

FORTY-SECOND REPORT

OF

THE SALARIES REVIEW COMMISSION

OF

**THE REPUBLIC OF
TRINIDAD AND TOBAGO**

February 2^o, 1997

FORTY-SECOND REPORT OF THE SALARIES REVIEW COMMISSION

Review of the Salary and other Terms and Conditions of Service of the Offices of Chief State Counsel and Assistant Chief State Counsel, Inland Revenue Division, Ministry of Finance

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 service of the offices of Chief State Counsel and Assistant Chief State Counsel, Inland Revenue Division, Ministry of Finance.

2. These two new offices were created with effect from November 1, 1995 for the staff establishment of the Legal Section, Inland Revenue Division, Ministry of Finance and were included in the First Schedule to the Judicial and Legal Service Act, Chapter 6:01 by Legal Notice No. 60 dated 17th April 1996. Accordingly, the terms and conditions of service of these offices fall to be reviewed by the Salaries Review Commission by virtue of section 3(2) and (4) of the Judicial and Legal Service Act.

THE ROLE AND FUNCTION OF THE LEGAL SECTION OF THE INLAND REVENUE DIVISION

3. The Inland Revenue Division is the major agency for collecting taxes from individuals and companies/organisations engaged in trade or business throughout Trinidad and Tobago. According to the 1995 Annual Economic Survey, produced by the Central Bank of Trinidad and Tobago, the Division collected total tax revenues of approximately \$6.935 billion in 1995 alone - a sum which represented 83% of Total (Recurrent) Revenue for that year.

4. The Legal Section of the Division therefore has a critical role to play in enabling the Division to meet its objectives by administering, reviewing, monitoring and ensuring compliance with taxation policy, established under the following Acts of Parliament:-

**Income Tax Act
Petroleum Taxes Act
Stamp Duty Act
Land and Building Taxes Act
Corporation Tax Act
Value Added Tax Act
Miscellaneous Taxes Act
Pawnbrokers Act
Auctioneers Act
Money Lenders Act.**

In the discharge of their functions, officers of the Section are required to give advice and opinions on the interpretation of the above-mentioned statutes and institute proceedings where there are violations. They also make appearances before the Tax Appeal Board, the High Court and the Court of Appeal as well as interact with Government Ministries/Departments, Insurance Companies, banks, other corporate bodies and individuals on matters relating to tax exemptions, approvals of pension plans and deferred annuities.

5. The volume of work in the Legal Section has intensified over the last few years as a result of increased interactions with corporations as well as the growth in the number of cases for judicial review. It is anticipated that there will be even greater activity arising from Government's plans to undertake a comprehensive review and consolidation of the tax regime, broaden the tax base and improve levels of compliance. These plans suggest that the Section will be involved in a major review of existing tax legislation (especially the Income Tax Act, the Corporation Tax Act and the Value Added Tax Act) and the development of further measures to ensure compliance with the tax legislation already enacted or that which may be instituted consequent upon the review.

6. In that regard, we noted that Government has recently created the Enforcement/Compliance/Tax Surveillance Unit and is proposing the introduction, within the next few months, of a Tax Court, which is to be a Court of summary jurisdiction dealing specifically with breaches of various tax legislation. The role that the Legal Section will be required to play with respect to the former agency centres on the provision of advice on the appropriate legal procedures to be adopted in the case of levies. With respect to the Tax Court, the Legal Section will be responsible for initiating proceedings and prosecuting, where necessary.

THE ROLE AND RESPONSIBILITY OF THE CHIEF STATE COUNSEL AND THE ASSISTANT CHIEF STATE COUNSEL AND RECOMMENDED REMUNERATION ARRANGEMENTS

7. In our deliberations on the appropriate remuneration packages to be attached to the offices of Chief State Counsel and Assistant Chief State Counsel, we took into consideration the rationale for their creation, the required knowledge, skills and abilities and the duties and responsibilities of the holders of the offices.

8. We observed that the offices of Chief State Counsel and Assistant Chief State Counsel were created largely to meet an urgent need to augment and restructure the existing establishment of the Legal Section so as to provide a higher level of management, given the type of responsibilities entrusted to it. Also, we were advised that it had become necessary to stem the loss of experienced personnel by providing the opportunity for career advancement and upward mobility within the Section. The introduction of these higher level offices is expected to serve as an incentive to staff, who have gained invaluable experience in the field of taxation law, to remain in the Section.

Chief State Counsel

9. We have taken cognisance of the fact that the Chief State Counsel will be required to function at a highly professional level and as such, will need to possess more than ten years' experience in the practice of taxation law and to have in-depth knowledge of international treaties on double taxation and of statutes pertaining to taxation, pensions and retirement plans.

10. We noted that as head of the Legal Section, the incumbent, apart from his administrative and managerial responsibilities in coordinating the activities of the Section, will be required to advise the Minister of Finance and the Board of Inland Revenue on legislation pertaining to taxation as well as to act as a member of the Management Committee of the Board.

11. The Commission has also been apprised of the Chief State Counsel's function with respect to the proposed Tax Court. We have been informed in this regard that the duties of the incumbent will involve, initially, the training of subordinate legal and technical staff in the preparation and presentation of evidence and, when the Court is established, additional administrative responsibilities.

Assistant Chief State Counsel

12. We were advised that the office of Assistant Chief State Counsel will form the second level of management in the Legal Section and that the incumbent would be performing a supporting role to the Chief State Counsel. Thus, the Assistant Chief State Counsel, who will be required to possess considerable experience in the practice of taxation law, will assist in the administration of the Section while also having professional and supervisory responsibilities. This office holder will need to appear before the Tax Appeal Board, in the High Court and in the Court of Appeal on matters of taxation.

RECOMMENDATIONS

Chief State Counsel

13. The Commission is of the view that the remuneration and other terms and conditions of service to be attached to the office of Chief State Counsel should reflect the knowledge and expertise the incumbent will be required to possess in the specialized field of taxation law. The professional and administrative responsibilities of the office-holder as Head of the Legal Section were also taken into account together with the additional responsibility that would result on the introduction of the Tax Court.

14. Having considered all of the above factors, we are satisfied that the duties and responsibilities of this office are comparable with those attaching to the offices in Group II of the Judicial and Legal Service, which includes such offices as Chief State Solicitor and Deputy Solicitor General. Our recommendations on the salaries and other terms and conditions of service which should be attached to this office are therefore made on that basis.

The full list of recommended terms and conditions of service is set out in Appendix I to this Report.


✓ Assistant Chief State Counsel


15. The Commission sought to assess the relative responsibilities and demands of the office of Assistant Chief State Counsel vis-a-vis those attaching to the office of Chief State Counsel. We perceive a relationship similar to that existing between offices in Group II and Group III of the Judicial and Legal Service, for example, between Chief State Solicitor and Deputy Chief State Solicitor. We are of the view, therefore, that the duties of the office of the Assistant Chief State Counsel are comparable with those attaching to the offices in Group III. Accordingly, we recommend that the salary and terms and conditions of service of the Assistant Chief State Counsel should be the same as those applicable to this group. These are as set out in Appendix II.

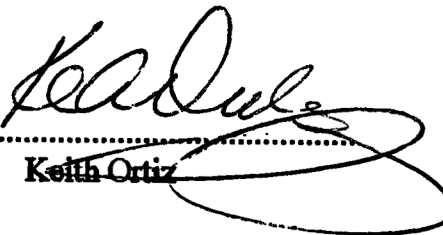
16. The effective dates of implementation of the recommendations made in this Report should be the dates on which the offices are filled.

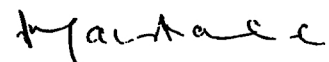
Dated this.....^{20th}.....day of February, 1997.


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Professor George M. Richards
(Chairman)


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Edward Collier


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Rowell Debysingh


.....
Keith Ortiz


.....
Joyce Marshall

**Recommended Terms and Conditions of Service for the
office of Chief State Counsel**

- Salary** - \$9,700 per month
- Transport** - (i) A maximum loan of \$75,000 at a rate of interest of 6% per annum to facilitate the purchase of a locally assembled or imported motor vehicle with maximum total exemptions as follows:-
- (a) **Motor Vehicle Tax**
the amount payable on a vehicle with a cubic capacity of 1799; and
- (b) **Value Added Tax**
the amount payable on a vehicle costing \$75,000.
- (ii) A loan to cover the cost of Motor Vehicle Insurance Premium.
- (iii) A Commuted Travelling Allowance of \$900.00 per month.
- Subsistence Allowance** - A Subsistence Allowance of \$40.00 per day when required to travel beyond a radius of ten (10) miles (16 kilometres) from official headquarters, and when in Tobago, \$50.00 per day.
- Vacation Leave** - Thirty (30) calendar days per annum.
- Medical Benefits** - Entitlement without charge to pathological examination and physiological treatment and to all incidental services at any hospital or other State institution or, with approval to be paid the cost of such treatment at any other institution in Trinidad and Tobago.
- Pensions/Gratuity** - Entitlement to superannuation benefits in accordance with the Pensions Act, Chapter 23:52.

APPENDIX II**Recommended Terms and Conditions of Service for the
office of Assistant Chief State Counsel**

- Salary** - \$8,900 per month
- Transport** - (i) A maximum loan of \$75,000 at a rate of interest of 6% per annum to facilitate the purchase of a locally assembled or imported motor vehicle, with maximum total exemptions as follows:-
- (a) **Motor Vehicle Tax**
the amount payable on a vehicle with a cubic capacity of 1799; and
- (b) **Value Added Tax**
the amount payable on a vehicle costing \$75,000.
- (ii) A loan to cover the cost of Motor Vehicle Insurance Premium.
- (iii) A Commuted Travelling Allowance of \$900.00 per month.
- Subsistence Allowance** - A Subsistence Allowance of \$40.00 per day when required to travel beyond a radius of ten (10) miles (16 kilometers) from official headquarters and when in Tobago, \$50.00 per day.
- Vacation Leave** - Thirty (30) calendar days per annum.
- Medical Benefits** - Entitlement without charge to pathological examination and physiological treatment and to all incidental services at any hospital or other State institution or, with approval to be paid the cost of such treatment at any other institution in Trinidad and Tobago.
- Pensions/Gratuity** - Entitlement to superannuation benefits in accordance with the Pensions Act, Chapter 23:52.