

ONE HUNDRED AND SECOND REPORT

OF THE

SALARIES REVIEW COMMISSION

OF THE

REPUBLIC OF TRINIDAD AND TOBAGO

December 22 , 2014

ONE HUNDRED AND SECOND REPORT OF THE SALARIES REVIEW COMMISSION

Review of the terms and other conditions of service of the office of President of the Industrial Court as it pertains to the Housing Allowance

By letter dated July 04, 2014, the President of Trinidad and Tobago conveyed approval for the Salaries Review Commission (SRC) to review the terms and other conditions of service applicable to the office of President, Industrial Court (IC) as it pertains to the Housing Allowance.

2. The salary and other terms and conditions of the office of President, IC were last reviewed in the 2012 general review of all offices within our purview.

3. The IC was established by the Industrial Relations Act, Chap. 88:01 (the Act) as a Superior Court of Record and all powers inherent in such a court have been conferred on the Court. Its enabling statute also gives the Court the same power to punish contempts of the Court as is possessed by the High Court of Justice.

4. We note that sections 4(3)(a)(i) and 4(3)(a)(ii) of the Act provide for the President, IC to be:

(i) a Judge of the Supreme Court of Judicature designated, with his consent, by the President of Trinidad and Tobago after consultation with the Chief Justice; or

(ii) a person who has the qualification (age excepted) to be appointed a Judge of the Supreme Court of Judicature and is appointed by the President of Trinidad and Tobago after consultation with the Chief Justice.

The Act further states that a Judge designated President of the Industrial Court shall be deemed not to have ceased to hold his substantive office of Judge.

5. In our current deliberations, we examined the historical events that led to the provision of a Housing Allowance for the office of President, IC. We were advised that the first President, IC who held office over the period March 20, 1965 to October 30, 1972 was a Justice of Appeal and was appointed, on secondment, as President, IC. Accordingly, the incumbent received the salary and allowances, inclusive of a Housing Allowance, applicable to a Justice of Appeal as his terms and conditions were not to be altered to his disadvantage while he held the office of President, IC.

6. The second President, IC was not a Judge of the Supreme Court and therefore, was appointed in 1972 in accordance with section 4(3)(a)(ii) of the Act. We note that as a consequence, it was necessary to make separate provision for salary and allowances for the office of President, IC. In this regard, Cabinet agreed that, with effect from November 01, 1972, the salary and specific allowances, viz. Entertainment Allowance and Transport Allowance to be paid to the office of President, IC should be the same as those payable to a Justice of Appeal. Notably absent from that arrangement was the provision of a Housing Facility.

7. We were advised that in treating with the review of the terms and conditions of the relevant offices in the IC, in the 2nd Report of the SRC dated July 1980, it was stated that 'under the existing arrangements the President, IC has terms and conditions of employment equivalent to that of a Justice of Appeal.' Given the decision of Cabinet in 1972, it appears that it was not recognized that the Housing Facility to which a Justice of Appeal was entitled was not applicable to the office of President, IC. The outcome was that in recommending revised remuneration arrangements for the office, a provision for free, furnished super-grade quarters or an allowance in lieu thereof was included. Further, on that basis and prior to the Commission's 98th Report, the office of President, IC was provided with a housing benefit of the same amount as that of a Justice of Appeal.

8. During the conduct of the 2012 General Review, in recommending revised remuneration arrangements for all offices within our purview, we considered that three (3) categories of office holders were eligible for housing, namely:-

- (i) office holders in respect of whom there is an obligation, in law, on the State to provide housing;
- (ii) office holders in respect of whom there is an obligation on the State to provide official residences; and
- (iii) office holders who are assisted in obtaining suitable residential accommodation.

9. Members of the Higher Judiciary are entitled by law to rent-free, fully furnished, super grade housing in accordance with Regulations 8 and 8A(1) of the Judges (Conditions of Service and Allowances) Regulations (No. 2). As indicated in our 98th Report, we had accepted the opinions of legal counsel submitted by the Higher Judiciary that advocated that there was an obligation on the State to provide housing to such office holders and that that obligation does not disappear in cases where the State defaults in its responsibility. Additionally, we accepted the views expressed that where housing is not

provided, the obligation is the payment of a Housing Allowance which must be equivalent to the monthly cost of securing housing of the super grade quality. As a consequence, in recommending revised Housing Allowances for the Higher Judiciary, we took the legal obligation of the State into account. In respect of all other offices, excluding those for whom an official residence is to be provided, we maintained our position that a Housing Allowance is intended to assist an office holder in obtaining suitable residential accommodation. In recommending revised rates for those offices including that of the President, IC, we considered factors such as rental and acquisition costs in addition to increases in the Rent Index of the Index of Retail Prices over the period 2008 to 2011. Based on the foregoing, we recommended an increase in the Housing Allowance for the office of President, IC from \$10,300 to \$12,360 per month, with effect from April 01, 2011.

10. For our current review, we undertook a comprehensive analysis of the tenure, scope of duties and the qualifications of the offices of Justice of Appeal and President, IC to ascertain whether a change in the terms and conditions applicable to the former must be applied automatically to the latter office. To this end, we observed that the Judges Salaries and Pensions Act, Chap. 6:02 defines a Judge as a Judge of the High Court or the Court of Appeal and includes the Chief Justice. The office of President, IC is not included in that definition.

11. We took account also of the following:

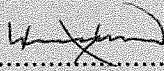
- (i) there is no obligation in law for a President, IC appointed in keeping with the provisions of section 4(3)(a)(ii) of the Act, that is, a person who has the qualification to be appointed a Judge of the Supreme Court, to be provided with housing as is applicable to the office of Justice of Appeal;
- (ii) no provision exists in law which outlines the allowances, including a Housing Allowance, for which the office of President, IC is eligible other than an office holder appointed under section 4(3)(a)(i) of the Act; and
- (iii) an incumbent in the office of President, IC is appointed for a period of not less than three years or more than five years, while a Judge must vacate his office at age sixty-five.

12. Against this background, we hold the view that the obligation of the State in respect of housing differs for the office of President, IC and that of Justice of Appeal.

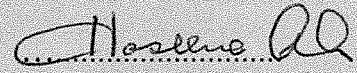
Recommendation

13. In light of the above, we recommend no change to the existing arrangements outlined in Minister of Finance and the Economy Circular No. 2 of 2014 dated April 29, 2014 with regard to the quantum of the Housing Allowance applicable to the office of President, IC.

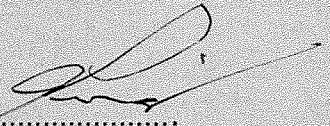
Dated this 22nd day of December, 2014.



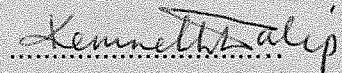
Edward Collier
(Chairman)



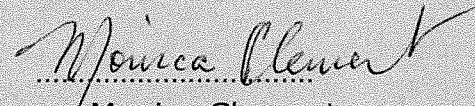
Haseena Ali



Gerard Pinard



Kenneth Dalip



Monica Clement