benefits for dependants of Members who die in the line of duty. The recommendations of the Commission contained in that Report were accepted by Cabinet and approval was given for appropriate legislative amendments to be made. We are advised that this is yet to be done.

9. In this current exercise of reviewing the Retiring Allowances, we examined superannuation arrangements provided to legislators in a number of Commonwealth countries such as Jamaica, Barbados, Bermuda, Belize and Australia. In the case of Australia, we noted that the Scheme established under the Parliamentary Contributions Superannuation Act, 1948 which had provided retirement benefits similar to those which exist in several other Commonwealth countries has now been closed off. Under new legislation, benefits are now provided on a different basis from those existing in the other countries. Therefore, Australia was not considered a suitable comparator country. With respect to the Caribbean countries, we observed that while the structure of benefits is similar, the formulae on which the benefits are based as well as the qualifying periods for benefits vary.

Amendment to the list of Specified Legislative Offices

10. The Committee has proposed the inclusion of additional offices in the existing Schedule to the Act, Chap. 2:03 which identifies 'specified legislative offices'. Specifically, the offices are those of Member of the House of Representatives, Vice President of the Senate and Senator.

11. The Commission notes that since a member of the House of Representatives is an elected member, a holder of that office is a legislator as defined in the Act. It is our view therefore that the proposal to include the office of Member of the House of Representatives in the Schedule of specified legislative offices was not necessary.

12. With respect to the proposal to include the offices of Vice President of the Senate and Senator as specified legislative offices, our research revealed that similar offices in Jamaica and Barbados are not specified legislative offices and therefore the holders of such offices are not eligible for superannuation benefits. In the case of Belize, the office of Vice President of the Senate is defined as a legislator while in Bermuda, all members of the Senate are defined as legislators. Given that the comparator countries indicate no established pattern in the treatment of the offices of Vice President of the Senate and Senator, we continue to be guided by one of the principles underlying the award of pensions as set out in our Thirty-sixth Report, viz, that a retirement pension is provided to an employee who has given many years of service to an organisation or industry, such service to be of a continuous and permanent nature. The appointment of

a Senator is temporary in nature in that he/she can be replaced at will. We maintain the view that there is no compelling reason to include the offices of Vice President of the Senate and Senator as specified legislative offices.

Rate of Retiring Allowance

13. The Committee also proposed that the existing rate of Retiring Allowance be enhanced not only in terms of the quantum of the benefits to be provided but also by a reduction in the existing periods of service on which the benefits are based. The proposals in this respect are as follows:-

Period of Service	From	To
Aggregate service of not less than 8 years	¼ of one year's (basic) salary	½ of one year's (basic) salary
For two consecutive full Parliamentary Terms of not less than 9 years or for an aggregate of not less than 10 years	1/3 of one year's (basic) salary	For service of an aggregate of more than 8 years but not less than 10 years – 3/5 of one year's (basic) salary
For three full Parliamentary Terms of not less than 13½ years or for periods of an aggregate of not less than 15 years	½ of one year's (basic) salary	For service of an aggregate of more than 10 years but less than 15 years – ¾ of one year's (basic) salary
For four full Parliamentary Terms of not less than 18 years or for periods of an aggregate of not less than 20 years	2/3 of one year's (basic) salary	For service of an aggregate of more than 15 years – 1 year's (basic) salary

14. In contrast to these proposals, we note that a legislator or holder of a specified legislative office in Jamaica is provided with a Retiring Allowance of 2/3rds of his/her highest annual salary once he/she has served for two full Parliamentary Terms or for an aggregate of not less than nine (9) years. On the other hand, in Barbados, such a person who serves for two full Parliamentary Terms or 8 years, whichever is more, receives a Retiring Allowance of ½ his/her highest annual salary. The Retiring Allowance increases to ¾rds of the highest annual salary for service of three full Parliamentary Terms or of at least twelve years, whichever is more. In Belize, the allowance is based on ½ of the office holder's highest annual salary, where he/she has served for two full Parliamentary Terms amounting to at least 8 years or for an aggregate of 10 years. To qualify for ¾rds of annual salary, the individual in Belize must serve for three full Parliamentary Terms of at least 12 years or for an aggregate of at least 15 years.

15. We have observed that in all comparator countries, eligible legislators and holders of specified public offices are required to contribute towards their superannuation benefits. In Trinidad and Tobago, the existing contribution rate is 6% of an office holder's basic salary while in Barbados and Belize, office holders are required to contribute 5% of basic salary. In the case of Jamaica and Bermuda, office holders contribute a percentage of salary at a rate prescribed from time to time. At present, the rate of contribution towards superannuation benefits is 6% for legislators in Jamaica and 12½ % in Bermuda.

16. We have concluded that the changes proposed are significant as they relate to increased benefits and as such would require appropriate actuarial advice as occurred when we undertook our deliberations leading to the Thirty-sixth Report. At that time, we had the benefit of the advice of the Government's Chief Actuary. On this occasion, we were advised that it would be necessary to procure such services to assist us in our deliberations. We were also advised that at present the State is undertaking a pension reform exercise which includes the reform of parliamentary pensions and that in that exercise, actuarial services would be available. In the circumstances, we hold the view that the changes in the existing benefits proposed by the Committee should be considered in the context of the reform exercise.

17. In our Thirty-sixth Report, we had recommended the provision of a Retiring Allowance for service of an aggregate of not less than five years at a rate of 1/6 of one year's (basic) salary. In making that recommendation, we had taken account of the contribution which office holders made towards their superannuation benefits as well as the fact that in the private sector where persons make similar levels of contribution to their occupational pension plans, pensions vest after a period of five years service. This recommendation, though accepted, is yet to be implemented.

Increase in Gratuity

18. The Committee has recommended an increase in the gratuity payable to legislators and holders of specified legislative offices from 10% of the total salary which an office holder received during his period of service to 20% of the highest salary paid over the period of service.

19. We have found that Trinidad and Tobago is unique among the countries on which we have comparative data in that the gratuity currently payable to legislators and other eligible office holders is derived separately from the Retiring Allowance. In those other countries in which a gratuity is provided, such benefit is derived from one-quarter of the Retiring Allowance which is then reduced to three-quarter of the original sum. In Trinidad and Tobago, where a Retiring Allowance is payable, the whole value of that allowance is payable, in addition to the gratuity of 10% of total salary received.

20. We note that the Committee's proposal was intended to embrace members of the Senate who are not currently eligible for superannuation benefits. While we have not recommended the provision of a Retiring Allowance to the Vice President of the Senate and Senators, we are of the view that, given the contribution those office holders make to Trinidad and Tobago, it would be appropriate to provide them with a terminal benefit

in recognition of their contribution, especially since they are not eligible for pension benefits.

21. Office holders under the purview of the Commission who are eligible for a gratuity are paid 20% of basic salary earned over the term of office. We have also been advised that persons employed on contract in the Public Service are eligible for such a benefit on satisfactory completion of their term of engagement. We consider it reasonable to recommend the provision of a gratuity of 20% of basic salary earned over the term of office to members of the Senate who have served for at least one (1) year and who are not eligible for any benefit under the Act. We have been advised that such a payment would not entail the enactment of legislation.

22. As a consequence of our recommendation at paragraph 21, we further recommend that the existing gratuity payable to legislators and holders of specified legislative offices should be increased to 20% of the total salary received during an office holder's period of service. This is necessary to avoid anomalies between office holders who are not currently eligible for a terminal benefit and those who, though legislators and holders of specified legislative offices, are eligible only for a gratuity because of the length of their service. This would require appropriate legislative amendment.

New Proposals

23. The Committee has also proposed the introduction of a number of new benefits as follows:-

- (1) Payment of a full month's salary where the dissolution of Parliament occurs before the end of the month for a legislator who is not a Minister or Parliamentary Secretary;
- (2) Payment of emoluments for the period from nomination day up to and including polling day; and
- (3) Payment of severance in the form of a terminal grant of $\frac{1}{4}$ of annual salary for a maximum period of six (6) months immediately on demitting office for:
 - (i) Senators without Ministerial portfolio;
 - (ii) Members of Parliament who are not re-nominated after nomination day; and
 - (iii) Members of Parliament who are re-nominated but are unsuccessful at the poll.

24. The Commission is unable to support the proposal that Members of Parliament who do not hold offices of Minister or Parliamentary Secretary should receive a full month's salary if the dissolution of Parliament occurs before the end of the month. The

existing principle is that office holders are not to be compensated for periods beyond which they actually serve.

25. With regard to the proposal that emoluments be paid for the periods from nomination day up to and including polling day, we are aware that at present, salaries are payable only to the President of the Senate and the Speaker of the House up to the first sitting of Parliament after a general election and to Ministers and Parliamentary Secretaries, up to the date on which a Prime Minister is appointed or re-appointed after polling day. In the case of other Members of Parliament, payment of salaries is discontinued on the dissolution of Parliament, since they cease to hold office on that day. We have noted, however, that in Barbados, Members of the Senate who do not hold the office of Minister or Parliamentary Secretary, as well as Members of the House of Assembly other than the Prime Minister, Ministers and Parliamentary Secretaries, are entitled to emoluments up to and including nomination day. Further, where such persons are nominated for election to Parliament, they are entitled to emoluments during the period from nomination day up to and including polling day. The proposal of the Committee does not treat with the period between the dissolution of Parliament and nomination day. We recommend that members of the House of Representatives who do not hold the offices of Speaker of the House, Prime Minister, Minister and Parliamentary Secretary be entitled to emoluments up to and including nomination day since such office holders actually continue to serve their constituencies up to nomination day. This would align with the existing practice in which employees in constituency offices continue to be paid during the period. In the case where such persons are nominated for election to Parliament, we recommend that emoluments be made payable to them during the period from nomination day up to and including polling day.

26. In considering the proposal on the payment of a 'terminal grant' to specific office holders, the Commission bore in mind the rationale given by the representatives of the Committee for the submission, that is, the provision of a benefit which would assist affected persons financially in a transition period of six months from the date on which such individuals demit office. We noted that a terminal benefit is often provided to an employee who has served continuously in an organisation for a number of years and is payable when the person has come to the end of his/her normal period of service. We also took into account that Members of Parliament who do not hold the office of Minister or Parliamentary Secretary normally hold full time employment in their chosen career. We are of the view, therefore, that it is not unreasonable to expect that because of the nature of their appointment as officers of Parliament, office holders would make appropriate provisions in anticipation of the period when they cease to be members of Parliament. Additionally, we noted that a grant such as that proposed is not provided in other jurisdictions. In this light, the Commission is unable to support the proposal of the Committee for the payment of such a grant.

27. In summary, we recommend that:-

- (i) the existing list of offices set out in the Schedule to the Retiring Allowances (Legislative Service) Act, Chap. 2:03 be maintained;

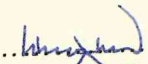
- (ii) the gratuity payable to persons who cease to be legislators as defined in the Retiring Allowances (Legislative Service) Act be increased from 10% to 20% of basic salary paid over the period of service. (Such arrangement would require legislative amendment);
- (iii) members of the Senate who are not legislators as defined and who have served for at least one (1) year, be paid a gratuity of 20% of the basic salary paid over the period of service when they cease to hold office: such payment to be made administratively;
- (iv) members of the House of Representatives who do not hold the offices of Speaker of the House of Representatives, Prime Minister, Minister of Government or Parliamentary Secretary be paid emoluments for the period up to and including nomination day. Where such persons are nominated for election to Parliament, emoluments should be made payable to them during the period from nomination day up to and including polling day; and
- (v) the appropriate legislative amendments be undertaken to give effect to the recommendations outlined at (ii) and (iv) above as well as the following recommendations contained the Thirty-sixth Report of the Commission:
 - (a) provision be made for the payment of a Retiring Allowance of 1/6 of one year's (basic) salary for service of an aggregate of not less than five years;
 - (b) provision be made for the payment of allowances to dependants of a legislator who dies in the line of duty, that is, in the course of performing official parliamentary duties, regardless of the period of time that the member has served;
 - (c) in the case of death, other than in the line of duty, the allowances for dependants be provided after a minimum period of five (5) years service by the legislator; and
 - (d) provision be made for benefits to be payable to the 'spouse' of a deceased legislator under the Retiring Allowances (Legislative Service) Act rather than the 'widow' of such legislator as currently applies.

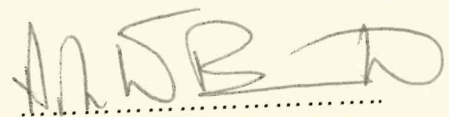
Effective Date

28. We recommend that except in the case of recommendations which were contained in the Commission's Thirty-sixth Report, viz: those outlined at (v) (a) to (d) above, the revised benefits should take effect from the start of the current parliamentary term, that is, October 17, 2002. In the case of recommendations contained in the

Thirty-sixth Report, these should take effect from November 21, 1996, the date of acceptance by Cabinet of those recommendations.

Dated this 22nd day of March, 2007.


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Edward Collier
(Chairman)


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Ashton Breeton


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Varun Maharaj


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Haseena Ali