

NINETY SECOND REPORT OF THE SALARIES REVIEW COMMISSION
Determination of the Salary and Other Conditions of Service of the office of
Chairman, Equal Opportunity Tribunal

By letter dated October 11, 2010, His Excellency the President of the Republic of Trinidad and Tobago conveyed his approval for the Salaries Review Commission (SRC) to determine the salary and other conditions of service of the office of Chairman, Equal Opportunity Tribunal (EOT). This office was placed within the purview of the SRC by virtue of Legal Notices No. 259 and 260 dated September 21, 2010. In this regard, Legal Notice 260 placed the office in the Judicial & Legal Service and by virtue of section 3(4) of the Judicial and Legal Service Act, Chap. 6:01, all offices in the Judicial & Legal Service fall within the purview of the SRC. Legal Notice 259, on the other hand, amended the Second Schedule to the Constitution (Prescribed Matters) Act, Chap.1:02 by adding the office of Chairman, EOT. The Second Schedule to the latter Act identifies the offices which fall within the purview of the SRC.

2. The Equal Opportunity Tribunal was established under section 41(1) of the Equal Opportunity Act, Chap. 22:03 (the Act) for the purpose of hearing and determining complaints of discrimination referred to it by the Equal Opportunity Commission. According to section 41(4) of the said Act, the Tribunal has jurisdiction to require persons to appear before it for the purpose of giving evidence and producing documents, in addition to making such declarations, orders and awards of compensation as it thinks fit.

3. The Tribunal, which is a superior court of record, is empowered to enforce its own orders and judgments and possesses all powers, rights and privileges as are vested in the High Court of Justice on the occasion of an action.

4. The Tribunal is headed by a Chairman, who is appointed by the President of the Republic, acting in accordance with the advice of the Judicial and Legal Service Commission pursuant to section 42(1) of the Act. The office holder is required to preside over all sittings of the Tribunal and make and deliver the decisions of the Tribunal in any proceedings. Moreover, he/she is required to make suggestions and do all such things as appear to be right and proper for reconciling the parties involved. We have been advised that a Chairman, EOT was appointed with effect from February 4, 2009.

5. With regard to the qualifications, training and experience required for the office, the Act stipulates that the office holder shall be a Judge of status equal to that of a High Court Judge and by virtue of section 105 of the Constitution, the office holder is required to be an Attorney-at-law of not less than ten (10) years standing.

6. Section 43(1) of the Act stipulates that the office holder is to be paid the same salary and allowances as a Judge of the High Court in addition to other allowances that the President may determine. Section 43(2) further states that the conditions of service

of the office, other than the provisions relating to pension, of a Judge of the High Court shall also apply to the Chairman. The office is eligible for pension under the Pensions Act, Chap.23:52.

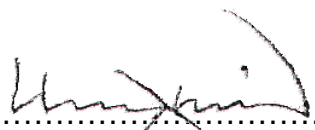
7. The positioning of the office of Chairman, EOT in the Judicial and Legal Service by virtue of Legal Notices 259 and 260, has created a dichotomy between the provisions of the Act and the Judicial and Legal Service Act with respect to the appointment of the office holder and the salary and allowances as are applicable to the office. Section 42(1) of the Act provides for the office holder to be appointed by the President whereas the Judicial and Legal Service Act provides for the appointment to be made by the Judicial and Legal Service Commission. Section 43(1) of the Act provides for the office holder to be paid the same salary and allowances as a Judge of the High Court whereas by placing the office under the Judicial and Legal Service, the salary and allowances for the office are to be determined by the SRC.

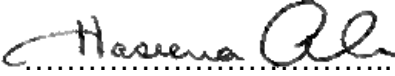
8. We note that section 43(1) of the Act is similar to that of section 5(1) of the Tax Appeal Board Act, Chap. 4:50, whereby it is provided that the office of Chairman, Tax Appeal Board is paid the same salary and allowances as a Judge of the High Court. The office does not fall within our purview. Additionally, the office is not one in the Judicial and Legal Service.


9. Since there already exists in the Act provision for the remuneration package and pension arrangements applicable to the office of Chairman, EOT, it would seem appropriate that steps be taken to rescind Legal Notices 259 and 260 dated September 21, 2010 and thereby remove the office from the Judicial and Legal Service and within the purview of the SRC.


10. Section 43(6) of the Act provides for the office of Chairman, EOT to be pensionable for the purposes of the Pensions Act. That latter Act requires the President of the Republic, by Notification, to declare an office to be pensionable and therefore steps ought to be taken to have relevant Notification issued.


Dated this 23rd day of February, 2011.


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Edward Collier
(Chairman)


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Haseena Ali


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Marjorie Thorpe


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Gerard Pinard


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Kenneth Dalip