

CIRCULAR MEMORANDUM

FROM : Chief Personnel Officer

TO : Permanent Secretaries, Heads of Departments,
Tobago House of Assembly and Heads of Statutory
Authorities subject to the Statutory Authorities Act,
Chapter 24:01

DATED : December 05, 2019

SUBJECT

Clarification of the application of the provisions of Section I (3) of Personnel Department Circular No. 5 of 1976 dated August 3, 1976 and its application with regard to Personnel Department Circular No. 5 of 2004 dated December 31, 2004

It has been brought to my attention that over the years, Ministries/Departments /Tobago House of Assembly (THA) have applied different interpretations to Section I. (3) of the Appendix to Personnel Department Circular No. 5 of 1976 dated August 3, 1976.

2. This section states as follows:-

(3) Subject to the provisions of the preceding rules:

- (i) Where an officer has been at the normal maximum salary or at an incremental point in the longevity scale for less than one year, his incremental date in the higher post shall be the anniversary date of his promotion; and
- (ii) Where an officer has been at the normal maximum salary or at an incremental point in the longevity scale for one year or more, he shall retain his incremental date in his lower post.

3. It has been observed that some Ministries/Departments/THA have been treating this section as two stand-alone clauses not giving recognition to the opening sentence which states "Subject to the provisions of the preceding rules". It is to be noted that "the preceding rules" refer to Section I. (1) and (2) of the said Appendix which state: -

1. Promotion:

(1) In cases of clearly related promotional posts, an officer on promotion shall convert to the minimum of the higher post provided that: -

- (i) where the increase in salary on promotion is less than an increment in the lower salary range, the officer shall retain his old incremental date.
- (ii) where the increase in salary on promotion is equal to or greater than an increment in the lower post, the officer's incremental date shall be date of promotion.

(2) In cases of posts where there is overlapping in salary scales and where an officer's salary in the lower post is less than the minimum of the higher post, he shall convert at the minimum of the higher post, provided that: -

- (i) where the increase in salary on promotion is equal to or greater than an increment in the lower post, the anniversary date of his promotion shall be his incremental date;
- (ii) where the increase in salary on promotion is less than the value of an increment in the lower post, the officer shall retain his old incremental date;
- (iii) where at the time of promotion an officer's salary in the lower post coincides with a point in the higher post, he will continue to receive that salary in the higher post retaining his old incremental date;
- (iv) where the salary the officer is receiving in the lower post is greater than the minimum of the higher post, but does not coincide with a point in the higher salary range, then the officer's salary shall be adjusted to the point in the higher salary range immediately above his salary in the lower salary range and he shall retain his old incremental date.

Therefore, Section I. (3) is not a stand-alone clause but is dependent on the rules stated in Section I. (1) & (2) which have priority.

4. To treat with Section I (3) as a stand-alone clause may lead to an officer being placed in the disadvantageous position of being overpaid or underpaid as shown in the examples outlined in the Appendix to this Circular Memorandum.

5. In order to avoid continued occurrences of overpayments and underpayments, I advise that the correct interpretation of Section I (3) of Personnel Department Circular No. 5 of 1976 is as follows:-

(3) Subject to the provisions of the preceding rules:

- (i) where an officer has been at the normal maximum salary or at an incremental point in the longevity scale of the lower salary range for less than one year and:-
 - (a) where the increase in salary on promotion is less than an increment in that lower salary range, normally, he shall retain the incremental date in his lower post.
 - (b) where the increase in salary on promotion is equal to or more than an increment in the lower salary range his incremental date in the higher post shall normally be the anniversary date of his promotion.
- (ii) where an officer has been at the normal maximum salary or at an incremental point in the longevity scale of the lower salary range for one year or more and:-
 - (a) where the increase in salary on promotion is less than an increment in the lower salary range, normally, he shall retain the incremental date in his lower post.
 - (b) where the increase in salary on promotion is equal to or more than an increment in the lower salary range, his incremental date in the higher post shall normally be the anniversary date of his promotion.

6. I further advise that in accordance with Personnel Department Circular No. 5 of 2004 dated December 31, 2004, the current basic principles regarding the payment of salary/acting allowance to an officer promoted to /appointed to act in a higher office are as follows: -

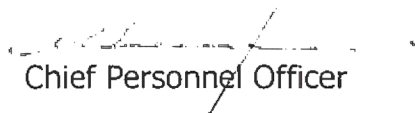
- i. The salary of an officer who is promoted to a higher office shall be adjusted to a point in the higher salary scale so as to provide for a difference in salary of not less than the value of an increment in the lower office from which he/she has been promoted.
- ii. The acting allowance to be paid to an officer who is appointed to act in a higher office shall be not less than the value of an increment in the salary scale applicable to his/her substantive office.

7. As a consequence, with effect from January 1, 2004, an officer is to be paid an increase in salary on promotion which is not less than the value of an increment in the salary range of the lower office from which he/she has been promoted, that is, his former substantive office, regardless of the incremental point at which the officer's salary had been paid.

8. Therefore, with effect from January 1, 2004, Section I (1) and (2) of Personnel Department Circular. No. 5 of 1976 are no longer relevant and the following applies with respect to the application of Section I (3) based on the principles outlined at paragraph 1 (i) and (ii) of Personnel Department No. 5 of 2004 (see paragraph 5), which replaced Section I (1) and (2) of Personnel Department Circular. No. 5 of 1976:

- (i) where an officer has been at the normal maximum salary or at an incremental point in the longevity scale of the lower salary range for less than one year his incremental date in the higher office to which promoted/ appointed to act shall normally, be the anniversary date of his promotion/ acting appointment.
- (ii) where an officer has been at the normal maximum salary or at an incremental point in the longevity scale of the lower salary range for more than one year his incremental date in the higher office to which promoted/ appointed to act shall normally, be the anniversary date of his promotion/ acting appointment.

Please be guided accordingly.


Chief Personnel Officer

APPENDIX

Clarification of the application of the provisions of Section I (3) of Personnel Department Circular No. 5 of 1976 dated August 3, 1976 and its application with regard to Personnel Department Circular No. 5 of 2004 dated December 31, 2004

EXAMPLES

Interpretation and application prior to January 1, 2004

Scenario I (Incorrect interpretation and application)

Ms. B, Clerk I, is in receipt of a monthly salary of **\$3,044** (2001), at the first longevity point in salary range 14 since March 1, 2001 her incremental date. The officer had been promoted to the office of Clerk II, (salary range 20C) with effect from December 3, 2001.

Using Section I (3) as a stand-alone clause, on promotion to the office of Clerk II, Ms. B's salary would have been adjusted to **\$3,086** (2001) minimum point of salary range 20C. The increase in salary being **\$42** ($\$3086 - \$3044 = \42) which was less than an increment in the lower office of Clerk I (**\$72** ($\$3,116 - \$3,044 = \72)). Having been at the first longevity point for less than one year (1/3/2001 – 2/12/2001) she would have been given the date of her promotion as her incremental date in the office of Clerk II which would have been reflected as December 3. Subsequently, on December 3, 2002, Ms. B, would have been eligible for an increment and her salary moved to **\$3,304** (point D) in salary range 20C.

Scenario I (Correct Interpretation)

In accordance with the preceding rules at Section I. (1) (i) (which is the primary rule) Ms. B, should have retained the incremental date in the lower office that is March 1, since, the increase in salary **\$42** would have been less than an increment in the lower office of Clerk I (**\$72**). She therefore would have been entitled to an incremental adjustment in the acting office of Clerk II with effect from March 01, 2002 and moved to **\$3,304** (point D) in salary range 20C from that date. An incremental adjustment rather than an increment was applicable in this case since she would not yet have completed twelve (12) continuous months in the higher office of Clerk II from the date of her promotion. Her incremental year would have spanned the two (2) offices: Clerk I from March 1, 2001 – December 2, 2001 and Clerk II from December 3, 2001 – February 28, 2002.

The **incorrect interpretation and application** of Section I (3) (i) of Personnel Department Circular. No. 5 of 1976, as reflected in Scenario I above, would have resulted in Ms. B being underpaid with effect from Match 1, 2002. **Diagram 1 refers.**

Diagram 1

Office	Year	Min	A	B	C	D	E	F	G	1st Long	2nd Long	3rd Long
Clerk I (Salary Range 14)	2001	\$ 2,457	\$ 2,525	\$ 2,599	\$ 2,670	\$ 2,745	\$ 2,815	\$ 2,887	\$ 2,971	\$ 3,044	\$ 3,116	\$ 3,187
Clerk II (Salary Range 20C)	2001 2002				3,086 3,204	3,184 3304	3,280 3402	3,375 3499	3,474 3600	3,571 3699	3,669 3798	3,766 3897

Scenario 2 (Incorrect interpretation and application)

Ms. G, Clerk I, was in receipt of a monthly salary of **\$2,971** (2001), at point G (max) in salary range 14 since July 10, 2000 her incremental date. The officer had been promoted to the office of Clerk II, (salary range 20C) with effect from December 3, 2001.

Using Section I (3) as a stand-alone clause, on promotion to the office of Clerk II, Ms. G's salary would have been adjusted to **\$3,086** (2001) at minimum point of salary range 20C. The increase in salary would have been **\$115** which was greater than an increment in the lower office of Clerk I (**\$63** (\$3,044 - \$2,971 = \$63). Having been at point G (max) for more than one year (10/7/2000 – 2/12/2001) she would have been allowed to retain her incremental date of the lower office and her incremental date in the office of Clerk II would have been reflected as July 10. Subsequently, on July 10, 2002, Ms. G, would have been eligible for an incremental adjustment to **\$3,184** (point D) in salary range 20C. An incremental adjustment rather than an increment was applicable in this case since she would not yet have completed twelve (12) continuous months in the higher office of Clerk II from the date of her promotion. Her incremental year would have spanned the two (2) offices: Clerk I from July 10, 2001 – December 2, 2001 and Clerk II from December 3, 2001 – July 9, 2002.

Scenario 2 (Correct interpretation)

However, in accordance with the preceding rules at Section I (1) (ii) (which is the primary rule) Ms. G's incremental date in the office of Clerk II should have been December 3, the date of her promotion, since, the increase in salary **\$115** would have been greater than an increment in the lower office of Clerk I (**\$63**). **Diagram 2 refers.**

The incorrect interpretation and application of Section I (3) (ii) of Personnel Department Circular. No. 5 of 1976, as reflected in Scenario 2 above, would have resulted in Ms. G, being overpaid with effect from July 10, 2002.

Diagram 2

Office	Year	Min	A	B	C	D	E	F	G	1st Long	2nd Long	3rd Long
Clerk I (Salary Range 14)	2001	\$ 2,457	\$ 2,525	\$ 2,599	\$ 2,670	\$ 2,745	\$ 2,815	\$ 2,887	\$ 2,971	\$ 3,044	\$ 3,116	\$ 3,187
Clerk II (Salary Range 20C)	2001 2002				3,086 3204	3,184 3304	3,280 3402	3,375 3499	3,474 3600	3,571 3699	3,669 3798	3,766 3897

Interpretation and application with effect from January 1, 2004

Scenario 3 (Correct interpretation and application)

Ms. B, Clerk I, is in receipt of a monthly salary of **\$5,686** (2012), at the first longevity point in salary range 14 since March 1, 2012 her incremental date. The officer had been promoted to the office of Clerk II, (salary range 20C) with effect from December 3, 2012.

In accordance with Personnel Department Circular No. 5 of 2004, on promotion to the office of Clerk II, Ms. B's salary would have been adjusted to **\$5,905** (2012) point D of salary range 20C, so as to ensure that she gets not less than the value of an increment in the office of Clerk I, which was \$111 (\$5,797 - \$5,686 = \$111). The increase in salary was **\$219** (\$5,905 - \$5,686 = \$219) which was more than an increment in the lower office of Clerk I (**\$111**). Ms. B's incremental date would be the date of her promotion to the office of Clerk II, that is, December 3. Subsequently, on December 3, 2013, Ms. B, would have been eligible for the award of an increment and her salary moved to **\$6,420 (2013)** (point E) in salary range 20C. *Diagram 3 refers.*

Diagram 3

Office	Year	Min	A	B	C	D	E	F	G	1st Long	2nd Long	3rd Long
Clerk I (Salary Range 14)	2012	\$ 4,759	\$ 4,865	\$ 4,983	\$ 5,094	\$ 5,214	\$ 5,323	\$ 5,437	\$ 5,571	\$ 5,686	\$ 5,797	\$ 5,911
Clerk II (Salary Range 20C)	2012				5,752	5,905	6,057	6,207	6,365	6,518	6,672	6,823
Clerk II (Salary Range 20C)	2013				6,097	6,259	6,420	6,579	6,747	6,909	7,072	7,232