

**LAWS OF TRINIDAD AND TOBAGO**

**CONSTITUTION OF THE REPUBLIC OF  
TRINIDAD AND TOBAGO ACT**

**CHAPTER 1:01**

**Act  
4 of 1976**

**Current Authorised Pages**

<i>Pages (inclusive)</i>		<i>Authorised by L.R.O.</i>
1–4	..	1/2013
5–16	..	1/2009
17–28	..	1/2013
29–54	..	1/2009
55–66	..	1/2013
67–84	..	1/2009
85–86	..	1/2011
87–92	..	1/2009
93–96	..	1/2011
97–120	..	1/2009
121–132	..	1/2011
133–190	..	1/2009
191–204	..	1/2011

## LAWS OF TRINIDAD AND TOBAGO

2

### Chap. 1:01

*Constitution of the Republic  
of Trinidad and Tobago*

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#### Index of Subsidiary Legislation

	<i>Page</i>
Existing Laws Amendment Order (GN 8/1962) ...	17
Existing Laws Amendment Order (GN 97/1963) ...	19
Existing Laws Modification Order (GN 136/1976) ...	22
Letters Patent Establishing the Distinguished Society of Trinidad and Tobago (110/1983) ...	23
Electoral College Regulations (GN 187/1976) ...	29
Public Service Commission (Delegation of Powers) Order (GN 158/1966) ...	41
Teaching Service Commission (Delegation of Powers) Order (GN 88/1969)...	55
Public Service Commission Regulations (GN 132/1966) ...	57
Police Service Commission Regulations (GN 131/1966) ...	131
Appointment of the Commissioner of Police and Deputy Commissioner of Police (Qualification and Selection Criteria) Order (LN 165/2007) ...	172
Commissioner of Police and Deputy Commissioner of Police (Selection Process) Order (LN 166/2007) ...	174
Public Service Appeal Board Regulations (GN 74/1978) ...	177
Police Service Commission (Appeal) Regulations ...	191

#### Note on Schedule

The Constitution which was originally enacted as the Schedule to this Act has been published independently (at the beginning of this Edition and immediately before this Chapter). However, any statutory instruments made under the Constitution are published as part of the Subsidiary Legislation of this Chapter.

#### Note on Omissions

The following Subsidiary Legislation made under the Constitution have been omitted:

- (a) Emergency Powers Regulations (made under section 7) and Orders made thereunder.
- (b) State of Emergency Proclamations (made under section 10).
- (c) Election of President Declarations Orders (made under section 32).
- (d) Parliamentary Sessions Proclamations (made under section 67).
- (e) Proroguing of Parliament Proclamations (made under section 68).
- (f) Dissolution Proclamations (made under section 68).

(g) Elections and Boundaries Commissions Orders (made under section 72).

(h) Public Accounts (Enterprises) Committee (made under section 119).

***N.B. See Current Edition of the Consolidated Index of Acts and Subsidiary Legislation for references to these Subsidiary Legislation.***

**Note on section 162, and on Part IV of CHAPTER XII  
(Resignation, Retirement), of the Public Service  
Commission Regulations**

LN 282/1998 amended the Public Service Commission Regulations by revoking and replacing Chapter XII. In the regulations that were replaced no regulation was numbered as **162**, and the other following regulations were numbered as **163, 164, 165, 166** and **167** notwithstanding the fact that the regulations in Chapter XIII commenced with the number 164.

In order therefore, to regularise the situation, regulations 164, 165, 166 and 167 have accordingly been renumbered as 163A, 163B, 163C and 163D in order to maintain sequential continuity in the renumbering of the Regulations.

CHAPTER 1:01

**CONSTITUTION OF THE REPUBLIC  
OF TRINIDAD AND TOBAGO ACT**

ARRANGEMENT OF SECTIONS

SECTION

1. Short title.
2. Interpretation.
3. Former Constitution repealed and new Constitution enacted.
4. Appointed day.
5. Existing law.
6. Prerogative and privilege.
7. Legal proceedings and other matters.
8. Succession to property.
9. Rights, liabilities and obligations.
10. Existing officers.
11. Judges of the Supreme Court.
12. Oaths.
13. Transitional provisions relating to existing Commissions.
14. Saving for offices of Prime Minister and Ministers.
15. Alteration to this Act.
16. Transitional as to dissolution of last Parliament.
17. Transitional as to Director of Public Prosecutions.
18. Validation of certain enactments.
19. Saving for prescribed matters under former Constitution.
20. Saving for Standing Orders.
21. Transitional as to constituency boundaries and list of electors.
22. Act to be certified.

**SCHEDULE**—(See Note on page 2).

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CHAPTER 1:01

**CONSTITUTION OF THE REPUBLIC  
OF TRINIDAD AND TOBAGO ACT**

**An Act to establish the Republic of Trinidad and Tobago and to enact the Constitution thereof in lieu of the former Constitution.** 4 of 1976.

[29TH MARCH 1976]

Commencement.

WHEREAS it is enacted by subsection (1) of section 38 of the former Constitution that Parliament may alter any of the provisions thereof: Preamble.

And whereas it is enacted by subsection (2) of the said section 38 that in so far as it alters certain provisions of the former Constitution a Bill for an Act of Parliament under the said section 38 shall not be passed by Parliament unless at the final voting thereon in each House it is supported by the votes of not less than two-thirds of all the members of each House:

And whereas it is enacted by subsection (3) of the said section 38 that in so far as it alters that section and certain other sections of the former Constitution, a Bill for an Act of Parliament under the said section 38 shall not be passed by Parliament unless it is supported at the final voting thereon—

- (i) in the House of Representatives by the votes of not less than three-fourths of all the members of the House;
- (ii) in the Senate by the votes of not less than two-thirds of all the members of the Senate:

And whereas it is intended by this Parliament by this Act to alter the former Constitution:

NOW, THEREFORE, BE IT ENACTED by the Parliament of Trinidad and Tobago as follows:—

**1.** (1) This Act may be cited as the Constitution of the Republic of Trinidad and Tobago Act. Short title.

LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

6

**Chap. 1:01**

(2) This Act shall have effect for the purpose of the alteration of the former Constitution.

Interpretation.

**2.** In this Act—

“alter” has the same meaning as in section 38(6)(b) of the former Constitution;

\*“appointed day” means the day fixed for the coming into operation of the Constitution by Proclamation of the Governor-General under section 4;

“the Commonwealth” has the same meaning as in section 3 of the Constitution;

†“the Constitution” means the Constitution set out in the Schedule;

“existing law” means a law that had effect as part of the law of Trinidad and Tobago immediately before the appointed day;

“the former Constitution” has the same meaning as in section 3 of the Constitution;

“law” has the same meaning as in section 3 of the Constitution;

S.I.1962  
No. 1875  
(U.K.).

“the Order-in-Council of 1962” means the Trinidad and Tobago (Constitution) Order-in-Council, 1962;

“public office” has the same meaning as in section 3 of the Constitution;

“the State” means the Republic of Trinidad and Tobago.

Former  
Constitution  
repealed and  
new  
Constitution  
enacted.

**3.** On the appointed day all the provisions of the former Constitution are repealed and the Order-in-Council of 1962 is revoked, and thereupon the Constitution shall have effect as the supreme law of the State in place of the former Constitution.

Appointed day.

**4.** The Governor-General shall by Proclamation published in the *Gazette* fix a day after the dissolution of the last Parliament under the former Constitution for the coming into operation of the Constitution.

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\*1st August, 1976 was fixed by Proclamation (GN 116/1976).

†See Note on Schedule at page 2.

5. (1) Subject to the provisions of this section, the operation of the existing law on and after the appointed day shall not be affected by the revocation of the Order-in-Council of 1962 but the existing laws shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with this Act. Existing law.

\*(2) The President may, by Order published in the *Gazette* made at any time within the period of three years next after the appointed day, make such modifications to any existing law as may appear to him to be necessary or expedient for bringing that law into conformity with the Constitution, without prejudice, however, to any powers conferred by any law upon any other person or authority to modify any existing law.

(3) Anything done under any existing law before its modification by or under this section which would, but for this subsection, cease by virtue of that modification to have effect, shall continue to have effect as if done under that law as so modified.

(4) In subsection (3), “modification” includes amendment, adaptation or other alteration authorised by subsection (1) .

(5) Without prejudice to the generality of subsections (1) to (4) and subject to any Order made under subsection (2), in any existing law which continues in force after the appointed day or in any public document, in relation to any time or any period commencing on or after the appointed day, unless the context otherwise requires—

- (a) any reference to Her Majesty the Queen, whether or not that expression is used, or to the Crown in respect of Trinidad and Tobago, shall be read and construed as if it were a reference to the State;
- (b) any reference to the Governor-General shall be read and construed as if it were a reference to the President;
- (c) any reference to Crown land or Crown forest shall be read and construed as a reference to State land or State forest, respectively;

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\*See Subsidiary Legislation for Modification Orders at page 22.

LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

8

**Chap. 1:01**

(d) any reference to Her Majesty's dominions shall be read and construed as a reference to the Commonwealth.

Prerogative and  
privilege.

**6.** (1) Where under any existing law any prerogative or privilege is vested in Her Majesty the Queen or the Crown in respect of Trinidad and Tobago, that prerogative or privilege shall, on the appointed day, vest in the State and, subject to the Constitution and any other law, the President shall have power to do all things necessary for the exercise thereof.

(2) Where under any existing law any rights, powers, privileges, duties or functions are vested in or imposed on the Governor-General, those rights, powers, privileges, duties and functions shall, on the appointed day, vest in and be exercisable by the President.

Legal  
proceedings and  
other matters.

**7.** (1) Subject to subsection (2), all actions, suits and other legal proceedings pending before any Court on the appointed day shall continue before that Court, including the Supreme Court established by the Constitution, as if they had been commenced in that Court under the Constitution.

(2) Any criminal proceedings pending in any Court immediately before the appointed day in which Her Majesty the Queen is a party in respect of Trinidad and Tobago, may be continued after the appointed day with the substitution of the State as a party.

(3) Where any matter or thing has been commenced before the appointed day by the Governor-General in exercise of any power in that behalf under any existing law, such matter or thing may be continued and completed by the President on or after the appointed day.

Succession to  
property.

**8.** (1) All property which, immediately before the appointed day, is vested in Her Majesty or the Governor-General for the purposes of the Government of Trinidad and Tobago, shall, on the appointed day, vest in the State.



(2) Any property which, immediately before the appointed day, is liable to escheat or to be forfeited to Her Majesty for the purposes of the Government of Trinidad and Tobago, shall, from the appointed day, be liable to escheat or to be forfeited to the State.

(3) Where, immediately before the appointed day, any person holds any property in trust for Her Majesty or for the Governor-General, for the purposes of the Government of Trinidad and Tobago, that person shall, from the appointed day, hold such property on the like trust for the State.

**9.** (1) All rights, liabilities and obligations of Her Majesty in respect of the Government of Trinidad and Tobago shall, on and after the appointed day, be rights, liabilities and obligations of the State.

Rights,  
liabilities and  
obligations.

(2) All rights, liabilities and obligations of the Governor-General or the holder of any other office under the Crown in respect of the Government of Trinidad and Tobago, shall, on and after the appointed day, be rights, liabilities and obligations of the President or of the holder of that other office, as the case may be, on behalf of the State.

(3) In this section, rights, liabilities and obligations include rights, liabilities and obligations arising from contract or otherwise, other than rights mentioned in sections 6 and 8.

**10.** (1) Subject to the provisions of this Act and of the Constitution, every person who immediately before the appointed day holds or is acting in a public office shall, as from that day, continue to hold or act in the like office as if he had been appointed thereto in accordance with the provisions of the Constitution.

Existing  
officers.

(2) A person who under the Order-in-Council of 1962 or any existing law would have been required to vacate his office at the expiration of any period shall vacate his office at the expiration of that period.

**11.** (1) The Judges of the Supreme Court holding office immediately before the appointed day shall, as from that day,

Judges of the  
Supreme Court.

LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

10

**Chap. 1:01**

continue to hold office as if they had been appointed thereto under the provisions of Chapter 7 of the Constitution.

(2) Until other provision is made under Chapter 11 of the Constitution the salaries and allowances of the Judges of the Supreme Court shall be the salaries and allowances to which, immediately before the appointed day, the Judges of the Supreme Court were entitled.

Oaths.

**12.** (1) Any person who holds any office to which this section applies as from the appointed day, by virtue of having been the holder of any office before that day, shall be deemed to have complied with the requirements of the Constitution or any other law in force in Trinidad and Tobago relating to the taking of oaths with respect to that office.

(2) This section applies to any office to which section 10 or 11 applies, to the office of Prime Minister, Minister, Parliamentary Secretary, President of the Senate, Speaker, Leader of the Opposition, Auditor General, member of a Service Commission other than the Judicial and Legal Service Commission and member of the Elections and Boundaries Commission.

Transitional  
provisions  
relating to  
existing  
Commissions.

**13.** (1) Any power of a Commission established by the former Constitution (in this section referred to as “an existing Commission”) which has been validly delegated to any person or authority shall, to the extent that that power could be delegated under the Constitution to such person or authority, be deemed as from the appointed day, to have been delegated to that person or authority in accordance with the provisions of the Constitution.

(2) Any matter which immediately before the appointed day is pending before an existing Commission or, as the case may be, before any person or authority to whom the power to deal with such matters has been delegated under the former Constitution shall, as from the appointed day, be continued before the corresponding Commission established by the Constitution or, as the case may be, the said person or authority where such delegation has been continued under subsection (1), so however, that where an existing Commission or, as the case may be, any person or authority as

aforesaid has, immediately before the appointed day, partly completed the hearing of a disciplinary proceeding (in this section referred to as “the original hearing”), no person shall take part in the continued hearing unless he has also taken part in the original hearing; and where by virtue of this subsection the original hearing cannot be so continued the hearing of the disciplinary proceeding shall be recommenced.

(3) Except in the case of the Judicial and Legal Service Commission, a person who immediately before the appointed day holds the Office of Chairman or other member of a Service Commission (within the meaning of section 3 of the Constitution) established by the former Constitution shall, as from the appointed day, continue to hold the like office as if he had been appointed thereto in accordance with the provisions of the Constitution.

(4) Section 126(3)(a) of the Constitution shall have effect in relation to such a person as if the date of his appointment under the former Constitution were the date of his appointment under the Constitution.

(5) The persons holding the office of Chairman and members of the Elections Commission under the former Constitution shall, as from the appointed day, continue to hold the like office in the Elections and Boundaries Commission under the Constitution as if they had been appointed thereto in accordance with the Constitution. This subsection shall have effect only during the period of twelve months next after the appointed day.

**14.** (1) The person who immediately before the appointed day holds the office of Prime Minister under the former Constitution shall, as from that day hold office as Prime Minister under the Constitution as if he had been appointed thereto under the provisions of section 76 of the Constitution.

Saving for  
offices of Prime  
Minister and  
Ministers.

(2) Where the person who is Prime Minister under subsection (1) is for any reason unable to act or where the office of Prime Minister is vacant, the President, acting on the advice of the Prime Minister, if the Prime Minister is able so to do, shall appoint a person who is a Minister under subsection (3) to perform the

functions of Prime Minister until such time as that person is again able to perform his functions as Prime Minister or until the next general election after the appointed day is held, whichever first occurs.

(3) The persons, other than the Prime Minister, who immediately before the appointed day hold office as Ministers under the former Constitution shall as from that day hold the like office as if they had been appointed thereto under section 76 of the Constitution.

(4) Any person holding the office of Prime Minister or other Minister by virtue of the provisions of subsections (1) to (3) who, immediately before the appointed day, was assigned responsibility for any matter or department of Government under the former Constitution shall, as from that date, be deemed to have been assigned responsibility for such matter or department under section 79 of the Constitution.

(5) The persons who, immediately before the appointed day, hold offices of Parliamentary Secretaries under the former Constitution shall, as from that date, hold the like offices as if they had been appointed thereto under section 82 of the Constitution.

(6) A person who, immediately before the appointed day, holds the office of President of the Senate or Speaker under the former Constitution shall, as from that date, hold the like office as if he had been elected thereto under section 45 or 50, respectively, of the Constitution.

(7) The person who, immediately before the appointed day, holds the office of Leader of the Opposition or Auditor General under the former Constitution shall, as from that date, hold the like office as if he had been appointed thereto under section 83 or 117, respectively, of the Constitution.

Alteration to  
this Act.

10 & 11 Eliz. 2  
C. 54.

**15.** Parliament may alter any of the provisions of this Act, including this section, other than the Schedule, in the same manner as it may alter the provisions of the Trinidad and Tobago Independence Act, 1962, of the United Kingdom.

**16.** (1) Where it is necessary under subsection (4) of section 68 of the Constitution for the two Houses to be summoned before the next ensuing general election after the appointed day is held, the two Houses of the last Parliament under the former Constitution shall be deemed to be the two Houses of the preceding Parliament under the Constitution for all the purposes of that subsection and those Houses may proceed to deal with any business before them, notwithstanding any difference in the composition of the Senate under the former Constitution and under the Constitution.

Transitional as  
to dissolution of  
last Parliament.

(2) Where in the opinion of the Prime Minister it is necessary or expedient, in order to make amendments to the Constitution between the appointed day and the next ensuing general election, to recall the two Houses of Parliament, the President, acting in accordance with the advice of the Prime Minister, may recall the two Houses of the last Parliament under the former Constitution for the purpose, and the provisions of subsection (1) shall apply accordingly.

(3) A reference in the Constitution to a dissolution of Parliament shall be deemed to include a reference to the dissolution of the last Parliament under the former Constitution.

**17.** Until a person is appointed to the office of Director of Public Prosecutions under the Constitution, the functions of that office shall be performed by the Solicitor General.

Transitional as  
to Director of  
Public  
Prosecutions.

**18.** All enactments passed or made by any Parliament or person or authority under or by virtue of the former Constitution and not before the appointed day declared by a competent Court to be void by reason of any inconsistency with any provision of the former Constitution, including in particular sections 1 and 2 thereof, and that are not repealed, lapsed, spent or that had not otherwise had their effect, shall be deemed to have been validly passed or made and to have had full force and effect as part of the law of Trinidad and Tobago immediately before the appointed day, even if any such enactments were inconsistent with any provision of the former Constitution including in particular sections 1 and 2 thereof.

Validation of  
certain  
enactments.

Saving for  
prescribed  
matters under  
former  
Constitution.

**19.** All enactments passed or made by any Parliament or person or authority in pursuance of the former Constitution for the purpose of prescribing any matter or thing authorised or required to be prescribed by the former Constitution that is correspondingly authorised or required to be prescribed for the purposes of the Constitution shall, until some other matter or thing is prescribed in pursuance of the Constitution for the purposes thereof, continue in full force and effect for all the purposes of the Constitution.

Saving for  
Standing  
Orders.

**20.** The Standing Orders of the Senate and of the House of Representatives of the last Parliament under the former Constitution as in force immediately before the appointed day shall, except as may be otherwise provided in pursuance of section 56(1) of the Constitution, be the Standing Orders of the Senate and of the House of Representatives established by the Constitution, but shall be read and construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with this Act.

Transitional as  
to constituency  
boundaries and  
list of electors.

**\*21.** (1) Notwithstanding section 54(2)(b) of the former Constitution, the Elections and Boundaries Commission shall prepare a fresh report of the boundaries of the constituencies in accordance with the said section 54 and any other law relating to the registration of voters of 18 years and over.

(2) The last report of the Elections and Boundaries Commission under section 54 of the former Constitution shall—

- (a) be submitted by the Commission to the Prime Minister and the Speaker for presentation to the House of Representatives of the last Parliament under the former Constitution as soon as possible after the passing of this Act; and
- (b) be deemed to be the first report of the Elections and Boundaries Commission under section 72 of the Constitution and any other law for all the purposes of the Constitution.

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\*See section 3 of Act No. 11 of 1980.

(3) The list of electors prepared by the Elections and Boundaries Commission pursuant to any law relating to the registration of voters of the age of 18 years and over and used for the purpose of the preparation of the report of the Commission on the boundaries of the constituencies under section 54 of the former Constitution shall be deemed to be the list of electors prepared by the Elections and Boundaries Commission under section 72 of the Constitution and the Representation of the People Act, for all the purposes of the Constitution. Ch. 2:01.

**22.** (1) The Clerk of the Senate and the Clerk of the House of Representatives shall certify whether this Act is one the Bill for which has been passed by the Senate and the House, respectively, and at the final voting thereon in the Senate and in the House, respectively, has been supported, in the Senate by the votes of not less than two-thirds of all the members of the Senate, and in the House by the votes of not less than three-fourths of all the members of the House. Act to be certified.

(2) The certificates of the Clerk of the Senate and the Clerk of the House of Representatives under subsection (1) duly signed and authenticated by them shall be conclusive evidence that this Act is one the Bill for which has been passed by both Houses of Parliament and at the final voting thereon in each House has been supported by the votes of not less than two-thirds of all the members of the Senate and three-fourths of all the members of the House of Representatives, as provided for in section 38 of the former Constitution.

# LAWS OF TRINIDAD AND TOBAGO

## THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

*Enacted as the Schedule to the Constitution of the  
Republic of Trinidad and Tobago Act (Ch. 1:01)*

### Act 4 of 1976

Amended by

*15 of 1978	*10 of 1995 ( <i>See</i> LN 118/1995)
16 of 1978	17 of 1995
30 of 1979	39 of 1996
8 of 1981	*29 of 1999
13 of 1982	43 of 2000
*17 of 1983 (Rep. by 8 of 1988)	81 of 2000
21 of 1987	82 of 2000
2 of 1988	89 of 2000
*8 of 1988	6 of 2006
*30 of 1994 (Rep. by 10 of 1995)	12 of 2007

\*See Note on page 2

### Current Authorised Pages

<i>Pages</i>	<i>Authorised</i>
<i>(inclusive)</i>	<i>by L.R.O.</i>
1–118	.. 1/2009



**Note on Subsidiary Legislation**

Statutory Instruments made under the Constitution are published in Chapter 1:01.

**Note on Act No. 15 of 1978**

*See* Privy Council Appeal No. 24 of 1982.

**Note on Acts Nos. 17 of 1983 and 8 of 1988**

Act No. 17 of 1983 amended section 121 of the Constitution but this Act (No. 17 of 1983) was subsequently repealed by section 3 of Act No. 8 of 1988.

**Note on Acts Nos. 30 of 1994 and 10 of 1995**

Act No. 30 of 1994 amended section 127 of the Constitution but this Act (No. 30 of 1994) was subsequently repealed by section 3 of Act No. 10 of 1995.

**Note on Act No. 29 of 1999  
(66A, 66B, 66C and 66D)**

Section 3 of Act No. 29 of 1999 amended the Constitution by inserting therein the above new sections. However, section 4 of the said Act states: (i.e., the Act shall come into force when Standing Orders are made to give effect to section 66A).

Standing Orders to give effect to section 66A were adopted by the House of Representatives on 27th October, 2000, and by the Senate on 31st October, 2000.

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**THE CONSTITUTION OF THE  
REPUBLIC OF TRINIDAD AND TOBAGO**

ARRANGEMENT OF SECTIONS

SECTION

**PRELIMINARY**

1. The State.
2. The Supreme Law.
3. Interpretation.

**CHAPTER 1**

**THE RECOGNITION AND PROTECTION OF  
FUNDAMENTAL HUMAN RIGHTS AND FREEDOMS**

**PART I**

**RIGHTS ENSHRINED**

4. Recognition and declaration of rights and freedoms.
5. Protection of rights and freedoms.

**PART II**

**EXCEPTIONS FOR EXISTING LAW**

6. Savings for existing law.

**PART III**

**EXCEPTIONS FOR EMERGENCIES**

7. Emergency powers.
8. Period of public emergency.
9. Grounds for, and initial duration of, Proclamation.
10. Extension of Proclamation.
11. Detention of persons.
12. Publication.

**PART IV**

**EXCEPTIONS FOR CERTAIN LEGISLATION**

13. Acts inconsistent with sections 4 and 5.

SECTION ARRANGEMENT OF SECTIONS—*Continued*

**PART V**

**GENERAL**

14. Enforcement of the protective provisions.

**CHAPTER 2**

**CITIZENSHIP**

15. Continuation of citizenship of citizens under section 9 of former Constitution.
16. Continuation of citizenship of citizens by registration, naturalisation, etc.
17. Acquisition of citizenship by birth or descent. Continuation of citizenship. Retrospective citizenship.
18. Commonwealth citizens.
19. Criminal liability of Commonwealth citizens.
20. Powers of Parliament.
21. Interpretation of Chapter 2.

**CHAPTER 3**

**THE PRESIDENT**

22. Establishment of office and election of President.
23. Qualifications and disqualifications for office of President.
24. Other conditions of office.
25. Transitional provision.
26. Holding of elections for President.
27. Where office vacant.
28. Electoral College.
29. Mode of elections.
30. Nomination of candidates.
31. Procedure for balloting.
32. Determination of questions as to elections.
33. Term of office.
34. Vacation of office.
35. Removal from office.
36. Procedure for removal from office.
37. Oath.
38. Immunities of President.

SECTION

**CHAPTER 4  
PARLIAMENT**

**PART I  
COMPOSITION OF PARLIAMENT  
ESTABLISHMENT**

39. Establishment of Parliament.

**THE SENATE**

40. Composition of Senate.  
41. Qualifications for appointment as Senator.  
42. Disqualifications for appointment as Senator.  
43. Tenure of office of Senators.  
44. Appointment of temporary Senators.  
45. President and Vice-President of the Senate.

**THE HOUSE OF REPRESENTATIVES**

46. Composition of House of Representatives.  
47. Qualifications for election as member.  
48. Disqualifications for election as member.  
49. Tenure of office of members.  
49A. Vacation of seat where member resigns or is expelled.  
50. Speaker and Deputy Speaker.  
51. Qualifications of voters.

**GENERAL**

52. Determination of questions as to membership.

**PART II  
POWERS, PRIVILEGES AND PROCEDURE  
OF PARLIAMENT**

53. Power to make laws.  
54. Alteration of this Constitution.  
55. Privileges and immunities of Parliament.

SECTION                      ARRANGEMENT OF SECTIONS—*Continued*

- 56. Regulation of procedure in each House.
- 57. Oath of allegiance.
- 58. Presiding in Senate and House of Representatives.
- 59. Voting.
- 60. Quorum.
- 61. Mode of exercising legislative power.
- 62. Attendance of Ministers in either House.
- 63. Introduction of Bills, etc.
- 64. Restrictions on powers of Senate as to Money Bills.
- 65. Restrictions on powers of Senate as to Bills other than Money Bills.
- 66. Provisions relating to sections 63, 64 and 65.
- 66A. Appointment of certain Select or Joint Select Committees.
- 66B. Reports of Service Commissions.
- 66C. Applicability of the Judicial and Legal Service Commission.
- 66D. Report of Government Ministries, etc.

**PART III**

**SUMMONING, PROROGATION AND DISSOLUTION**

- 67. Sessions of Parliament.
- 68. Prorogation and dissolution of Parliament.
- 69. General Elections and appointment of Senators.

**PART IV**

**ELECTIONS AND BOUNDARIES COMMISSION**

- 70. Constituencies.
- 71. Elections and Boundaries Commission.
- 72. Procedure for review of constituency boundaries.

**PART V**

**SYSTEM OF BALLOTING**

- 73. System of balloting.

**SECTION**

**CHAPTER 5**

**EXECUTIVE POWERS**

- 74. Executive authority of Trinidad and Tobago.
- 75. The Cabinet.
- 76. Appointment of Ministers.
- 77. Tenure of office of Ministers.
- 78. Performance of functions of Prime Minister during absence, illness or suspension.
- 79. Allocation of portfolios to Ministers.
- 80. Exercise of President's functions.
- 81. President to be informed concerning matters of Government.
- 82. Parliamentary Secretaries.
- 83. Leader of the Opposition.
- 84. Oaths to be taken by Ministers, etc.
- 85. Permanent Secretaries.
- 86. Constitution of offices, etc.
- 87. Powers of pardon, etc.
- 88. Advisory Committee on Power of Pardon.
- 89. Functions of Advisory Committee.

**CHAPTER 6**

**THE DIRECTOR OF PUBLIC PROSECUTIONS  
AND THE OMBUDSMAN**

**PART I**

**DIRECTOR OF PUBLIC PROSECUTIONS**

- 90. Appointment, tenure and functions.

**PART II**

**OMBUDSMAN**

- 91. Appointment and conditions of office.
- 92. Appointment of staff of Ombudsman.
- 93. Functions of Ombudsman.
- 94. Restrictions on matters for investigation.

**SECTION**                      ARRANGEMENT OF SECTIONS—*Continued*

- 95. Discretion of Ombudsman.
- 96. Report on investigation.
- 97. Power to obtain evidence.
- 98. Prescribed matters concerning Ombudsman.

**CHAPTER 7**

**THE JUDICATURE**

**PART I**

**THE SUPREME COURT**

- 99. Establishment of Supreme Court.
- 100. Constitution of High Court.

**THE COURT OF APPEAL**

- 101. Constitution of Court of Appeal.
- 102. Appointment of Chief Justice.
- 103. Acting appointments as Chief Justice.

**APPOINTMENT OF JUDGES**

- 104. Appointment of Justices of Appeal and Puisne Judges.
- 105. Qualifications of Judges.
- 106. Tenure of office.
- 107. Oaths to be taken by Judges.
- 108. Appeals on Constitutional questions and fundamental rights, etc.

**PART II**

**APPEALS TO THE JUDICIAL COMMITTEE**

- 109. Appeals from Court of Appeal to the Judicial Committee.

**PART III**

**JUDICIAL AND LEGAL SERVICE COMMISSION**

- 110. Judicial and Legal Service Commission.
- 111. Appointment of judicial officers, etc.

SECTION

**CHAPTER 8**

**FINANCE**

- 112. Establishment of Consolidated Fund.
- 113. Authorisation of expenditure from Consolidated Fund.
- 114. Authorisation of expenditure in advance of appropriation.
- 115. Contingencies Fund.
- 116. Establishment of office and functions of Auditor General.
- 117. Appointment of Auditor General and Staff.
- 118. Public debt.
- 119. Public Accounts Committees.

**CHAPTER 9**

**APPOINTMENTS TO, AND TENURE OF, OFFICES**

**PART I**

**SERVICE COMMISSIONS, ETC.**

**PUBLIC SERVICE COMMISSION**

- 120. Public Service Commission.
- 121. Appointments, etc. of Public Officers.

**POLICE SERVICE COMMISSION**

- 122. Police Service Commission.
- 122A. Removal of members.
- 123. Powers of the Police Service Commission.
- 123A. Powers of the Commissioner of Police.
- 123B. Transitional and savings.

**TEACHING SERVICE COMMISSION**

- 124. Teaching Service Commission.
- 125. Appointment of Teachers.

**GENERAL PROVISIONS ON SERVICE COMMISSIONS**

- 126. Qualifications, tenure of office, etc.
- 127. Delegation of functions.



**SECTION**                      ARRANGEMENT OF SECTIONS—*Continued*

- 128. Consultation with other Service Commissions.
- 129. Powers and procedure of Service Commissions and protection from legal proceedings.

**PART II**

**PUBLIC SERVICE APPEAL BOARD**

- 130. Constitution of Appeal Board.
- 131. Tenure of office, etc.
- 132. Appeals in disciplinary cases.

**PENSIONS**

- 133. Protection of pension rights.
- 134. Powers of Commissions in relation to grant of pensions, etc.

**SPECIAL OFFICES**

- 135. Appointments of principal representatives of Trinidad and Tobago.
- 136. Tenure of special offices.
- 137. Removal from office of Judge.

**CHAPTER 10**

**THE INTEGRITY COMMISSION**

- 138. The Integrity Commission.
- 139. Power to make laws relating to Commission.

**CHAPTER 11**

**THE SALARIES REVIEW COMMISSION**

- 140. Constitution of Commission.
- 141. Functions of Commission.

**CHAPTER 11A**

**THE TOBAGO HOUSE OF ASSEMBLY**

- 141A. Tobago House of Assembly.

**SECTION**

141B. Powers of the Assembly.

141C. Executive Council.

141D. Fund.

**CHAPTER 12**

**MISCELLANEOUS AND GENERAL**

142. Resignations.

143. Reappointments, etc.

**FIRST SCHEDULE**—Forms of Oath (or Affirmation) of Office and  
of Secrecy.

**SECOND SCHEDULE**—Boundaries of Constituencies.

**THIRD SCHEDULE**—Matters not subject to investigation.

4 of 1976.  
Schedule.

**THE CONSTITUTION OF THE REPUBLIC OF  
TRINIDAD AND TOBAGO**

Commencement.  
116/1976.

[1ST AUGUST 1976]

Whereas the People of Trinidad and Tobago—

- (a) have affirmed that the Nation of Trinidad and Tobago is founded upon principles that acknowledge the supremacy of God, faith in fundamental human rights and freedoms, the position of the family in a society of free men and free institutions, the dignity of the human person and the equal and inalienable rights with which all members of the human family are endowed by their Creator;
- (b) respect the principles of social justice and therefore believe that the operation of the economic system should result in the material resources of the community being so distributed as to subserve the common good, that there should be adequate means of livelihood for all, that labour should not be exploited or forced by economic necessity to operate in inhumane conditions but that there should be opportunity for advancement on the basis of recognition of merit, ability and integrity;
- (c) have asserted their belief in a democratic society in which all persons may, to the extent of their capacity, play some part in the institutions of the national life and thus develop and maintain due respect for lawfully constituted authority;
- (d) recognise that men and institutions remain free only when freedom is founded upon respect for moral and spiritual values and the rule of law;
- (e) desire that their Constitution should enshrine the above-mentioned principles and beliefs and make provision for ensuring the protection in

Trinidad and Tobago of fundamental human rights and freedoms.

Now, therefore the following provisions shall have effect as the Constitution of the Republic of Trinidad and Tobago:

**PRELIMINARY**

**1.** (1) The Republic of Trinidad and Tobago shall be a sovereign democratic State. The State.

(2) Trinidad and Tobago shall comprise the Island of Trinidad, the Island of Tobago and any territories that immediately before the 31st day of August 1962 were dependencies of Trinidad and Tobago, including the seabed and subsoil situated beneath the territorial sea and the continental shelf of Trinidad and Tobago (“territorial sea” and “continental shelf” here having the same meaning as in the Territorial Sea Act and the Continental Shelf Act, respectively), together with such other areas as may be declared by Act to form part of the territory of Trinidad and Tobago. Ch. 1:51.  
Ch. 1:52.

**2.** This Constitution is the supreme law of Trinidad and Tobago, and any other law that is inconsistent with this Constitution is void to the extent of the inconsistency. The Supreme Law.

**3.** (1) In this Constitution— Interpretation.  
[8 of 1988].

“the Cabinet” means the Cabinet constituted under this Constitution;

“the Commonwealth” means Trinidad and Tobago, any country to which section 18 applies and any dependency of any such country;

“Court” means any Court of law in Trinidad and Tobago other than a Court Martial and shall be construed as including the Judicial Committee;

“financial year” means any period of twelve months beginning on the first day of January in any year or such other date as may be prescribed;

“general election” means a general election of members to serve in the House of Representatives;

## LAWS OF TRINIDAD AND TOBAGO

- “House” means either the House of Representatives or the Senate as the context may require;
- “Judge” includes the Chief Justice, a Judge of Appeal and a Puisne Judge;
- 3 & 4 Will. 4  
c. 41. “Judicial Committee” means the Judicial Committee of the Privy Council established by the Judicial Committee Act 1833 of the United Kingdom as from time to time amended by any Act of Parliament of the United Kingdom;
- “law” includes any enactment, and any Act or statutory instrument of the United Kingdom that before the commencement of this Constitution had effect as part of the law of Trinidad and Tobago, having the force of law and any unwritten rule of law;
- “oath” includes affirmation;
- First Schedule. “oath of allegiance” means the oath of allegiance set out in the First Schedule or such other oath as may be prescribed;
- “Parliament” means the Parliament of Trinidad and Tobago;
- “parliamentary election” means an election of a member or members to serve in the House of Representatives;
- “prescribed” means prescribed by or under an Act of Parliament;
- “public office” means an office of emolument in the public service;
- “public officer” means the holder of any public office and includes any person appointed to act in any such office;
- Ch. 25:03. “public service” means, subject to the provisions of subsections (4) and (5), the service of the Government of Trinidad and Tobago or of the Tobago House of Assembly established by section 3 of the Tobago House of Assembly Act, in a civil capacity;
- “Service Commission” means the Judicial and Legal Service Commission, the Public Service Commission, the Police Service Commission or the Teaching Service Commission;
- “session” means, in relation to a House, the sittings of that House commencing when it first meets after this Constitution

comes into force or after the prorogation or dissolution of Parliament at any time, and terminating when Parliament is prorogued or is dissolved without having been prorogued;

“sitting” means, in relation to a House, a period during which that House is sitting continuously without adjournment, and includes any period during which the House is in committee;

“Trinidad and Tobago” has the meaning attributed to that expression in the Trinidad and Tobago Independence Act 1962; 10 & 11 Eliz. 2 c. 54.

“the former Constitution” means the Trinidad and Tobago Constitution set out in the Second Schedule to the Trinidad and Tobago (Constitution) Order in Council 1962. 1962 No. 1875 (U.K.).

(2) In this Constitution—

- (a) a reference to an appointment to any office shall be construed as including a reference to the appointment of a person to act in or perform the functions of that office at any time when the office is vacant or the holder thereof is unable (whether by reason of absence or infirmity of mind or body or any other cause) to perform the functions of that office; and
- (b) a reference to the holder of an office by the term designating his office shall be construed as including a reference to any person for the time being lawfully acting in or performing the functions of that office.

(3) Where by this Constitution any person is directed, or power is conferred on any person or authority, to appoint a person to perform the functions of an office if the holder thereof is unable to perform those functions, the validity of any performance of those functions by the person so directed or of any appointment made in exercise of that power shall not be called in question in any Court on the ground that the holder of the office is not unable to perform the functions of the office.

(4) For the purposes of this Constitution a person shall not be considered to hold an office in the public service by reason only that—

- (a) he is in receipt of a pension or other like allowance in respect of public service;
- (b) he holds the office of—
  - (i) President;
  - (ii) Speaker, President of the Senate, Deputy Speaker or Vice-President of the Senate, Minister, Parliamentary Secretary, member or temporary member of the Senate or member of the House of Representatives;
  - (iii) Ombudsman or member of the Integrity Commission or member of any other Commission established by this Constitution;
  - (iv) Judge or member of a Superior Court of Record or any special judicial tribunal established by Act of Parliament or member of the Public Service Appeal Board;
  - (v) member of any board, commission, committee or similar body, whether incorporated or not, established by any enactment;
  - (vi) member of the personal staff of the President;
- (c) he is—
  - (i) a consultant or adviser appointed for specific purposes; or
  - (ii) a person appointed on contract for a period not exceeding five years.

(5) Where Parliament so provides, a person shall not be considered for the purposes of this Constitution or any part of this Constitution to hold office in the public service by reason only that he is the holder of a special office established by or under an Act.

(6) References in this Constitution to the power to remove a public officer from his office shall be construed as including references to any power conferred by any law to require or permit that officer to retire from the public service.

(7) Any power conferred by any law to permit a person to retire from the public service shall, in the case of any public officer who may be removed from office by some person or authority other than a Commission established by this Constitution, vest in the Public Service Commission.

(8) Nothing in subsection (6) shall be construed as conferring on any person or authority power to require a Judge or the Auditor General to retire from the public service.

(9) Where any power is conferred by this Constitution to make any Proclamation, Order, Rules or Regulations or to give any directions, the power shall be construed as including a power exercisable in like manner to amend or revoke any such Proclamation, Order, Rules, Regulations or directions.

#### CHAPTER 1

### THE RECOGNITION AND PROTECTION OF FUNDAMENTAL HUMAN RIGHTS AND FREEDOMS

#### PART I

#### RIGHTS ENSHRINED

4. It is hereby recognised and declared that in Trinidad and Tobago there have existed and shall continue to exist, without discrimination by reason of race, origin, colour, religion or sex, the following fundamental human rights and freedoms, namely:

Recognition  
and declaration  
of rights and  
freedoms.

- (a) the right of the individual to life, liberty, security of the person and enjoyment of property and the right not to be deprived thereof except by due process of law;
- (b) the right of the individual to equality before the law and the protection of the law;



- (c) the right of the individual to respect for his private and family life;
- (d) the right of the individual to equality of treatment from any public authority in the exercise of any functions;
- (e) the right to join political parties and to express political views;
- (f) the right of a parent or guardian to provide a school of his own choice for the education of his child or ward;
- (g) freedom of movement;
- (h) freedom of conscience and religious belief and observance;
- (i) freedom of thought and expression;
- (j) freedom of association and assembly; and
- (k) freedom of the press.

Protection of  
rights and  
freedoms.

**5.** (1) Except as is otherwise expressly provided in this Chapter and in section 54, no law may abrogate, abridge or infringe or authorise the abrogation, abridgment or infringement of any of the rights and freedoms hereinbefore recognised and declared.

(2) Without prejudice to subsection (1), but subject to this Chapter and to section 54, Parliament may not—

- (a) authorise or effect the arbitrary detention, imprisonment or exile of any person;
- (b) impose or authorise the imposition of cruel and unusual treatment or punishment;
- (c) deprive a person who has been arrested or detained—
  - (i) of the right to be informed promptly and with sufficient particularity of the reason for his arrest or detention;
  - (ii) of the right to retain and instruct without delay a legal adviser of his own choice and to hold communication with him;

- (iii) of the right to be brought promptly before an appropriate judicial authority;
- (iv) of the remedy by way of *habeas corpus* for the determination of the validity of his detention and for his release if the detention is not lawful;
- (d) authorise a Court, tribunal, commission, board or other authority to compel a person to give evidence unless he is afforded protection against self-incrimination and, where necessary to ensure such protection, the right to legal representation;
- (e) deprive a person of the right to a fair hearing in accordance with the principles of fundamental justice for the determination of his rights and obligations;
- (f) deprive a person charged with a criminal offence of the right—
  - (i) to be presumed innocent until proved guilty according to law, but this shall not invalidate a law by reason only that the law imposes on any such person the burden of proving particular facts;
  - (ii) to a fair and public hearing by an independent and impartial tribunal; or
  - (iii) to reasonable bail without just cause;
- (g) deprive a person of the right to the assistance of an interpreter in any proceedings in which he is involved or in which he is a party or a witness, before a Court, commission, board or other tribunal, if he does not understand or speak English; or
- (h) deprive a person of the right to such procedural provisions as are necessary for the purpose of giving effect and protection to the aforesaid rights and freedoms.

**PART II**

**EXCEPTIONS FOR EXISTING LAW**

Savings for  
existing law.

- 6.** (1) Nothing in sections 4 and 5 shall invalidate—
- (a) an existing law;
  - (b) an enactment that repeals and re-enacts an existing law without alteration; or
  - (c) an enactment that alters an existing law but does not derogate from any fundamental right guaranteed by this Chapter in a manner in which or to an extent to which the existing law did not previously derogate from that right.

(2) Where an enactment repeals and re-enacts with modifications an existing law and is held to derogate from any fundamental right guaranteed by this Chapter in a manner in which or to an extent to which the existing law did not previously derogate from that right then, subject to sections 13 and 54, the provisions of the existing law shall be substituted for such of the provisions of the enactment as are held to derogate from the fundamental right in a manner in which or to an extent to which the existing law did not previously derogate from that right.

(3) In this section—

“alters” in relation to an existing law, includes repealing that law and re-enacting it with modifications or making different provisions in place of it or modifying it;

“existing law” means a law that had effect as part of the law of Trinidad and Tobago immediately before the commencement of this Constitution, and includes any enactment referred to in subsection (1);

“right” includes freedom.

**PART III**

**EXCEPTIONS FOR EMERGENCIES**

Emergency  
powers.

- 7.** (1) Without prejudice to the power of Parliament to make provision in the premise, but subject to this section, where any period of public emergency exists, the President may, due regard

being had to the circumstances of any situation likely to arise or exist during such period, make Regulations for the purpose of dealing with that situation and issue orders and instructions for the purpose of the exercise of any powers conferred on him or any other person by any Act referred to in subsection (3) or instrument made under this section or any such Act.

(2) Without prejudice to the generality of subsection (1), Regulations made under that subsection may, subject to section 11, make provision for the detention of persons.

(3) An Act that is passed during a period of public emergency and is expressly declared to have effect only during that period or any Regulations made under subsection (1) shall have effect even though inconsistent with sections 4 and 5 except in so far as its provisions may be shown not to be reasonably justifiable for the purpose of dealing with the situation that exists during that period.

**8.** (1) Subject to this section, for the purposes of this Chapter, the President may from time to time make a Proclamation declaring that a state of public emergency exists.

Period of public emergency.

(2) A Proclamation made by the President under subsection (1) shall not be effective unless it contains a declaration that the President is satisfied—

- (a) that a public emergency has arisen as a result of the imminence of a state of war between Trinidad and Tobago and a foreign State;
- (b) that a public emergency has arisen as a result of the occurrence of any earthquake, hurricane, flood, fire, outbreak of pestilence or of infectious disease, or other calamity whether similar to the foregoing or not; or
- (c) that action has been taken, or is immediately threatened, by any person, of such a nature and on so extensive a scale, as to be likely to endanger the public safety or to deprive the community or any substantial portion of the community of supplies or services essential to life.

Grounds for,  
and initial  
duration of,  
Proclamation.

**9.** (1) Within three days of the making of the Proclamation, the President shall deliver to the Speaker for presentation to the House of Representatives a statement setting out the specific grounds on which the decision to declare the existence of a state of public emergency was based, and a date shall be fixed for a debate on this statement as soon as practicable but in any event not later than fifteen days from the date of the Proclamation.

(2) A Proclamation made by the President for the purposes of and in accordance with section 8 shall, unless previously revoked, remain in force for fifteen days.

Extension of  
Proclamation.

**10.** (1) Before its expiration the Proclamation may be extended from time to time by resolution supported by a simple majority vote of the House of Representatives, so, however, that no extension exceeds three months and the extensions do not in the aggregate exceed six months.

(2) The Proclamation may be further extended from time to time for not more than three months at any one time, by a resolution passed by both Houses of Parliament and supported by the votes of not less than three-fifths of all the members of each House.

(3) The Proclamation may be revoked at any time by a resolution supported by a simple majority vote of the House of Representatives.

(4) In this Chapter, “period of public emergency” means any period during which—

- (a) Trinidad and Tobago is engaged in any war; or
- (b) there is in force a Proclamation by the President declaring that a state of public emergency exists; or
- (c) there is in force a resolution of both Houses of Parliament supported by the votes of not less than two-thirds of all the members of each House declaring that democratic institutions in Trinidad and Tobago are threatened by subversion.

**11.** (1) Where any person who is lawfully detained by virtue only of such an Act or Regulations as is referred to in section 7 so requests at any time during the period of that detention and thereafter not earlier than six months after he last made such a request during that period, his case shall be reviewed by an independent and impartial tribunal established by law and presided over by a person appointed by the Chief Justice from among the persons entitled to practise in Trinidad and Tobago as Attorneys-at-law.

Detention of persons.

(2) On any review by a tribunal in pursuance of subsection (1) of the case of any detained person, the tribunal may make recommendations concerning the necessity or expediency of continuing his detention to the authority by whom it was ordered but, unless otherwise provided by law, that authority shall not be obliged to act in accordance with such recommendations.

**12.** (1) Where at any time it is impracticable or inexpedient to publish in the *Gazette* any Proclamation, Notice, Regulation or Order in pursuance of this Part, the President may cause the same to be published by notices thereof affixed to public buildings or distributed amongst the public or by oral public announcements.

Publication.

(2) Upon the publication of any Proclamation under this Part, all such detention orders, curfew orders or other instruments, directions or instructions as are authorised to be made, issued or given by any Regulations referred to in section 7 may be made, issued or given and executed upon any person or authority, even if such Regulations have not yet been published pursuant to subsection (1).

#### PART IV

#### EXCEPTIONS FOR CERTAIN LEGISLATION

**13.** (1) An Act to which this section applies may expressly declare that it shall have effect even though inconsistent with sections 4 and 5 and, if any such Act does so declare, it shall have effect accordingly unless the Act is shown not to be reasonably justifiable in a society that has a proper respect for the rights and freedoms of the individual.

Acts inconsistent with sections 4 and 5.

(2) An Act to which this section applies is one the Bill for which has been passed by both Houses of Parliament and at the final vote thereon in each House has been supported by the votes of not less than three-fifths of all the members of that House.

(3) For the purposes of subsection (2) the number of members of the Senate shall, notwithstanding the appointment of temporary members in accordance with section 44, be deemed to be the number of members specified in section 40(1).

#### PART V

#### GENERAL

Enforcement of  
the protective  
provisions.

**14.** (1) For the removal of doubts it is hereby declared that if any person alleges that any of the provisions of this Chapter has been, is being, or is likely to be contravened in relation to him, then without prejudice to any other action with respect to the same matter which is lawfully available, that person may apply to the High Court for redress by way of originating motion.

(2) The High Court shall have original jurisdiction—

- (a) to hear and determine any application made by any person in pursuance of subsection (1); and
- (b) to determine any question arising in the case of any person which is referred to it in pursuance of subsection (4),

and may, subject to subsection (3), make such orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing, or securing the enforcement of, any of the provisions of this Chapter to the protection of which the person concerned is entitled.

Ch. 8:02.

(3) The State Liability and Proceedings Act shall have effect for the purpose of any proceedings under this section.

(4) Where in any proceedings in any Court other than the High Court or the Court of Appeal any question arises as to the contravention of any of the provisions of this Chapter the person presiding in that Court may, and shall if any party to the proceedings so requests, refer the question to the High Court

unless in his opinion the raising of the question is merely frivolous or vexatious.

(5) Any person aggrieved by any determination of the High Court under this section may appeal therefrom to the Court of Appeal and shall be entitled as of right to a stay of execution of the order and may in the discretion of the Court be granted bail.

(6) Nothing in this section shall limit the power of Parliament to confer on the High Court or the Court of Appeal such powers as Parliament may think fit in relation to the exercise by the High Court or the Court of Appeal, as the case may be, of its jurisdiction in respect of the matters arising under this Chapter.

## CHAPTER 2

### CITIZENSHIP

**15.** Any person who became a citizen by birth under section 9(1) or a citizen by descent under section 9(2) of the former Constitution, and who has not ceased to be a citizen under that Constitution, shall continue to be a citizen under this Constitution.

Continuation of citizenship of citizens under section 9 of former Constitution.

**16.** Any person who became a citizen of Trinidad and Tobago by virtue of registration under the former Constitution or by virtue of an acquisition of citizenship under Part II of the Trinidad and Tobago Citizenship Act, and who has not ceased to be a citizen under any law in force in Trinidad and Tobago, shall continue to be a citizen under this Constitution.

Continuation of citizenship of citizens by registration, naturalisation, etc.  
11 of 1962.

**17. (1)** Subject to subsection (2), every person born in Trinidad and Tobago after the commencement of this Constitution shall become a citizen of Trinidad and Tobago at the date of his birth.

Acquisition of citizenship by birth or descent.  
Continuation of citizenship.  
Retrospective citizenship.

(2) A person shall not become a citizen of Trinidad and Tobago by virtue of subsection (1), if at the time of his birth—

(a) neither of his parents is a citizen of Trinidad and Tobago and either of them possesses such



immunity from suit and legal process as is accorded to an envoy of a foreign sovereign power accredited to Trinidad and Tobago; or

- (b) either of his parents is an enemy alien and the birth occurred in a place then under occupation by the enemy.

(3) A person born outside Trinidad and Tobago after the commencement of this Constitution shall become a citizen of Trinidad and Tobago at the date of his birth if at that date either of his parents is, or was, but for his parent's death, a citizen of Trinidad and Tobago otherwise than by descent, so however that, in the case of a person employed in service under the Government or under an authority of the Government that requires him to reside outside Trinidad and Tobago for the proper discharge of his functions, this subsection shall be read as if the words "otherwise than by descent" were deleted.

(4) Any person who became a citizen by birth under section 12(1) or a citizen by descent under section 12(2) of the former Constitution, and who has not ceased to be a citizen under that Constitution, shall continue to be a citizen under this Constitution.

(5) A person born outside Trinidad and Tobago after the 30th August, 1962 whose mother was a citizen of Trinidad and Tobago otherwise than by descent at the date of his birth but who did not become a citizen at that date shall be deemed to have become a citizen at that date and shall continue to be a citizen of Trinidad and Tobago under this Constitution.

Commonwealth  
citizens.

**18.** (1) Every person who under this Constitution or any Act of Parliament is a citizen of Trinidad and Tobago or, under any law for the time being in force in any country to which this section applies, is a citizen of that country shall, by virtue of that citizenship, have the status of a Commonwealth citizen.

11 and 12 Geo.  
VI c. 56.

(2) Every person who is a British subject without citizenship under the British Nationality Act 1948 of the United

Kingdom or who continues to be a British subject under section 2 of that Act or who is a British subject under the British Nationality Act 1965 of the United Kingdom shall, by virtue of that status, have the status of a Commonwealth citizen. 1965 c. 34.

(3) The countries to which this section applies are Australia, the Bahamas, Bangladesh, Barbados, Botswana, Canada, Cyprus, Fiji, The Gambia, Ghana, Grenada, Guyana, India, Jamaica, Kenya, Lesotho, Malawi, Malaysia, Malta, Mauritius, Nauru, New Zealand, Nigeria, Sierra Leone, Singapore, Sri Lanka, Swaziland, Tanzania, Tonga, Uganda, United Kingdom and Colonies, Western Samoa and Zambia.

\*(4) The President may from time to time, by Order subject to affirmative resolution of the Senate and the House of Representatives amend subsection (3) by adding any Commonwealth country thereto or by deleting any Commonwealth country therefrom.

**19.** (1) A Commonwealth citizen who is not a citizen of Trinidad and Tobago, or a citizen of the Republic of Ireland who is not a citizen of Trinidad and Tobago, shall not be guilty of any offence against any law in force in Trinidad and Tobago by reason of anything done or omitted in any part of the Commonwealth other than Trinidad and Tobago or in the Republic of Ireland or in any foreign country unless—

Criminal liability of Commonwealth citizens.

- (a) the act or omission would be an offence if he were an alien; and
- (b) in the case of an act or omission in any part of the Commonwealth or in the Republic of Ireland, it would be an offence if the country in which the act was done or the omission made were a foreign country.

(2) In this section “foreign country” means a country (other than the Republic of Ireland) that is not part of the Commonwealth.

\*An Order under this subsection is proposed for the purpose of updating subsection (3) but had not yet been made at the Revision Date.

Powers of  
Parliament.

**20.** Parliament may make provisions relating to citizenship including provision—

- (a) for the acquisition of citizenship of Trinidad and Tobago by persons who are not or do not become citizens of Trinidad and Tobago by virtue of the provisions of this Chapter;
- (b) for depriving of his citizenship of Trinidad and Tobago any citizen of Trinidad and Tobago but only on the acquisition of citizenship of some other country in the case of a citizen by birth or descent; or
- (c) for the renunciation by any person of his citizenship of Trinidad and Tobago.

Interpretation of  
Chapter 2.

**21. (1)** In this Chapter—

“alien” means a person who is not a Commonwealth citizen, a British protected person or a citizen of the Republic of Ireland;

11 and 12 Geo.  
VI c. 56.

“British protected person” means a person who is a British protected person for the purposes of the British Nationality Act 1948 of the United Kingdom;

“citizen by birth” means a person—

- (a) who is a citizen of Trinidad and Tobago under section 17(1); or
- (b) who became a citizen of Trinidad and Tobago under section 9(1) or 12(1) of the former Constitution;

“citizen by descent” means a person—

- (a) who is a citizen of Trinidad and Tobago under section 17(3) or any enactment; or
- (b) who became a citizen of Trinidad and Tobago under section 9(2) or 12(2) of the former Constitution.

(2) For the purposes of this Chapter, a person born outside Trinidad and Tobago aboard a registered ship or aircraft,

or aboard an unregistered ship or aircraft of the Government of any country, shall be deemed to have been born in the place in which the ship or aircraft has been registered or, as the case may be, in that country.

### CHAPTER 3

### THE PRESIDENT

**22.** There shall be a President of Trinidad and Tobago elected in accordance with the provisions of this Chapter who shall be the Head of State and Commander-in-Chief of the armed forces.

Establishment of office and election of President.

**23.** (1) A person is qualified to be nominated for election as President if, and is not so qualified unless, he is a citizen of Trinidad and Tobago of the age of thirty-five years or upwards who at the date of his nomination has been ordinarily resident in Trinidad and Tobago for ten years immediately preceding his nomination.

Qualifications and disqualifications for office of President.

(2) For the purposes of subsection (1) a person shall be deemed to reside in Trinidad and Tobago if he holds an office in the service of the Government of Trinidad and Tobago and lives outside Trinidad and Tobago because he is required to do so for the proper discharge of his functions.

(3) A person is not qualified to be nominated for election as President who is disqualified for election as a member of the House of Representatives by virtue of section 48(1) or any law made under section 48(2).

**24.** (1) Where a member of the Senate or the House of Representatives is elected as President, his seat in the Senate or the House of Representatives, respectively, shall thereupon become vacant.

Other conditions of office.

(2) Except in the case of a person acting as, or performing the functions of, President under section 27, but subject to sections 44(2) and 56(8), the President shall not hold any other office of emolument or profit whether in the public service or otherwise.

(3) The salary and allowances of a President and his other terms of service shall not be altered to his disadvantage after he has assumed office.

Transitional provision.

**25.** (1) The person holding the office of Governor-General of Trinidad and Tobago at the commencement of this Constitution shall hold the office of President under this Constitution until a President is elected under the provisions of this Chapter and assumes office.

(2) Where at any time between the appointed day and the election of the first President of the Senate under section 45, the President under subsection (1) is for any reason unable to perform the functions of President then, until the President under subsection (1) is again able to perform his functions as President, those functions shall be performed by the person who last held the office of President of the Senate under the former Constitution.

Holding of elections for President.

**26.** (1) The Speaker of the House of Representatives shall be responsible for the holding of elections for President.

(2) The date of every election under this section shall be announced in the *Gazette* by the Speaker within such number of days in advance as may be prescribed.

(3) An election for President shall be held not more than one hundred and twenty days nor less than ninety days after the first sitting of the House of Representatives under this Constitution and the President who is so elected shall assume office on the expiration of thirty days next after his election.

(4) Thereafter, an election for President shall be held not more than sixty days nor less than thirty days before the expiration of the term of that office.

(5) Where the office of President becomes vacant under section 34 before the expiration of the term of that office prescribed by section 33, an election shall be held to fill the vacancy within ninety days of the occurrence of the vacancy.

(6) Where the date for the assumption of office of a President falls on a Sunday or public holiday the President shall

assume office on the next following day that is not a Sunday or public holiday.

(7) Where the time limited for holding an election for President under subsection (3), (4) or (5) has not been complied with, Parliament may make provision for an extension of the period during which elections may be held.

**27.** (1) Where the office of President is vacant or the President is incapable of performing his functions as President by reason of his absence from Trinidad and Tobago or by reason of illness, the President of the Senate shall act temporarily as President. Where office vacant.

(2) Where the President of the Senate is for any reason unable to act as President under subsection (1) or section 36(2), the functions of President shall be performed by the Speaker.

(3) Where the Speaker is for any reason unable to perform the functions of President under subsection (2), the Vice-President of the Senate shall perform those functions, so, however, that a meeting of the Electoral College shall be held, upon the summons of the Deputy Speaker giving at least forty-eight hours notice thereof, within seven days of the Vice-President of the Senate commencing to perform the functions of President for the purpose of holding an election of a person to fill the vacancy in the office of President under section 26(5), or of a person to act temporarily as President during such period as the President is incapable of performing his functions.

(4) Upon his election to fill the vacancy in the office of President under section 26(5) or to act temporarily as President during such period as the President is incapable of performing his functions in accordance with subsection (3), the person shall immediately assume office.

**28.** (1) There shall be an Electoral College for the purposes of this Chapter which shall be a unicameral body consisting of all the members of the Senate and all the members of the House of Representatives assembled together. Electoral College.

(2) The Electoral College shall be convened by the Speaker.

(3) The Speaker shall preside as Chairman over the proceedings of the Electoral College and shall have an original vote.

(4) Subject to this Chapter, the Electoral College may regulate its own procedure and may make provision for the postponement or adjournment of its meetings and such other provisions as may be necessary to deal with difficulties that may arise in the carrying out of elections under this Chapter.

(5) Ten Senators, the Speaker and twelve other members of the House of Representatives shall constitute a quorum of the Electoral College.

Mode of elections.

**29.** The President shall be elected by the Electoral College voting by secret ballot.

Nomination of candidates.

**30.** A person shall not be a candidate for election as President unless he is nominated for election by a nomination paper which—

- (a) is signed by him and by twelve or more members of the House of Representatives; and
- (b) is delivered to the Speaker at least seven days before the election.

Procedure for balloting.

**31.** (1) The candidate who is unopposed or who obtains the greatest number of the votes cast shall be declared elected.

(2) Where the votes cast for two or more candidates are equally divided the Speaker shall have and exercise a casting vote.

Determination of questions as to elections.

**32.** (1) Subject to subsection (2), an instrument which—

- (a) in the case of an uncontested election for the office of President is signed and sealed by the Speaker and states that a person named in the instrument was the only person nominated for the election and was in consequence declared elected; or

- (b) in the case of a contested election is signed and sealed by the Speaker and states that a person named in the instrument was declared elected at that meeting in consequence of the ballot,

shall be conclusive evidence that the person so named was so elected, and no question as to the validity of the election of the person so named shall be inquired into in any Court.

(2) The Court of Appeal shall have exclusive jurisdiction to hear and determine any question as to the validity of an election of a President in so far as that question depends upon the qualification of any person for election or the interpretation of this Chapter and the decision of that Court under this subsection shall be final.

(3) Parliament may make provisions with respect to the persons by whom, the manner in which and the conditions upon which the proceedings under subsection (2) may be instituted in the Court of Appeal and subject to any provisions so made, provisions may be made with respect to these matters by Rules of Court. Until such provisions or rules are made the procedure for moving the Court of Appeal shall be by way of a representation petition.

**33.** (1) Subject to this section and to sections 34 and 36, a President elected at an election under section 26(3) or (4) shall hold office for a term of five years. Term of office.

(2) Parliament may make provision for the postponement of the date of expiration of the term of office of the President under subsection (1), for a period not exceeding four months, in order to avoid the holding of an election for that office during a period of dissolution of Parliament or at a time too close to the beginning or to the end of such a period.

(3) Where for any reason at the date on which the term of office of the President is due to expire under subsection (1) or (2) there is no person entitled by election under section 26(4) to fill the office of President upon its expiration, the current term of



that office shall continue until thirty days after a person is elected to the office of President whereupon the current term of that office shall expire.

(4) Where a person is elected to fill a vacancy in the office of President in an election under section 26(5), he shall hold office only for the unexpired portion of the term of office of his predecessor.

Vacation of office.

**34.** The office of President shall become vacant before the expiration of the term of his office as prescribed by section 33 where—

- (a) the person holding that office dies or resigns the office by writing signed by him addressed to the House of Representatives and delivered to the Speaker; or
- (b) he is removed from office under section 36.

Removal from office.

**35.** The President may be removed from office under section 36 where—

- (a) he wilfully violates any provision of the Constitution;
- (b) he behaves in such a way as to bring his office into hatred, ridicule or contempt;
- (c) he behaves in a way that endangers the security of the State; or
- (d) because of physical or mental incapacity, he is unable to perform the functions of his office.

Procedure for removal from office.

**36. (1)** The President shall be removed from office where—

- (a) a motion that his removal from office should be investigated by a tribunal is proposed in the House of Representatives;
- (b) the motion states with full particulars the grounds on which his removal from office is proposed, and is signed by not less than one-third of the total membership of the House of Representatives;

- (c) the motion is adopted by the vote of not less than two-thirds of the total membership of the Senate and the House of Representatives assembled together;
- (d) a tribunal consisting of the Chief Justice and four other Judges appointed by him, being as far as practicable the most senior Judges, investigate the complaint and report on the facts to the House of Representatives;
- (e) the Senate and the House of Representatives assembled together on the summons of the Speaker consider the report and by resolution supported by the votes of not less than two-thirds of the total membership of the Senate and the House of Representatives assembled together declare that he shall be removed from office.

(2) Where a motion is adopted as is provided for in subsection (1)(a), (b) and (c) the President shall cease to perform any of his functions as President and the President of the Senate shall act temporarily as President.

(3) The procedure of the tribunal shall be such as is prescribed, but, subject to such procedure, the tribunal may regulate its own procedure.

(4) Upon the adoption of the resolution in accordance with subsection (1)(e) the office shall become vacant.

**37.** (1) A President shall, before entering upon the duties of his office, take and subscribe the oath of office set out in the First Schedule, such oath being administered by the Chief Justice or such other Judge as may be designated by the Chief Justice.

Oath.

First Schedule.

(2) Subsection (1) shall apply to any person required under this Constitution to perform the functions of the office of President as it applies to a person elected as such.

**38.** (1) Subject to section 36, the President shall not be answerable to any Court for the performance of the functions of his office or for any act done by him in the performance of those functions.

Immunities of President.

(2) Without the fiat of the Director of Public Prosecutions, no criminal proceedings shall be instituted or continued against the President in any Court during his term of office and no process for the President's arrest or imprisonment shall be issued from any Court or shall be executed during his term of office.

(3) No civil proceedings in which relief is claimed against the President shall be instituted during his term of office in any Court in respect of any act done by him in his personal capacity whether before or after he entered the office of President, except on the condition specified in subsection (4).

(4) The condition referred to in subsection (3) is that two months must elapse after a notice in writing has been served on him either by registered post or by being left at his office stating the nature of the proceedings, the cause of action, the name, description and address of the party instituting the proceedings and the relief claimed.

(5) A period of limitation prescribed by law shall not run in favour of the President in respect of a civil action during the period of two months after a notice in respect of that action has been served on him under subsection (4).

#### CHAPTER 4

### PARLIAMENT

#### PART I

### COMPOSITION OF PARLIAMENT

#### ESTABLISHMENT

Establishment  
of Parliament.

**39.** There shall be a Parliament of Trinidad and Tobago which shall consist of the President, the Senate and the House of Representatives.

#### THE SENATE

Composition of  
Senate.

**40. (1)** The Senate shall consist of thirty-one members (in this Constitution referred to as "Senators") who shall be appointed by the President in accordance with this section.

(2) Of the thirty-one Senators—

- (a) sixteen shall be appointed by the President acting in accordance with the advice of the Prime Minister;
- (b) six shall be appointed by the President acting in accordance with the advice of the Leader of the Opposition and;
- (c) nine shall be appointed by the President in his discretion from outstanding persons from economic or social or community organisations and other major fields of endeavour.

**41.** Subject to section 42, a person shall be qualified to be appointed as a Senator if, and shall not be qualified to be so appointed unless, he is a citizen of Trinidad and Tobago of the age of twenty-five years or upwards.

Qualifications  
for appointment  
as Senator.

**42.** (1) No person shall be qualified to be appointed as a Senator who—

Disqualifications  
for appointment  
as Senator.

- (a) is a citizen of a country other than Trinidad and Tobago having become such a citizen voluntarily or is under a declaration of allegiance to such a country;
- (b) is a member of the House of Representatives;
- (c) is an undischarged bankrupt having been adjudged or otherwise declared bankrupt under any law in force in Trinidad and Tobago;
- (d) is mentally ill, within the meaning of the Mental Health Act; Ch. 28:02.
- (e) is under sentence of death imposed on him by a Court or is serving a sentence of imprisonment, by whatever name called, exceeding twelve months imposed on him by a Court or substituted by competent authority for some other sentence imposed on him by a Court, or is under such a sentence of imprisonment the execution of which has been suspended;

- (f) is disqualified for membership of the House of Representatives by virtue of any law in force in Trinidad and Tobago by reason of his having been convicted of any offence relating to elections; or
- (g) is not qualified to be registered as an elector at a Parliamentary election under any law in force in Trinidad and Tobago.

(2) Parliament may provide that, subject to such exceptions and limitations, if any, as may be prescribed, a person shall be disqualified for membership of the Senate by virtue of—

- (a) his holding or acting in any office or appointment, either individually or by reference to a class of office or appointment;
- (b) his belonging to any of the armed forces of the State or to any class of person that is comprised in any such force; or
- (c) his belonging to any police force or to any class of person that is comprised in any such force.

(3) For the purposes of subsection (1)(e)—

- (a) two or more sentences of imprisonment that are required to be served consecutively shall be regarded as separate sentences if none of those sentences exceeds twelve months, but if any one of such sentences exceeds that term they shall be regarded as one sentence; and
- (b) no account shall be taken of a sentence of imprisonment imposed as an alternative to or in default of the payment of a fine.

Tenure of office  
of Senators.

**43.** (1) Every Senator shall vacate his seat in the Senate at the next dissolution of Parliament after his appointment.

(2) A Senator shall also vacate his seat in the Senate where—

- (a) he is absent from the sittings of the Senate for such period and in such circumstances as may be prescribed in the rules of procedure of the Senate;

- (b) with his consent, he is nominated as a candidate for election to the House of Representatives, or he is elected to be a member of the House of Representatives;
- (c) he ceases to be a citizen of Trinidad and Tobago;
- (d) subject to the provisions of subsection (3) any circumstances arise that, if he were not a Senator, would cause him to be disqualified for appointment as such by virtue of subsection (1) of section 42 or any law enacted in pursuance of subsection (2) of that section; or
- (e) the President, acting in accordance with the advice of the Prime Minister in the case of a Senator appointed in accordance with that advice, or in accordance with the advice of the Leader of the Opposition in the case of a Senator appointed in accordance with that advice, or in his discretion in the case of a Senator appointed by him in his discretion, declares the seat of that Senator to be vacant.

(3) Where circumstances such as are referred to in subsection (2)(d) arise because a Senator is under sentence of death or imprisonment, is mentally ill, declared bankrupt or convicted of an offence relating to elections, and where it is open to the Senator to appeal against the decision, either with the leave of a Court or other authority or without such leave, he shall forthwith cease to perform his functions as a Senator, so however that, subject to the provisions of this section, he shall not vacate his seat until the expiration of a period of thirty days thereafter.

(4) The President of the Senate may, from time to time, extend that period for further periods of thirty days to enable the Senator to pursue an appeal against the decision, so, however, that extensions of time exceeding in the aggregate one hundred and fifty days shall not be given without the approval, signified by resolution, of the Senate.

(5) Where on the determination of an appeal, such circumstances continue to exist and no further appeal is open to the Senator, or where, by reason of the expiration of any period for entering an appeal or notice thereof or the refusal of leave to appeal or for any other reason, it ceases to be open to the Senator to appeal, he shall forthwith vacate his seat.

(6) Where at any time before the Senator vacates his seat, such circumstances as are mentioned in this section cease to exist, his seat shall not become vacant on the expiration of the period referred to in subsection (3) and he may resume the performance of his functions as a Senator.

Appointment of  
temporary  
Senators.

**44.** (1) Where a Senator has temporarily vacated his office under subsection (2) or is incapable of performing his functions as a Senator by virtue of the provisions of section 43(3) or by reason of—

- (a) his absence from Trinidad and Tobago; or
- (b) illness,

the President may appoint a person qualified for appointment as a Senator to be temporarily a member of the Senate during such vacation of office, suspension, absence or illness.

(2) Where the President of the Senate or the Vice-President of the Senate is acting as, or temporarily performing the functions of, President in accordance with section 27 then, without prejudice to the power of the Prime Minister, the Leader of the Opposition, or the President, as the case may be, with respect to appointments under section 40(2), the person holding the office of President of the Senate or Vice-President of the Senate shall vacate that office temporarily during such period as he is acting as, or temporarily performing the functions of, President.

(3) Section 43(1) and (2) shall apply in relation to a person appointed under this section as they apply in relation to a Senator, except that paragraph (d) of the said subsection (2) shall apply as if it were not expressed to be subject to subsection (3) of the said section 43, and an appointment made under this section

shall in any case cease to have effect if the person appointed is notified by the President that the circumstances giving rise to his appointment have ceased to exist.

(4) In the exercise of the powers conferred upon him by this section the President shall act—

- (a) in accordance with the advice of the Prime Minister in relation to a Senator appointed in pursuance of section 40(2)(a);
- (b) in accordance with the advice of the Leader of the Opposition in relation to a Senator appointed in pursuance of section 40(2)(b); and
- (c) in accordance with his own judgment in relation to a Senator appointed by him pursuant to section 40(2)(c).

**45.** (1) When the Senate first meets after any general election and before it proceeds to the despatch of any other business, it shall elect a Senator to be President of the Senate; and, if the office of President of the Senate falls vacant at any time before the next dissolution of Parliament, the Senate shall, as soon as practicable, elect another Senator to that office.

President and  
Vice-President  
of the Senate.

(2) When the Senate first meets after any general election and before it proceeds to the despatch of any other business except the election of the President of the Senate, it shall elect a Senator to be Vice-President of the Senate; and if the office of Vice-President of the Senate falls vacant at any time before the next dissolution of Parliament, the Senate shall, as soon as convenient, elect another Senator to that office.

(3) The Senate shall not elect a Senator who is a Minister or Parliamentary Secretary to be the President of the Senate or the Vice-President of the Senate.

(4) A person shall vacate the office of President of the Senate or Vice-President of the Senate where—

- (a) he ceases to be a Senator; so, however, that the President of the Senate shall not vacate his office



by reason only that he has ceased to be a Senator on a dissolution of Parliament until the Senate first meets after that dissolution;

- (b) he is appointed to be a Minister or a Parliamentary Secretary;
- (c) he announces the resignation of his office to the Senate or where, by writing under his hand addressed, in the case of the President of the Senate, to the Clerk of the Senate, and in the case of the Vice-President of the Senate to the President of the Senate (or, where the office of President of the Senate is vacant or the President of the Senate is absent from Trinidad and Tobago, to the Clerk of the Senate), he resigns that office.

(5) Where, by virtue of section 43(3), the President of the Senate or Vice-President of the Senate is required to cease to perform his functions as a Senator, he shall also cease to perform his functions as President of the Senate or Vice-President of the Senate as the case may be, and those functions shall, until he vacates his seat in the Senate or resumes the performance of the functions of his office, be performed—

- (a) in the case of the President of the Senate, by the Vice-President of the Senate or if the office of Vice-President of the Senate is vacant or the Vice-President of the Senate is required to cease to perform his functions as a Senator by virtue of section 43(3), by such Senator, not being a Minister or Parliamentary Secretary, as the Senate may elect for the purpose;
- (b) in the case of the Vice-President of the Senate, by such Senator, not being a Minister or Parliamentary Secretary, as the Senate may elect for the purpose.

(6) Where the President of the Senate or Vice-President of the Senate resumes the performance of his functions as a Senator in accordance with the provisions of section 43(6), he shall also

resume the performance of his functions as President of the Senate or Vice-President of the Senate, as the case may be.

**THE HOUSE OF REPRESENTATIVES**

**46.** (1) Subject to the provisions of this section, the House of Representatives shall consist of members who shall be elected in the manner provided by Parliament. Composition of House of Representatives.

(2) There shall be thirty-six members of the House of Representatives or such other number of members as corresponds with the number of constituencies as provided for by an Order made by the President under section 72.

(3) Where any person who is not a member of the House of Representatives is elected to be Speaker of the House he shall, by virtue of holding the office of Speaker, be a member of the House in addition to the thirty-six or other number of members aforesaid.

**47.** Subject to the provisions of section 48, a person shall be qualified to be elected as a member of the House of Representatives if, and shall not be qualified to be so elected unless, he— Qualifications for election as member.

- (a) is a citizen of Trinidad and Tobago of the age of eighteen years or upwards; and
- (b) has resided in Trinidad and Tobago for a period of two years immediately before the date of his nomination for election or is domiciled and resident in Trinidad and Tobago at that date.

**48.** (1) No person shall be qualified to be elected as a member of the House of Representatives who— Disqualifications for election as member.

- (a) is a citizen of a country other than Trinidad and Tobago having become such a citizen voluntarily, or is under a declaration of allegiance to such a country;
- (b) is an undischarged bankrupt having been adjudged or otherwise declared bankrupt under any law in force in Trinidad and Tobago;

Ch. 28:02.

- (c) is mentally ill, within the meaning of the Mental Health Act;
- (d) is under sentence of death imposed on him by a Court or is serving a sentence of imprisonment (by whatever name called) exceeding twelve months imposed on him by a Court or substituted by competent authority for some other sentence imposed on him by a Court, or is under such a sentence of imprisonment the execution of which has been suspended;
- (e) is disqualified for membership of the House of Representatives by any law in force in Trinidad and Tobago by reason of his holding, or acting in, any office the functions of which involve—
  - (i) any responsibility for, or in connection with, the conduct of any election; or
  - (ii) any responsibility for the compilation or revision of any electoral register;
- (f) is disqualified for membership of the House of Representatives by virtue of any law in force in Trinidad and Tobago by reason of his having been convicted of any offence relating to elections; or
- (g) is not qualified to be registered as an elector at a Parliamentary election under any law in force in Trinidad and Tobago.

(2) Parliament may provide that, subject to such exceptions and limitations, if any, as may be prescribed, a person may be disqualified for membership of the House of Representatives by virtue of—

- (a) his holding or acting in any office or appointment (either individually or by reference to a class of office or appointment);
- (b) his belonging to any of the armed forces of the State or to any class of person that is comprised in any such force; or

- (c) his belonging to any police force or to any class of person that is comprised in any such force.
- (3) For the purposes of paragraph (d) of subsection (1)—
  - (a) two or more sentences of imprisonment that are required to be served consecutively shall be regarded as separate sentences if none of those sentences exceeds twelve months, but if any one of such sentences exceeds that term they shall be regarded as one sentence; and
  - (b) no account shall be taken of a sentence of imprisonment imposed as an alternative to or in default of the payment of a fine.

**49.** (1) Every member of the House of Representatives shall vacate his seat in the House at the next dissolution of Parliament after his election.

Tenure of office  
of members.  
[15 of 1978].

(2) A member of the House of Representatives shall also vacate his seat in the House where—

- (a) he resigns it by writing under his hand addressed to the Speaker or, where the office of Speaker is vacant or the Speaker is absent from Trinidad and Tobago, to the Deputy Speaker;
- (b) he is absent from the sittings of the House for such period and in such circumstances as may be prescribed in the rules of procedure of the House;
- (c) he ceases to be a citizen of Trinidad and Tobago;
- (d) subject to the provisions of subsection (3), any circumstances arise that, if he were not a member of the House of Representatives, would cause him to be disqualified for election thereto by virtue of subsection (1) of section 48 or any law enacted in pursuance of subsection (2) of that section;
- (e) having been a candidate of a party and elected to the House, he resigns from or is expelled by that party.

(3) Where circumstances such as are referred to in paragraph (d) of subsection (2) arise because any member of the House of Representatives is under sentence of death or imprisonment, is mentally ill, declared bankrupt or convicted of an offence relating to elections, and where it is open to the member to appeal against the decision, either with the leave of a Court or other authority or without such leave, he shall forthwith cease to perform his functions as a member of the House so however that, subject to the provisions of this section, he shall not vacate his seat until the expiration of a period of thirty days thereafter.

(4) The Speaker may, from time to time, extend that period for further periods of thirty days to enable the member to pursue an appeal against the decision, so however that extensions of time exceeding in the aggregate one hundred and fifty days shall not be given without the approval, signified by resolution, of the House.

(5) Where on the determination of any appeal, such circumstances continue to exist and no further appeal is open to the member, or where, by reason of the expiration of any period for entering an appeal or notice thereof or the refusal of leave to appeal or, for any other reason, it ceases to be open to the member to appeal, he shall forthwith vacate his seat.

(6) Where at any time before the member of the House vacates his seat such circumstances as are mentioned in this section cease to exist, his seat shall not become vacant on the expiration of the period referred to in subsection (3) and he may resume the performance of his functions as a member of the House.

Vacation of seat  
where member  
resigns or is  
expelled.  
[15 of 1978].

**49A.** (1) Where circumstances such as are referred to in section 49(2)(e) arise, the leader in the House of Representatives of the party as a candidate of which the member was elected, shall so inform the Speaker in writing of those circumstances and the Speaker shall, at the sitting of the House of Representatives next after he is so informed, make a declaration that the member has resigned from or has been expelled by the party, as the case may be.

(2) Where within a period of fourteen days of the declaration by the Speaker the member does not institute legal proceedings to challenge the allegation that he has resigned or to challenge his expulsion, he shall vacate his seat at the end of the said period of fourteen days.

(3) Where within fourteen days of the declaration by the Speaker, the member institutes legal proceedings as aforesaid he shall not vacate his seat unless and until either the proceedings are withdrawn or the proceedings are finally determined by a decision upholding the resignation or expulsion, the decision being one that is not open to appeal or in respect of which the time allowed for an appeal has expired without an appeal being filed.

(4) From the date of the declaration by the Speaker under subsection (1) the member shall cease to perform his functions as a member of the House of Representatives and he shall resume the performance of such functions only if and when the legal proceedings referred to in subsection (3) are finally determined within the meaning of that subsection in favour of such member.

(5) Standing Orders shall make provision for the identification and recognition of the leader in the House of Representatives of every party and for otherwise giving effect to this section.

**50.** (1) When the House of Representatives first meets after any general election and before it proceeds to the despatch of any other business, it shall elect a person to be the Speaker of the House; and if the office of Speaker falls vacant at any time before the next dissolution of Parliament, the House shall, as soon as practicable, elect another person to that office.

Speaker and  
Deputy Speaker.  
[17 of 1995].

(2) The Speaker may be elected either from among the members of the House of Representatives who are not Ministers or Parliamentary Secretaries or, subject to subsection (3), from among persons who are not members of either House.

(3) A person who is not a member of either House shall not be elected Speaker where—

(a) he is not a citizen of Trinidad and Tobago; or

- (b) he is a person disqualified for election as a member of the House of Representatives by virtue of subsection (1) of section 48 or any law enacted in pursuance of subsection (2) of that section.

(4) When the House of Representatives first meets after any general election and before it proceeds to the despatch of any other business except the election of the Speaker, the House shall elect a member of the House, who is not a Minister or a Parliamentary Secretary, to be Deputy Speaker of the House; and if the office of Deputy Speaker falls vacant at any time before the next dissolution of Parliament, the House shall, as soon as practicable, elect another such member to that office.

(5) A person shall vacate the office of Speaker or Deputy Speaker—

- (a) in the case of a Speaker elected from among the members of the House of Representatives or in the case of the Deputy Speaker—
  - (i) where he ceases to be a member of the House, so however that the Speaker shall not vacate his office by reason only that he has ceased to be a member of the House on a dissolution of Parliament, until the House first meets after that dissolution;
  - (ii) where he is appointed to be a Minister or a Parliamentary Secretary;
- (b) in the case of a Speaker elected from among persons who are not members of either House—
  - (i) when the House first meets after any dissolution of Parliament;
  - (ii) where he ceases to be a citizen of Trinidad and Tobago; or
  - (iii) where any circumstances arise that would cause him to be disqualified for election as a member of the House by virtue of subsection (1) of section 48 or any law

enacted in pursuance of subsection (2) of that section;

- (c) where he announces the resignation of his office to the House of Representatives or if by writing under his hand addressed, in the case of the Speaker, to the Clerk of the House and, in the case of the Deputy Speaker, to the Speaker or, if the office of Speaker is vacant or the Speaker is absent from Trinidad and Tobago, to the Clerk of the House, he resigns that office; or
- (d) in the case of the Deputy Speaker, where he is elected to be Speaker.

(6) Where, by virtue of section 49(3), the Speaker or Deputy Speaker is required to cease to perform his functions as a member of the House of Representatives or where, in the case of the Speaker, by reason of circumstances referred to in subsection (8) or (9), he has temporarily vacated his office, he shall also cease to perform his functions as Speaker or Deputy Speaker, as the case may be, and those functions shall, until he vacates his seat in the House or resumes the performance of the functions of his office, be performed—

- (a) in the case of the Speaker, by the Deputy Speaker or, if the office of Deputy Speaker is vacant or the Deputy Speaker is required to cease to perform his functions as a member of the House of Representatives by virtue of section 49(3), by such member of the House, not being a Minister or Parliamentary Secretary, as the House may elect for the purpose;
- (b) in the case of the Deputy Speaker, by such member of the House, not being a Minister or Parliamentary Secretary, as the House may elect for the purpose.

(7) Where the Speaker or Deputy Speaker resumes the performance of his functions as a member of the House in accordance with the provisions of section 49(3), he shall also



resume the performance of his functions as Speaker or Deputy Speaker, as the case may be.

(8) Where the Speaker is acting as or performing the functions of President under section 27, he shall vacate the office of Speaker temporarily during such period as he is acting as, or temporarily performing the functions of, President.

(9) Upon delivery by the Clerk of the House to the Speaker of a resolution signed by a majority of the members of the House that the Speaker be removed from office, (hereinafter referred to as “the resolution”) the Speaker shall vacate his office temporarily and cease to perform his functions as Speaker.

(10) The resolution shall state the grounds on which the Speaker’s removal from office is proposed.

(11) The Speaker may, within twenty-one days of the delivery of the resolution, supply to the Clerk of the House in writing any grounds on which he resists his removal from office, and the Clerk of the House shall supply a copy thereof to each member of the House.

(12) Unless a motion in support of the resolution is moved in the House—

- (a) within fourteen days of the receipt by the Clerk of the House of the grounds supplied by the speaker; or
- (b) where no such grounds have been supplied, within fourteen days of the time prescribed therefore,

the Speaker shall resume the performance of his functions as Speaker.

(13) For the purposes of subsection (9), a resolution left at the office of the Speaker shall be deemed to be delivered at the time it is so left.

(14) Where the motion in subsection (12) is passed, the Clerk of the House shall, within seven days of the passing of the motion referred to in subsection (12), transmit the records of

proceedings in the House to a Special Tribunal comprising a Chairman and two other members appointed by the President after consultation with the Prime Minister and the Leader of the Opposition, (hereinafter referred to as “the Tribunal”).

(15) The record shall include the resolution, the grounds supplied by the Speaker and the speeches made by Members of the House upon debate of the resolution.

(16) The Tribunal shall review the record and within twenty-one (21) days of its receipt of the record shall make a recommendation to the House accompanied by a brief statement of its reasons therefor either—

- (a) confirming that the Speaker should vacate office; or
- (b) withholding confirmation.

(17) Where the Tribunal confirms that the Speaker should vacate office the Speaker shall do so immediately upon delivery to him of the confirmation of the Tribunal by the Clerk of the House.

(18) Where the Tribunal withholds confirmation the House by resolution may resolve not to follow the recommendation of the Tribunal and to confirm the motion that the Speaker should vacate office and where such a resolution is passed the Speaker shall vacate his office immediately.

(19) During the period of review by the Tribunal the Speaker shall not resume performance of his functions as Speaker.

**51.** Subject to such disqualifications as Parliament may prescribe, a person shall be qualified to vote at an election of members to serve in the House of Representatives if, and shall not be qualified to vote at such an election unless, he—

Qualifications  
of voters.

- (a) is a Commonwealth citizen (within the meaning of section 18) of the age of eighteen years or upwards; and
- (b) has such other qualifications regarding residence or registration as may be prescribed.

**GENERAL**

Determination  
of questions as  
to membership.

**52. (1) Any question whether—**

- (a) any person has been validly appointed as a Senator or validly elected as a member of the House of Representatives;
- (b) any Senator or member of the House of Representatives has vacated his seat or is required, under the provisions of section 43(3) or section 49(3), to cease to exercise any of his functions as a Senator or as a member of the House of Representatives; or
- (c) any person has been validly elected as Speaker of the House of Representatives from among persons who are not Senators or members of the House of Representatives,

shall be determined by the High Court.

(2) Proceedings for the determination of any question referred to in subsection (1) shall not be instituted except with the leave of a Judge of the High Court.

**(3) An appeal shall lie to the Court of Appeal from—**

- (a) the decision of a Judge of the High Court granting or refusing leave to institute proceedings for the determination of any question referred to in subsection (1);
- (b) the determination by the High Court of any such question.

(4) No appeal shall lie from any decision of the Court of Appeal given in an appeal brought in accordance with subsection (3).

**PART II**

**POWERS, PRIVILEGES AND PROCEDURE  
OF PARLIAMENT**

Power to  
make laws.

**53.** Parliament may make laws for the peace, order and good government of Trinidad and Tobago, so, however, that the provisions

of this Constitution or (in so far as it forms part of the law of Trinidad and Tobago) the Trinidad and Tobago Independence Act 1962 of the United Kingdom may not be altered except in accordance with the provisions of section 54.

10 & 11 Eliz. 2  
c. 54.

**54.** (1) Subject to the provisions of this section, Parliament may alter any of the provisions of this Constitution or (in so far as it forms part of the law of Trinidad and Tobago) any of the provisions of the Trinidad and Tobago Independence Act 1962.

Alteration  
of this  
Constitution.

10 & 11 Eliz. 2  
c. 54.

(2) In so far as it alters—

- (a) sections 4 to 14, 20(b), 21, 43(1), 53, 58, 67(2), 70, 83, 101 to 108, 110, 113, 116 to 125 and 133 to 137; or
- (b) section 3 in its application to any of the provisions of this Constitution specified in paragraph (a),

a Bill for an Act under this section shall not be passed by Parliament unless at the final vote thereon in each House it is supported by the votes of not less than two-thirds of all the members of each House.

(3) In so far as it alters—

- (a) this section;
- (b) sections 22, 23, 24, 26, 28 to 34, 38 to 40, 46, 49(1), 51, 55, 61, 63, 64, 68, 69, 71, 72, 87 to 91, 93, 96(4) and (5), 97, 109, 115, 138, 139 or the Second and Third Schedules;
- (c) section 3 in its application to any of the provisions specified in paragraph (a) or (b); or
- (d) any of the provisions of the Trinidad and Tobago Independence Act, 1962,

a Bill for an Act under this section shall not be passed by Parliament unless it is supported at the final vote thereon—

- (i) in the House of Representatives, by the votes of not less than three-fourths of all the members of the House; and
- (ii) in the Senate, by the votes of not less than two-thirds of all the members of the Senate.

(4) For the purposes of subsections (2) and (3) the number of members of the Senate shall, even though circumstances requiring the appointment of temporary members in accordance with section 44(1) have arisen, continue to be the number of members specified in section 40(1).

(5) No Act other than an Act making provision for any particular case or class of case, inconsistent with provisions of this Constitution, not being those referred to in subsections (2) and (3), shall be construed as altering any of the provisions of this Constitution, or (in so far as it forms part of the law of Trinidad and Tobago) any of the provisions of the Trinidad and Tobago Independence Act, 1962, unless it is stated in the Act that it is an Act for that purpose.

10 & 11 Eliz. 2  
c. 54.

(6) In this section references to the alteration of any of the provisions of this Constitution or the Trinidad and Tobago Independence Act, 1962, include references to repealing it, with or without re-enactment thereof or the making of different provisions in place thereof or the making of provision for any particular case or class of case inconsistent therewith, to modifying it and to suspending its operation for any period.

Privileges and  
immunities of  
Parliament.

**55.** (1) Subject to the provisions of this Constitution and to the rules and standing orders regulating the procedure of the Senate and House of Representatives, there shall be freedom of speech in the Senate and House of Representatives.

(2) No civil or criminal proceedings may be instituted against any member of either House for words spoken before, or written in a report to, the House of which he is a member or in which he has a right of audience under section 62 or a committee thereof or any joint committee or meeting of the Senate and House of Representatives or by reason of any matter or thing brought by him therein by petition, bill, resolution, motion or otherwise; or for the publication by or under the authority of either House of any report, paper, votes or proceedings.

(3) In other respects, the powers, privileges and immunities of each House and of the members and the committees

of each House, shall be such as may from time to time be prescribed by Parliament after the commencement of this Constitution and until so defined shall be those of the House of Commons of the Parliament of the United Kingdom and of its members and committees at the commencement of this Constitution.

(4) A person called to give any evidence before either House or any committee shall enjoy the same privileges and immunities as a member of either House.

**56.** (1) Subject to the provisions of this Constitution, each House may regulate its own procedures. Regulation of procedure in each House.

(2) Each House may act notwithstanding any vacancy in its membership (including any vacancy not filled when the House first meets after the commencement of this Constitution or after any dissolution of Parliament), and the presence or participation of any person not entitled to be present at or to participate in the proceedings of the House shall not invalidate those proceedings.

**57.** No member of either House shall take part in the proceedings of that House (other than proceedings necessary for the purposes of this section) until he has made and subscribed before that House the oath of allegiance, so, however, that the election of a Speaker and Deputy Speaker of the House of Representatives and the election of a President of the Senate and Vice-President of the Senate may take place before the members of the House of Representatives, or the members of the Senate, as the case may be, have made and subscribed such oath. Oath of allegiance. First Schedule.

**58.** (1) The President of the Senate or, in his absence, the Vice-President of the Senate or, where they are both absent, a Senator, not being a Minister or a Parliamentary Secretary, elected by the Senate for that sitting shall preside at each sitting of the Senate. Presiding in Senate and House of Representatives.

(2) The Speaker or, in his absence, the Deputy Speaker or, where they are both absent, a member of the House of Representatives, not being a Minister or a Parliamentary Secretary, elected by the House for that sitting shall preside at each sitting of the House.

(3) References in this section to circumstances in which the President of the Senate or Vice-President of the Senate, Speaker or Deputy Speaker is absent include references to circumstances in which the office of President of the Senate or Vice-President of the Senate, Speaker or Deputy Speaker is vacant.

Voting.

**59.** (1) Save as otherwise provided in this Constitution, all questions proposed for decision in either House shall be determined by a majority of the votes of the members thereof present and voting.

(2) The President of the Senate or other member presiding in the Senate shall not vote unless on any question the votes are equally divided, in which case he shall have and exercise a casting vote.

(3) The Speaker or other member presiding in the House of Representatives shall not vote unless on any question the votes are equally divided, in which case he shall have and exercise a casting vote.

Quorum.

**60.** (1) A quorum of the House of Representatives shall consist of twelve members of the House and a quorum of the Senate shall consist of ten Senators, so, however, that the person presiding at the sitting of either House shall not be included in reckoning whether there is a quorum of that House present.

(2) Where at any sitting of either House any member of the House who is present draws the attention of the person presiding at the sitting of the absence of a quorum and, after such interval as may be prescribed by that House, the person presiding at the sitting ascertains that a quorum of the House is still not present, the House shall be adjourned.

Mode of  
exercising  
legislative  
power.

**61.** (1) Subject to the provisions of this Constitution, the power of Parliament to make laws shall, except where otherwise authorised by statute, be exercised by Bills passed by the House of Representatives and the Senate and assented to by the President.

(2) When a Bill is presented to the President for assent, he shall signify that he assents or that he withholds assent.

(3) A Bill shall not become law unless it has been duly passed and assented to in accordance with this Constitution.

(4) A Bill may be assented to during the period occurring between the end of one session of Parliament and the beginning of the next or at any subsequent time during the life of that Parliament.

**62.** (1) A Minister who is a Member of the House of Representatives and a Minister who is a Senator—

Attendance of Ministers in either House.

- (a) has the right to attend any sitting of the Senate or the House of Representatives, respectively,
- (b) may be required at the instance of the President of the Senate or the Speaker to attend any sitting of the Senate or the House of Representatives, respectively.

(2) A Minister may not be required to attend any sitting of either House under subsection 1(b) except on the adoption by that House of a motion for the purpose.

(3) A Minister attending any sitting of the Senate or the House of Representatives under subsection (1) may take part in any debate or other proceedings concerning matters falling within his portfolio in such House and may speak on any motion before the House concerning such matters and move amendments to any such motions, save that such a Minister shall have no vote thereon.

(4) Nothing in this section shall preclude the Attorney General from attending any sitting of the Senate or the House of Representatives, as the case may be, and taking part in debates and other proceedings and speaking on any motion before any such House, as the case may be, and moving amendments to any such motions even though the matter falls within the portfolio of some other Minister.

**63.** (1) A Bill other than a Money Bill may be introduced in either House; a Money Bill shall not be introduced in the Senate.

Introduction of Bills, etc.



(2) Except on the recommendation or with the consent of the Cabinet neither House shall—

- (a) proceed upon any Bill, including any amendment to a Bill, which, in the opinion of the person presiding, makes provision for any of the following purposes:
  - (i) for imposing or increasing any tax;
  - (ii) for imposing or increasing any charge on the revenues or other funds of Trinidad and Tobago or for altering any such charge otherwise than by reducing it; or
  - (iii) for compounding or remitting any debt due to Trinidad and Tobago;
- (b) proceed upon any motion, including any amendment to a motion, the effect of which, in the opinion of the person presiding, would be to make provision for any of the purposes aforesaid; or
- (c) receive any petition which, in the opinion of the person presiding, requests that provision be made for any of the purposes aforesaid.

Restrictions on powers of Senate as to Money Bills.

**64.** (1) Where a Money Bill, having been passed by the House of Representatives and sent to the Senate at least one month before the end of the session, is not passed by the Senate without amendment within one month after it is sent to the Senate, the Bill shall, unless the House of Representatives otherwise resolves, be presented to the President for assent notwithstanding that the Senate has not consented to the Bill.

(2) There shall be endorsed on every Money Bill when it is sent to the Senate the certificate of the Speaker signed by him that it is a Money Bill; and there shall be endorsed on any Money Bill that is presented to the President for assent in pursuance of subsection (1), the certificate of the Speaker signed by him that it is a Money Bill and that the provisions of that subsection have been complied with.

**65.** (1) Where any Bill other than a Money Bill is passed by the House of Representatives in two successive sessions, whether or not Parliament is dissolved between those sessions, and, having been sent to the Senate in each of those sessions at least one month before the end of the session, is rejected by the Senate in each of those sessions, that Bill shall, on its rejection for the second time by the Senate, unless the House of Representatives otherwise resolves, be presented to the President for assent notwithstanding that the Senate has not consented to the Bill.

Restrictions on powers of Senate as to Bills other than Money Bills.

(2) Nothing in subsection (1) shall have effect until at least six months have elapsed between the date on which the Bill is passed by the House of Representatives in the first session and the date on which it is passed by that House in the second session.

(3) For the purposes of this section a Bill that is sent to the Senate from the House of Representatives in any session shall be deemed to be the same Bill as a former Bill sent to the Senate in the preceding session if, when it is sent to the Senate, it is identical with the former Bill or contains only such alterations as are certified by the Speaker to be necessary owing to the time that has elapsed since the date of the former Bill or to represent any amendments which have been made by the Senate in the former Bill in the preceding session.

(4) The House of Representatives may, if it thinks fit, on the passage through that House of a Bill that is deemed to be the same Bill as a former Bill sent to the Senate in the preceding session, suggest any amendments without inserting the amendments in the Bill, and any such amendments shall be considered by the Senate and, if agreed to by the Senate, shall be treated as amendments made by the Senate and agreed to by the House of Representatives; but the exercise of this power by the House of Representatives shall not affect the operation of this section in the event of the rejection of the Bill in the Senate.

(5) For the purposes of this section, a Bill shall be deemed to be rejected by the Senate where—

- (a) it is not passed by the Senate without amendments; or

(b) it is passed by the Senate with any amendment that is not agreed to by the House of Representatives.

(6) There shall be inserted in any Bill that is presented to the President for assent in pursuance of this section any amendments that are certified by the Speaker to have been made in the Bill by the Senate in the second session and agreed to by the House of Representatives.

(7) There shall be endorsed on any Bill that is presented to the President for assent in pursuance of this section the certificate of the Speaker signed by him that the provisions of this section have been complied with.

(8) The provisions of this section shall not apply to a Bill for an Act which is required by section 13 or section 54 to be supported at the final vote thereon in the Senate by the votes of not less than three-fifths or two-thirds, respectively, of all the members of the Senate.

Provisions relating to sections 63, 64 and 65.

**66.** (1) In sections 63, 64 and 65 “Money Bill” means a public Bill which, in the opinion of the Speaker, contains only provisions dealing with all or any of the following matters, namely:

- (a) the imposition, repeal, remission, alteration or regulation of taxation;
- (b) the imposition, for the payment of debt or other financial purposes, of charges on public money or the variation or repeal of any such charges;
- (c) the grant of money to the State or to any authority or person, or the variation or revocation of any such grant;
- (d) the appropriation, receipt, custody, investment, issue or audit of accounts of public money;
- (e) the raising or guarantee of any loan or the repayment thereof, or the establishment, alteration, administration or abolition of any sinking fund provided in connection with any such loan; or

(f) subordinate matters incidental to any of the matters referred to in this subsection.

(2) In subsection (1) the expressions “taxation”, “debt”, “public money” and “loan” do not include any taxation imposed, debt incurred or money provided or loan raised by any local authority or body for local purposes.

(3) Where the office of Speaker is vacant or the Speaker is for any reason unable to perform any function conferred upon him by section 64 or 65 or subsection (1), that function may be performed by the Deputy Speaker.

(4) A certificate of the Speaker or the Deputy Speaker under section 64 or 65 shall be conclusive for all purposes and shall not be questioned in any Court.

(5) Before giving any certificate under section 64 or 65, the Speaker or the Deputy Speaker, as the case may be, shall consult the Attorney General or, if the Attorney General is absent from the seat of Government, such legal officer in the Ministry of Legal Affairs as the Attorney General may designate for that purpose.

**\*66A.** (1) Subject to subsection (2), it is hereby declared that—

(a) in addition to any other Joint Select Committee which Parliament is empowered to appoint under its Standing Orders, Parliament shall, within one calendar month—

(i) after the commencement of the Constitution (Amendment) Act, 1999;

(ii) of the first meeting of the House of Representatives after any General Election, or such time as the Parliament may resolve not being later than three months thereafter, appoint Joint Select Committees, to inquire into and report to both Houses of Parliament in respect of—

(A) Government Ministries;

(B) Municipal Corporations;

Appointment of certain Select or Joint Select Committees. [29 of 1999].

\*See Note on Act No. 29 of 1999 at page 2.

- (C) Statutory Authorities;
  - (D) Enterprises owned or controlled by or on behalf of the State or which received funding from the State of more than two-thirds of its total income in any one year; and
  - (E) Service Commissions, in relation to their administration, the manner of the exercise of their powers, their methods of functioning and any criteria adopted by them in the exercise of their powers and functions;
- (b) for the purpose of this section, an enterprise shall be taken to be controlled by the State if the Government or any body controlled by the Government—
- (i) exercises or is entitled to exercise control directly or indirectly over the affairs of the enterprise;
  - (ii) is entitled to appoint a majority of the directors of the Board of Directors of the enterprise; or
  - (iii) holds at least fifty per cent of the ordinary share capital of the enterprise,
- as the case may be;
- (c) a Committee appointed for the purposes set out in paragraph (a) may—
- (i) appoint sub-committees from among its members and delegate any of its powers to such sub-committee;
  - (ii) adjourn from place to place;
  - (iii) appoint specialist advisers to assist them in their deliberations;
- (d) subject to any order of the House or resolution of a Committee, the sitting of a Committee shall be held in public;

(e) a Committee appointed for the purposes set out in paragraph (a) shall make a report of its opinion and observations which shall be laid in both Houses of Parliament.

(2) A Joint Select Committee in exercising its powers under subsection (1) shall not enquire into the validity of the exercise of the functions of a body referred to in subsection (1)(a) nor modify, alter, rescind or in any way interfere with the decisions of any such body.

(3) Subject to this section, the Standing Orders of the Senate and the House of Representatives shall apply to a Committee appointed under this section.

(4) Subject to the Standing Orders of Parliament, a Committee may regulate its own procedure.

**\*66B.** Each Service Commission shall submit to the President, before 1st October in each year, a report on its administration, the manner of the exercise of its powers, its methods of functioning and any criteria adopted by it in the exercise of its powers and functions in the previous year and the President shall cause the report to be laid within sixty days thereafter in each House.

Reports of  
Service  
Commissions.  
[29 of 1999].

**\*66C.** (1) Sections 66A and 66B shall not apply to the Judicial and Legal Service Commission.

Applicability of  
the Judicial and  
Legal Service  
Commission.  
[29 of 1999].

(2) The Judicial and Legal Service Commission shall submit to the President before 1st October, in each year, commencing in the year 2000, a report on the exercise of its functions and powers in the previous year, describing the procedures followed and any criteria adopted by it in connection therewith, and the President shall cause the report to be laid within sixty days thereafter in each House.

**\*66D.** A Body listed at (A) to (D) in section 66A(1) (a) shall submit to the President before 1st July, in each year a report on the exercise of its functions and powers in the previous year, describing the procedures followed and any criteria adopted by it in connection

Report of  
Government  
Ministries, etc.  
[29 of 1999].

\*See Note on page 2.

therewith and the President shall cause the report to be laid within sixty days thereafter in each House.

**PART III**

**SUMMONING, PROROGATION AND DISSOLUTION**

Sessions of  
Parliament.

**67.** (1) Each session of Parliament shall be held at such place within Trinidad and Tobago and shall commence at such time as the President may by Proclamation appoint.

(2) There shall be a session of each House once at least in every year, so that a period of six months shall not intervene between the last sitting of Parliament in one session and the first sitting thereof in the next session.

Prorogation and  
dissolution of  
Parliament.

**68.** (1) The President, acting in accordance with the advice of the Prime Minister, may at any time prorogue or dissolve Parliament.

(2) Subject to subsection (3), Parliament, unless sooner dissolved, shall continue for five years from the date of its first sitting after any dissolution, and shall then stand dissolved.

(3) At any time when Trinidad and Tobago is at war, Parliament may extend the period of five years specified in subsection (2) for not more than twelve months at a time; so, however, that the life of Parliament shall not be extended under this subsection for more than five years.

(4) Where, between a dissolution of Parliament and the next ensuing general election of members to the House of Representatives, an emergency arises of such a nature that in the opinion of the Prime Minister it is necessary for the two Houses to be summoned before that general election can be held, the President, acting in accordance with the advice of the Prime Minister, may summon the two Houses of the preceding Parliament but the election of members of the House of Representatives shall proceed and the Parliament that has been summoned shall, if not sooner dissolved, again stand dissolved on the day on which the general election is held.

**69.** (1) A general election of members of the House of Representatives shall be held at such time within three months after every dissolution of Parliament as the President, acting in accordance with the advice of the Prime Minister, shall appoint.

General elections and appointment of Senators. [16 of 1978].

(2) As soon as practicable after every general election, the President shall proceed under section 40 to the appointment of Senators.

(3) Where a vacancy occurs in the House of Representatives within the first four years of the life of the Parliament a bye-election shall be held to fill such vacancy not later than ninety days from the date of the announcement by the Speaker of the vacancy.

#### PART IV

#### ELECTIONS AND BOUNDARIES COMMISSION

**70.** (1) Trinidad and Tobago shall be divided into thirty-six constituencies or such other number as may be provided for by an Order made by the President in accordance with the provisions of this Part and each such constituency shall return one member to the House of Representatives.

Constituencies.

(2) Not less than two such constituencies shall be in the Island of Tobago.

**71.** (1) There shall be an Elections and Boundaries Commission for Trinidad and Tobago (in this Part referred to as “the Commission”).

Elections and Boundaries Commission.

(2) The members of the Commission shall be a Chairman and not less than two nor more than four other members.

(3) The Chairman and other members of the Commission shall be appointed by the President, after consultation with the Prime Minister and the Leader of the Opposition.

(4) A person shall not be qualified to hold office as a member of the Commission who is a Minister, a Parliamentary Secretary, a member of the House of Representatives, a Senator, a temporary member of the Senate, or a public officer.



(5) Subject to the provisions of this section, a member of the Commission shall vacate his office—

- (a) at the expiration of five years from the date of his appointment, but is eligible for reappointment; or
- (b) where any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified for appointment as such.

(6) Three members of the Commission shall constitute a quorum.

(7) Where there is a quorum, the Commission shall not be disqualified for the transaction of business by reason of any vacancy among its members, and any proceeding of the Commission shall be valid even though some person who was not entitled to do so took part therein.

(8) The Commission may regulate its own procedure.

(9) The Commission shall be provided with a staff adequate for the efficient discharge of its functions.

(10) The salaries and allowances of the staff of the Commission shall be a charge on the Consolidated Fund.

(11) The registration of voters and the conduct of elections in every constituency shall be subject to the direction and supervision of the Commission.

(12) In the exercise of its functions under this section the Commission shall not be subject to the direction or control of any other person or authority.

Procedure for  
review of  
constituency  
boundaries.

**72.** (1) The Commission shall, in accordance with the provisions of this section, review the number and boundaries of the constituencies into which Trinidad and Tobago is divided and submit to the Prime Minister and the Speaker for presentation to the House of Representatives in accordance with this section reports either—

- (a) showing the constituencies into which it recommends that Trinidad and Tobago should

be divided in order to give effect to the rules set out in the Second Schedule; or

Second  
Schedule.

- (b) stating that, in the opinion of the Commission, no alteration is required to the existing number or boundaries of constituencies in order to give effect to the said rules.

(2) Reports under subsection (1) shall be submitted by the Commission not less than two nor more than five years from the date of the submission of its last report.

(3) As soon as may be after the Commission has submitted a report under subsection (1)(a) the Minister designated by the Prime Minister for this purpose (in this section called “the Minister”) shall lay before the House of Representatives for its approval the draft of an Order by the President for giving effect, whether with or without modifications, to the recommendations contained in the report, and that draft may make provision for any matters which appear to the Minister to be incidental to or consequential upon the other provisions of the draft.

(4) Where any draft made under this section gives effect to any such recommendations with modifications, the Minister shall lay before the House of Representatives together with the draft a statement of the reasons for the modifications.

(5) Where the motion for the approval of any draft made under this section is rejected by the House of Representatives, or is withdrawn by leave of that House, the Minister shall amend the draft and lay the amended draft before the House of Representatives.

(6) Where any draft made under this section is approved by resolution of the House of Representatives, the Minister shall submit it to the President who shall make the Order in terms of the draft; and that Order shall come into force on such day as may be specified therein and, until revoked by a further Order made by the President in accordance with the provisions of this section, shall have the force of law.

(7) The question of the validity of any Order by the President purporting to be made under this section and reciting that a draft thereof has been approved by resolution of the House of Representatives shall not be enquired into in any Court.

**PART V**

**SYSTEM OF BALLOTING**

System of  
balloting.

**73.** (1) The election of members of the House of Representatives shall be by secret ballot and in accordance with the first-past-the-post system.

(2) For the purposes of subsection (1), the votes shall be cast in ballot boxes of a design calculated to ensure their efficiency and reliability.

**CHAPTER 5**

**EXECUTIVE POWERS**

Executive  
authority of  
Trinidad and  
Tobago.

**74.** (1) The executive authority of Trinidad and Tobago shall be vested in the President and, subject to this Constitution, may be exercised by him either directly or through officers subordinate to him.

(2) Without prejudice to the generality of subsection (1), the supreme command of the armed forces of Trinidad and Tobago shall be vested in the President and the exercise of this power shall be regulated by law.

(3) Nothing in this section shall prevent Parliament from conferring functions on persons or authorities other than the President.

The Cabinet.

**75.** (1) There shall be a Cabinet for Trinidad and Tobago which shall have the general direction and control of the Government of Trinidad and Tobago and shall be collectively responsible therefor to Parliament.

(2) The Cabinet shall consist of the Prime Minister and such number of other Ministers (of whom one shall be the Attorney General), appointed in accordance with the provisions of section 76, as the Prime Minister may consider appropriate.

**76.** (1) Where there is occasion for the appointment of a Prime Minister, the President shall appoint as Prime Minister— Appointment of Ministers.

- (a) a member of the House of Representatives who is the Leader in that House of the party which commands the support of the majority of members of that House; or
- (b) where it appears to him that that party does not have an undisputed leader in that House or that no party commands the support of such a majority, the member of the House of Representatives who, in his judgment, is most likely to command the support of the majority of members of that House,

and who is willing to accept the office of Prime Minister.

(2) The Attorney General shall, subject to section 79, be responsible for the administration of legal affairs in Trinidad and Tobago and legal proceedings for and against the State shall be taken—

- (a) in the case of civil proceedings, in the name of the Attorney General;
- (b) in the case of criminal proceedings, in the name of the State.

(3) The Ministers other than the Prime Minister shall be such persons as the President, acting in accordance with the advice of the Prime Minister, shall appoint from among the members of the House of Representatives and the Senators.

(4) Where occasion arises for making an appointment to the office of Prime Minister while Parliament is dissolved, a person, who at the time of the appointment is a Minister, may be appointed as Prime Minister.

(5) Where occasion arises for making an appointment to the office of Minister while Parliament is dissolved, a person who immediately before the dissolution, was a Senator or a member of the House of Representatives may be appointed Minister.

**77.** (1) Where the House of Representatives passes a resolution, supported by the votes of a majority of all the members Tenure of office of Ministers.

of the House, declaring that it has no confidence in the Prime Minister and the Prime Minister does not within seven days of the passing of such a resolution either resign or advise the President to dissolve Parliament, the President shall revoke the appointment of the Prime Minister.

(2) The Prime Minister shall also vacate his office—

- (a) when after any dissolution of Parliament he is informed by the President that the President is about to reappoint him as Prime Minister or to appoint another person as Prime Minister; or
- (b) where for any reason other than a dissolution of Parliament he ceases to be a member of the House of Representatives.

(3) A Minister other than the Prime Minister shall vacate his office—

- (a) when any person is appointed or reappointed as Prime Minister;
- (b) where for any reason other than a dissolution of Parliament he ceases to be a member of the House from among the members of which he was appointed;
- (c) where his appointment is revoked by the President acting in accordance with the advice of the Prime Minister.

(4) Where at any time the Prime Minister is required under the provisions of section 49(3) to cease to perform his functions as a member of the House of Representatives, he shall cease during such time to perform any of his functions as Prime Minister.

(5) Where at any time a Minister other than the Prime Minister is required under section 43(3) or section 49(3) to cease to perform his functions as a member of the House to which he belongs, he shall cease during such time to perform any of his functions as Minister.

Performance of functions of Prime Minister during absence, illness or suspension.

**78.** (1) Where the Prime Minister is absent from Trinidad and Tobago or is unable by reason of illness or of the provisions of

section 77(4) to perform the functions conferred on him by this Constitution, the President may authorise some other member of the Cabinet to perform those functions [other than the functions conferred by subsection (2)] and that member may perform those functions until his authority is revoked by the President.

(2) The powers of the President under this section shall be exercised by him in accordance with the advice of the Prime Minister, save that where the President considers that it is impracticable to obtain the advice of the Prime Minister owing to his absence or illness, or where the Prime Minister is unable to tender advice by reason of the provisions of section 77(4) the President may exercise those powers without the advice of the Prime Minister.

**79.** (1) The President, acting in accordance with the advice of the Prime Minister, may, by directions in writing, assign to the Prime Minister or any other Minister responsibility for any business of the Government of Trinidad and Tobago, including the administration of any department of Government.

*Allocation of portfolios to Ministers.*

(2) Where a Minister is incapable of performing his functions by reason of his absence from Trinidad and Tobago or by reason of illness the President, acting in accordance with the advice of the Prime Minister, may appoint a member of the House of Representatives or a Senator to act in the office of such Minister during such absence or illness.

**80.** (1) In the exercise of his functions under this Constitution or any other law, the President shall act in accordance with the advice of the Cabinet or a Minister acting under the general authority of the Cabinet, except in cases where other provision is made by this Constitution or such other law, and, without prejudice to the generality of this exception, in cases where by this Constitution or such other law he is required to act—

*Exercise of President's functions.*

- (a) in his discretion;
- (b) after consultation with any person or authority other than the Cabinet; or
- (c) in accordance with the advice of any person or authority other than the Cabinet.

(2) Where by this Constitution the President is required to act in accordance with the advice of, or after consultation with, any person or authority, the question whether he has in any case so acted shall not be enquired into in any Court.

(3) Without prejudice to any other case in which the President is authorised or required to act in his discretion, the President shall act in accordance with his own deliberate judgment in the performance of the following functions:

- (a) in the exercise of the power to appoint the Prime Minister conferred upon him by section 76(1) or (4);
- (b) in the exercise of the powers conferred upon him by section 78 (which relates to the performance of the functions of the Prime Minister during absence, illness or suspension) in the circumstances described in the proviso to subsection (2) of that section;
- (c) in the exercise of the power to appoint the Leader of the Opposition and to revoke any such appointment conferred upon him by section 83.

President to be informed concerning matters of Government.

**81.** The Prime Minister shall keep the President fully informed concerning the general conduct of the Government of Trinidad and Tobago and shall furnish the President with such information as he may request with respect to any particular matter relating to the Government of Trinidad and Tobago.

Parliamentary Secretaries.

**82.** (1) The President, acting in accordance with the advice of the Prime Minister, may appoint Parliamentary Secretaries from among the Senators and members of the House of Representatives to assist Ministers in the performance of their duties.

(2) Where occasion arises for making an appointment while Parliament is dissolved, a person who was a Senator or a member of the House of Representatives immediately before the dissolution may be appointed as a Parliamentary Secretary.

(3) The office of a Parliamentary Secretary shall become vacant—

- (a) where for any reason other than a dissolution of Parliament he ceases to be a member of the House from among the members of which he was appointed;
- (b) upon the appointment or reappointment of any person as Prime Minister; or
- (c) where the President, acting in accordance with the advice of the Prime Minister, so directs.

**83.** (1) There shall be an office of Leader of the Opposition and appointments thereto shall be made by the President. Leader of the Opposition.

(2) The President shall, if the person concerned is willing to be appointed, appoint as Leader of the Opposition the member of the House of Representatives who, in his judgment, is best able to command the support of the greatest number of members of the House of Representatives who do not support the Government.

(3) The office of Leader of the Opposition shall become vacant where—

- (a) he resigns his office;
- (b) the holder thereof ceases to be a member of the House of Representatives for any cause other than a dissolution of Parliament;
- (c) he is not a member of the House of Representatives when the House of Representatives first meets after a dissolution of Parliament;
- (d) by virtue of section 49(3) he is required to cease to exercise his functions as a member of the House of Representatives;
- (e) he is appointed to the office of Prime Minister; or
- (f) his appointment is revoked under the provisions of subsection (4).



(4) Where in the judgment of the President, the Leader of the Opposition is no longer the member of the House of Representatives best able to command the support of a majority of those members of the House of Representatives who do not support the Government, the President shall revoke the appointment of the Leader of the Opposition.

(5) Nothing in subsection (4) shall apply while Parliament is dissolved.

(6) Where the office of Leader of the Opposition is vacant, whether because there is no member of the House of Representatives so qualified for appointment or because no one qualified for appointment is willing to be appointed, or because the Leader of the Opposition has resigned his office or for any other reason, any provision in this Constitution requiring consultation with the Leader of the Opposition shall, in so far as it requires such consultation, be of no effect.

Oaths to be taken by Ministers, etc. First Schedule.

**84.** A Minister or a Parliamentary Secretary shall not enter upon the duties of his office unless he has taken and subscribed the oath of allegiance and oath for the due execution of his office.

Permanent Secretaries.

**85.** (1) Where any Minister has been assigned responsibility for any department of Government, he shall exercise general direction and control over that department; and, subject to such direction and control, the department shall be under the supervision of a Permanent Secretary whose office shall be a public office.

(2) For the purposes of this section—

(a) two or more Government departments may be placed under the supervision of one Permanent Secretary; or

(b) two or more Permanent Secretaries may supervise any department of Government assigned to a Minister.

Constitution of offices, etc.

**86.** Subject to the provisions of this Constitution and of any enactment, the President may constitute offices for Trinidad

and Tobago, make appointments to any such office and terminate any such appointment.

**87.** (1) The President may grant to any person a pardon, either free or subject to lawful conditions, respecting any offences that he may have committed. The power of the President under this subsection may be exercised by him either before or after the person is charged with any offence and before he is convicted thereof. Power of pardon, etc.

(2) The President may—

- (a) grant to any person convicted of any offence against the law of Trinidad and Tobago a pardon, either free or subject to lawful conditions;
- (b) grant to any person a respite, either indefinite or for a specified period, from the execution of any punishment imposed on that person for such an offence;
- (c) substitute a less severe form of punishment for that imposed by any sentence for such an offence; or
- (d) remit the whole or any part of any sentence passed for such an offence or any penalty or forfeiture otherwise due to the State on account of such an offence.

(3) The power of the President under subsection (2) may be exercised by him in accordance with the advice of a Minister designated by him, acting in accordance with the advice of the Prime Minister.

**88.** There shall be an Advisory Committee on the Power of Pardon which shall consist of— Advisory Committee on Power of Pardon.

- (a) the Minister referred to in section 87(3) who shall be Chairman;
- (b) the Attorney General;
- (c) the Director of Public Prosecutions;
- (d) not more than four other members appointed by the President, after consultation with the Prime Minister and the Leader of the Opposition.

Functions of  
Advisory  
Committee.

**89.** (1) Where an offender has been sentenced to death by any Court for an offence against the law of Trinidad and Tobago, the Minister shall cause a written report of the case from the trial Judge, together with such other information derived from the record of the case or elsewhere as the Minister may require, to be taken into consideration at a meeting of the Advisory Committee.

(2) The Minister may consult with the Advisory Committee before tendering any advice to the President under section 87(3) in any case not falling within subsection (1).

(3) The Minister shall not be obliged in any case to act in accordance with the advice of the Advisory Committee.

(4) The Advisory Committee may regulate its own procedure.

(5) In this section “the Minister” means the Minister referred to in section 87(3).

#### CHAPTER 6

### THE DIRECTOR OF PUBLIC PROSECUTIONS AND THE OMBUDSMAN

#### PART I

#### DIRECTOR OF PUBLIC PROSECUTIONS

Appointment,  
tenure and  
functions.

**90.** (1) The provisions of this section shall, subject to section 76(2) have effect with respect to the conduct of prosecutions.

(2) There shall be a Director of Public Prosecutions for Trinidad and Tobago whose office shall be a public office.

(3) The Director of Public Prosecutions shall have power in any case in which he considers it proper to do so—

- (a) to institute and undertake criminal proceedings against any person before any Court in respect of any offence against the law of Trinidad and Tobago;
- (b) to take over and continue any such criminal proceedings that may have been instituted by any other person or authority;

(c) to discontinue at any stage before judgment is delivered any such criminal proceedings instituted or undertaken by himself or any other person or authority.

(4) The powers conferred upon the Director of Public Prosecutions by subsection (3)(b) and (c) shall be vested in him to the exclusion of the person or authority who instituted or undertook the criminal proceedings, except that a person or authority that has instituted criminal proceedings may withdraw them at any stage before the person against whom the proceedings have been instituted has been charged before the Court.

(5) For the purposes of this section a reference to criminal proceedings includes an appeal from the determination of any Court in criminal proceedings or a case stated or a question of law reserved in respect of those proceedings.

(6) The functions of the Director of Public Prosecutions under subsection (3) may be exercised by him in person or through other persons acting under and in accordance with his general or special instructions.

## PART II

### OMBUDSMAN

**91.** (1) There shall be an Ombudsman for Trinidad and Tobago who shall be an officer of Parliament and who shall not hold any other office of emolument whether in the public service or otherwise nor engage in any occupation for reward other than the duties of his office. Appointment and conditions of office.

(2) The Ombudsman shall be appointed by the President after consultation with the Prime Minister and the Leader of the Opposition.

(3) The Ombudsman shall hold office for a term not exceeding five years and is eligible for reappointment.

(4) Subject to subsection (3), the Ombudsman shall hold office in accordance with section 136.

First Schedule. (5) Before entering upon the duties of his office, the Ombudsman shall take and subscribe the oath of office before the Speaker of the House of Representatives.

Appointment of staff of Ombudsman. **92.** (1) The Ombudsman shall be provided with a staff adequate for the efficient discharge of his functions.

(2) The staff of the Ombudsman shall be public officers appointed in accordance with section 121(8).

Functions of Ombudsman. **93.** (1) Subject to this section and to sections 94 and 95, the principal function of the Ombudsman shall be to investigate any decision or recommendation made, including any advice given or recommendation made to a Minister, or any act done or omitted by any department of Government or any other authority to which this section applies, or by officers or members of such a department or authority, being action taken in exercise of the administrative functions of that department or authority.

(2) The Ombudsman may investigate any such matter in any of the following circumstances:

- (a) where a complaint is duly made to the Ombudsman by any person alleging that the complainant has sustained an injustice as a result of a fault in administration;
- (b) where a member of the House of Representatives requests the Ombudsman to investigate the matter on the ground that a person or body of persons specified in the request has or may have sustained such injustice;
- (c) in any other circumstances in which the Ombudsman considers that he ought to investigate the matter on the ground that some person or body of persons has or may have sustained such injustice.

(3) The authorities other than departments of Government to which this section applies are—

- (a) local authorities or other bodies established for purposes of the public service or of Local Government;

- (b) authorities or bodies the majority of whose members are appointed by the President or by a Minister or whose revenues consist wholly or mainly of moneys provided out of public funds;
- (c) any authority empowered to determine the person with whom any contract shall be entered into by or on behalf of Government;
- (d) such other authorities as may be prescribed.

**94.** (1) In investigating any matter leading to, resulting from or connected with the decision of a Minister, the Ombudsman shall not inquire into or question the policy of the Minister in accordance with which the decision was made.

Restrictions on matters for investigations.

(2) The Ombudsman shall have power to investigate complaints of administrative injustice under section 93 notwithstanding that such complaints raise questions as to the integrity or corruption of the public service or any department or office of the public service, and may investigate any conditions resulting from, or calculated to facilitate or encourage corruption in the public service, but he shall not undertake any investigation into specific charges of corruption against individuals.

(3) Where in the course of an investigation it appears to the Ombudsman that there is evidence of any corrupt act by any public officer or by any person in connection with the public service, he shall report the matter to the appropriate authority with his recommendation as to any further investigation he may consider proper.

(4) The Ombudsman shall not investigate—

- (a) any action in respect of which the complainant has or had—
  - (i) a remedy by way of proceedings in a Court; or
  - (ii) a right of appeal, reference or review to or before an independent and impartial tribunal other than a Court; or
- (b) any such action, or action taken with respect to any matter, as is described in the Third Schedule.

Third Schedule.

- (5) Notwithstanding subsection (4) the Ombudsman—
- (a) may investigate a matter notwithstanding that the complainant has or had a remedy by way of proceedings in a Court, if satisfied that in the particular circumstances it is not reasonable to expect him to take or to have taken such proceedings;
  - (b) is not in any case precluded from investigating any matter by reason only that it is open to the complainant to apply to the High Court for redress under section 14 (which relates to redress for contravention of the provisions for the protection of fundamental rights).

Discretion of Ombudsman.

**95.** In determining whether to initiate, continue or discontinue an investigation, the Ombudsman shall, subject to sections 93 and 94, act in his discretion and, in particular and without prejudice to the generality of this discretion, the Ombudsman may refuse to initiate or may discontinue an investigation where it appears to him that—

- (a) a complaint relates to action of which the complainant has knowledge for more than twelve months before the complaint was received by the Ombudsman;
- (b) the subject matter of the complaint is trivial;
- (c) the complaint is frivolous or vexatious or is not made in good faith; or
- (d) the complainant has not a sufficient interest in the subject matter of the complaint.

Report on investigation.

**96.** (1) Where a complaint or request for an investigation is duly made and the Ombudsman decides not to investigate the matter or where he decides to discontinue an investigation of the matter, he shall inform the person who made the complaint or request of the reasons for his decision.

(2) Upon the completion of an investigation the Ombudsman shall inform the department of Government or the

authority concerned of the results of the investigation and, if he is of the opinion that any person has sustained an injustice in consequence of a fault in administration, he shall inform the department of Government or the authority of the reasons for his opinion and make such recommendations as he thinks fit. The Ombudsman may in his original recommendations, or at any later stage if he thinks fit, specify the time within which the injustice should be remedied.

(3) Where the investigation is undertaken as a result of a complaint or request, the Ombudsman shall inform the person who made the complaint or request of his findings.

(4) Where the matter is in the opinion of the Ombudsman of sufficient public importance or where the Ombudsman has made a recommendation under subsection (2) and within the time specified by him no sufficient action has been taken to remedy the injustice, then, subject to such provision as may be made by Parliament, the Ombudsman shall lay a special report on the case before Parliament.

(5) The Ombudsman shall make annual reports on the performance of his functions to Parliament which shall include statistics in such form and in such detail as may be prescribed of the complaints received by him and the results of his investigations.

**97.** (1) The Ombudsman shall have the powers of the High Court to summon witnesses to appear before him and to compel them to give evidence on oath and to produce documents relevant to the proceedings before him and all persons giving evidence at those proceedings shall have the same duties and liabilities and enjoy the same privileges as in the High Court.

Power to obtain evidence.

(2) The Ombudsman shall have power to enter and inspect the premises of any department of Government or any authority to which section 93 applies, to call for, examine and where necessary retain any document kept on such premises and there to carry out any investigation in pursuance of his functions.



Prescribed  
matters  
concerning  
Ombudsman.

**98.** (1) Subject to subsection (2), Parliament may make provision—

- (a) for regulating the procedure for the making of complaints and requests to the Ombudsman and for the exercise of the functions of the Ombudsman;
- (b) for conferring such powers on the Ombudsman and imposing such duties on persons concerned as are necessary to facilitate the Ombudsman in the performance of his functions; and
- (c) generally for giving effect to the provisions of this Part.

(2) The Ombudsman may not be empowered to summon a Minister or a Parliamentary Secretary to appear before him or to compel a Minister or a Parliamentary Secretary to answer any questions relating to any matter under investigation by the Ombudsman.

(3) The Ombudsman may not be empowered to summon any witness to produce any Cabinet papers or to give any confidential income tax information.

(4) No complainant may be required to pay any fee in respect of his complaint or request or for any investigation to be made by the Ombudsman.

(5) No proceedings, civil or criminal, may lie against the Ombudsman, or against any person holding an office or appointment under him for anything he may do or report or say in the course of the exercise or intended exercise of the functions of the Ombudsman under this Constitution, unless it is shown that he acted in bad faith.

(6) The Ombudsman, and any person holding office or appointment under him may not be called to give evidence in any Court, or in any proceedings of a judicial nature, in respect of anything coming to his knowledge in the exercise of his functions.

(7) Anything said or any information supplied or any document, paper or thing produced by any person in the course

of any enquiry by or proceedings before an Ombudsman under this Constitution is privileged in the same manner as if the enquiry or proceedings were proceedings in a Court.

(8) No proceeding of the Ombudsman may be held bad for want of form and, except on the ground of lack of jurisdiction, no proceeding or decision of an Ombudsman is liable to be challenged, reviewed, quashed or called in question in any Court.

## CHAPTER 7

### THE JUDICATURE

#### PART I

#### THE SUPREME COURT

**99.** There shall be a Supreme Court of Judicature for Trinidad and Tobago consisting of a High Court of Justice (hereinafter referred to as “the High Court”) and a Court of Appeal with such jurisdiction and powers as are conferred on those Courts respectively by this Constitution or any other law.

Establishment  
of Supreme  
Court.

**100.** (1) The Judges of the High Court shall be the Chief Justice, who shall be *ex officio* a Judge of that Court, and such number of Puisne Judges as may be prescribed.

Constitution of  
High Court.

(2) The High Court shall be a superior Court of record and, save as otherwise provided by Parliament, shall have all the powers of such a Court, including all such powers as are vested in the Supreme Court of Trinidad and Tobago immediately before the commencement of this Constitution.

#### THE COURT OF APPEAL

**101.** (1) The Judges of the Court of Appeal shall be the Chief Justice, who shall be the President of the Court of Appeal, and such number of Justices of Appeal as may be prescribed.

Constitution of  
Court of Appeal.

(2) The Court of Appeal shall be a superior Court of record and, save as otherwise provided by Parliament, shall have all the powers of such a Court.

Appointment of  
Chief Justice.

**102.** The Chief Justice shall be appointed by the President after consultation with the Prime Minister and the Leader of the Opposition.

Acting  
appointments as  
Chief Justice.

**103.** Where the office of Chief Justice is vacant or where the Chief Justice is for any reason unable to perform the functions of his office, then, until a person has been appointed to and has assumed the functions of such office or until the Chief Justice has resumed those functions, as the case may be, those functions shall be performed by such other of the Judges as may be appointed by the President, after consultation with the Prime Minister and the Leader of the Opposition.

#### APPOINTMENT OF JUDGES

Appointment of  
Justices of  
Appeal and  
Puisne Judges.  
[2 of 1988].

**104.** (1) The Judges, other than the Chief Justice, shall be appointed by the President, acting in accordance with the advice of the Judicial and Legal Service Commission.

(2) Where—

- (a) the office of any such Judge is vacant;
- (b) any such Judge is for any reason unable to perform the functions of his office;
- (c) any such Judge is acting as Chief Justice or a Puisne Judge is acting as a Justice of Appeal; or
- (d) the Chief Justice advises the President that the state of business of the Court of Appeal or the High Court so requires,

the President, acting in accordance with the advice of the Judicial and Legal Service Commission—

- (i) may appoint a person to act in the office of Justice of Appeal or Puisne Judge, as the case may require;
- (ii) may, notwithstanding section 136, appoint a person who has held office as a Judge and who has attained the age of sixty-five to be temporarily a Puisne Judge for fixed periods of not more than two years.

(3) The appointment of any person under subsection (2) to act in the office of Justice of Appeal or Puisne Judge shall continue to have effect until it is revoked by the President, acting in accordance with the advice of the Judicial and Legal Service Commission.

**105.** A person shall not be appointed as a Judge or to act as a Judge unless he has such qualifications for appointment as may be prescribed. Qualifications of Judges.

**106.** (1) Subject to section 104(3), a Judge shall hold office in accordance with sections 136 and 137. Tenure of office.

(2) No office of Judge shall be abolished while there is a substantive holder of that office.

**107.** A Judge shall not enter upon the duties of his office unless he has taken and subscribed the oath of allegiance and the oath for the due execution of his office set out in the First Schedule. Oaths to be taken by Judges.  
First Schedule.

**108.** An appeal to the Court of Appeal shall be as of right from decisions of the High Court in the following, among other cases, that is to say: Appeals on Constitutional questions and fundamental rights, etc.

- (a) any order or decision in any civil or criminal proceedings on questions as to the interpretation of this Constitution;
- (b) any order or decision given in exercise of the jurisdiction conferred on the High Court by section 14 (which relates to redress for contravention of the provisions for the protection of fundamental rights);
- (c) any order or decision given in the determination of any of the questions for the determination of which a right of access to the High Court is guaranteed by sections 4(a) and 5(1);
- (d) any order or decision of the High Court granting or refusing leave to institute proceedings for the determination of any question referred to it under section 52 or determining any such question (which

relates to the appointment, qualification, election or membership of a Senator or a member of the House of Representatives, as the case may be);

- (e) any order or decision of a Court in the exercise of its jurisdiction to punish for contempt of Court, including criminal contempt.

## PART II

### APPEALS TO THE JUDICIAL COMMITTEE

Appeals from  
Court of Appeal  
to the Judicial  
Committee.

**109.** (1) An appeal shall lie from decisions of the Court of Appeal to the Judicial Committee as of right in the following cases:

- (a) final decisions in civil proceedings where the matter in dispute on the appeal to the Judicial Committee is of the value of fifteen hundred dollars or upwards or where the appeal involves directly or indirectly a claim to or question respecting property or a right of the value of fifteen hundred dollars or upwards;
- (b) final decisions in proceedings for dissolution or nullity of marriage;
- (c) final decisions in any civil, criminal or other proceedings which involve a question as to the interpretation of this Constitution;
- (d) except in cases falling under section 108(d), any case referred to in that section;
- (e) final decisions in disciplinary matters under section 81(3) to (5) of the Supreme Court of Judicature Act and under the Legal Profession Act;
- (f) such other cases as may be prescribed.

Ch. 4:01.  
Ch. 90:03.

(2) An appeal shall lie from decisions of the Court of Appeal to the Judicial Committee with the leave of the Court of Appeal in the following cases:

- (a) decisions in any civil proceedings; where in the opinion of the Court of Appeal the question involved in the appeal is one that, by reason of its great general or public importance or

otherwise, ought to be submitted to the Judicial Committee; and

(b) such other cases as may be prescribed.

(3) An appeal shall lie to the Judicial Committee with the special leave of the Judicial Committee from decisions of the Court of Appeal in any civil or criminal matter in any case in which, immediately before the date on which Trinidad and Tobago became a Republic, an appeal could have been brought with the special leave of Her Majesty to Her Majesty in Council from such decisions.

(4) Subsections (1), (2) and (3) are subject to the provisions of sections 32(2) and 52(4).

(5) Subject to this section, provision may be made by or under any Act regulating the procedure to be adopted by the Court of Appeal with respect to any appeal to the Judicial Committee under this section or by parties to any such appeal.

(6) Any decision given by the Judicial Committee in any appeal under this section shall be enforced in like manner as if it were a decision of the Court of Appeal.

(7) Subject to subsection (6), the Judicial Committee shall, in relation to any appeal to it under this section in any case, have all the jurisdiction and powers possessed in relation to that case by the Court of Appeal.

### PART III

#### JUDICIAL AND LEGAL SERVICE COMMISSION

**110.** (1) There shall be a Judicial and Legal Service Commission for Trinidad and Tobago. Judicial and Legal Service Commission.

(2) The members of the Judicial and Legal Service Commission shall be—

- (a) the Chief Justice, who shall be Chairman;
- (b) the Chairman of the Public Service Commission;
- (c) such other members (hereinafter called “the appointed members”) as may be appointed in accordance with subsection (3).

(3) The appointed members shall be appointed by the President after consultation with the Prime Minister and the Leader of the Opposition as follows:

- (a) one from among persons who hold or have held office as a Judge of a Court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a Court having jurisdiction in appeal from any such Court;
- (b) two from among persons with legal qualifications at least one of whom is not in active practice as such, after the President has consulted with such organisations, if any, as he thinks fit.

(4) Subject to section 126(3)(a) an appointed member shall hold office in accordance with section 136.

Appointment of  
judicial officers,  
etc.

**111.** (1) Subject to the provisions of this section, power to appoint persons to hold or act in the offices to which this section applies, including power to make appointments on promotion and transfer and to confirm appointments, and to remove and exercise disciplinary control over persons holding or acting in such offices shall vest in the Judicial and Legal Service Commission.

(2) Before the Judicial and Legal Service Commission makes any appointment to the offices of Solicitor General, Chief Parliamentary Counsel, Director of Public Prosecutions, Registrar General or Chief State Solicitor it shall consult with the Prime Minister.

(3) A person shall not be appointed to any such office if the Prime Minister signifies to the Judicial and Legal Service Commission his objection to the appointment of that person to that office.

(4) This section applies to such public offices as may be prescribed, for appointment to which persons are required to possess legal qualifications.

CHAPTER 8

FINANCE

**112.** (1) All revenues or other moneys raised or received by Trinidad and Tobago, not being revenues or other moneys payable under this Constitution or any other law into some other public fund established for a specific purpose shall, unless Parliament otherwise provides, be paid into and form one Consolidated Fund. Establishment of Consolidated Fund.

(2) No moneys shall be withdrawn from the Consolidated Fund except to meet expenditure that is charged upon the Fund by this Constitution or any Act or where the issue of those moneys has been authorised by an Appropriation Act or an Act passed in pursuance of section 114 or in accordance with any other law.

(3) No moneys shall be withdrawn from any public fund other than the Consolidated Fund unless the issue of those moneys has been authorised by an Act.

(4) No moneys shall be withdrawn from the Consolidated Fund or any other public fund except in the manner prescribed.

**113.** (1) The Minister responsible for finance shall cause to be prepared and laid before the House of Representatives before or not later than thirty days after the commencement of each financial year, estimates of the revenues and expenditure of Trinidad and Tobago for that year. Authorisation of expenditure from Consolidated Fund.

(2) The heads of expenditure contained in the estimates, other than expenditure charged upon the Consolidated Fund by this Constitution or any Act, shall be included in a Bill, to be known as an Appropriation Bill, providing for the issue from the Consolidated Fund of the sums necessary to meet that expenditure and the appropriation of those sums for the purposes specified therein.

(3) If in respect of any financial year it is found—

- (a) that the amount appropriated by the Appropriation Act for any purpose is insufficient or that a need has arisen for expenditure for a purpose for which no amount has been appropriated by the Act; or



- (b) that any moneys have been expended for any purpose in excess of the amount appropriated for the purpose by the Appropriation Act or for a purpose for which no amount has been appropriated by the Act,

a supplementary estimate showing the sums required or spent shall be laid before the House of Representatives and the heads of any such expenditure shall be included in a Supplementary Appropriation Bill.

Authorisation of expenditure in advance of appropriation.

**114.** Parliament may make provision under which, if the Appropriation Act in respect of any financial year has not come into operation by the beginning of that financial year, the Minister responsible for finance may authorise the withdrawal of moneys from the Consolidated Fund for the purpose of meeting expenditure necessary to carry on the services of the Government until the expiration of thirty days from the beginning of that financial year or the coming into operation of the Act, whichever is the earlier.

Contingencies Fund.

**115.** (1) Parliament may provide for the establishment of a Contingencies Fund and for authorising the Minister responsible for finance, if he is satisfied that there has arisen an urgent and unforeseen need for expenditure for which no other provision exists, to make advances from the Fund to meet that need.

(2) Where any advance is made in accordance with subsection (1), a supplementary estimate shall be presented and a Supplementary Appropriation Bill shall be introduced as soon as possible for the purposes of replacing the amount so advanced.

Establishment of office and functions of Auditor General.

**116.** (1) There shall be an Auditor General for Trinidad and Tobago, whose office shall be a public office.

(2) The public accounts of Trinidad and Tobago and of all officers, Courts and authorities of Trinidad and Tobago shall be audited and reported on annually by the Auditor General, and for that purpose the Auditor General or any person authorised by him in that behalf shall have access to all books, records, returns and other documents relating to those accounts.

(3) The Auditor General is hereby empowered to carry out audits of the accounts, balance sheets and other financial statements of all enterprises that are owned or controlled by or on behalf of the State.

(4) The Auditor General shall submit his reports annually to the Speaker, the President of the Senate and the Minister of Finance.

(5) The President of the Senate and the Speaker shall cause the report to be laid before the Senate and the House of Representatives, respectively, at the next sitting of the Senate and the House of Representatives after the receipt thereof, respectively.

(6) In the exercise of his functions under this Constitution the Auditor General shall not be subject to the direction or control of any other person or authority.

**117.** (1) The Auditor General shall be appointed by the President after consultation with the Prime Minister and the Leader of the Opposition and shall hold office in accordance with section 136.

Appointment of Auditor General and staff.

(2) Where the office of Auditor General is vacant or the holder of the office is for any reason unable to perform the functions of his office the President after consultation with the Prime Minister and the Leader of the Opposition may appoint a person to act in the office, and any person so appointed shall, subject to the provisions of subsection (4) continue to act until his appointment is revoked by the President, after consultation with the Prime Minister and the Leader of the Opposition.

(3) Before entering upon the duties of his office the Auditor General shall take and subscribe the oath of office before the President or a person appointed by the President for the purpose.

First Schedule.

(4) Nothing done by the Auditor General shall be invalid by reason only that he has attained the age at which he is required under section 136 to vacate his office.

(5) The Auditor General shall be provided with a staff adequate for the efficient discharge of his functions.

(6) The staff of the Auditor General shall be public officers appointed in accordance with section 121(8).

Public debt.

**118.** (1) The public debt of Trinidad and Tobago shall be secured on the revenues and assets of Trinidad and Tobago.

(2) In this section references to the public debt of Trinidad and Tobago include references to the interest on that debt, sinking fund payments in respect of that debt, and the cost, charges and expenses incidental to the management of that debt.

Public Accounts Committees.

**119.** (1) There shall be a Public Accounts Committee which shall consist of not less than six nor more than ten members.

(2) The Chairman of the Public Accounts Committee shall be a member of the Opposition in the House, if any, and if willing to act. The Chairman and other members may comprise an equal number of members of the House of Representatives and the Senate as the House of Representatives may determine.

(3) Where the members of the Opposition in the House of Representatives are unwilling to act as Chairman of the Public Accounts Committee, a member of the Opposition in the Senate shall be appointed and where the members of the Opposition in the Senate are unwilling so to act, one of the Senators appointed by the President under section 40(2)(c) shall be appointed Chairman.

(4) The Public Accounts Committee shall consider and report to the House of Representatives on—

- (a) appropriation accounts of moneys expended out of sums granted by Parliament to meet the public expenditure of Trinidad and Tobago;
- (b) such other accounts as may be referred to the Committee by the House of Representatives or as are authorised or required to be considered by the committee under any other enactment; and
- (c) the report of the Auditor General on any such accounts.

(5) In addition to the Public Accounts Committee established under subsection (1) there shall be a Public Accounts (Enterprises) Committee which shall consist of not less than six nor more than ten members.

(6) The Chairman of the Public Accounts (Enterprises) Committee shall be one of the Senators, if any, and if willing to act, appointed under section 40(2)(b) in accordance with the advice of the Leader of the Opposition and the other members such members of the House of Representatives and Senators as the House of Representatives may determine.

(7) Where the members of the Opposition in the Senate are unwilling to act as Chairman of the Public Accounts (Enterprises) Committee, a member of the Opposition in the House of Representatives shall be appointed and where the members of the Opposition in the House of Representatives are unwilling so to act, one of the Senators appointed by the President under section 40(2)(c) shall be appointed Chairman.

(8) The Public Accounts (Enterprises) Committee shall consider and report to the House of Representatives on—

- (a) the audited accounts, balance sheets and other financial statements of all enterprises that are owned or controlled by or on behalf of the State; and
- (b) the Auditor General's report on any such accounts, balance sheets and other financial statements.

(9) For the purposes of subsection (8) and section 116(3) an enterprise shall be taken to be controlled by the State if the Government or any body controlled by the Government—

- (a) exercises or is entitled to exercise control directly or indirectly over the affairs of the enterprise;
- (b) is entitled to appoint a majority of the directors of the Board of Directors of the enterprise; or
- (c) holds at least fifty per cent of the ordinary share capital of the enterprise,

as the case may be.

CHAPTER 9

APPOINTMENTS TO, AND TENURE OF, OFFICES

PART I

SERVICE COMMISSIONS, ETC.

PUBLIC SERVICE COMMISSION

Public Service  
Commission.

**120.** (1) There shall be a Public Service Commission for Trinidad and Tobago which shall consist of a Chairman, a Deputy Chairman and not less than two nor more than four other members.

(2) The members of the Public Service Commission shall be appointed by the President, after consultation with the Prime Minister and the Leader of the Opposition.

(3) The members of the Public Service Commission shall hold office in accordance with section 126.

Appointments,  
etc., of public  
officers.  
[17 of 1983  
8 of 1988  
82 of 2000].

**\*121.** (1) Subject to the provisions of this Constitution, power to appoint persons to hold or act in offices to which this section applies, including power to make appointments on promotion and transfer and to confirm appointments, and to remove and exercise disciplinary control over persons holding or acting in such offices and to enforce standards of conduct on such officers shall vest in the Public Service Commission.

(2) The Public Service Commission shall not remove, or inflict any punishment on, a public officer on the grounds of any act done or omitted to be done by that officer in the exercise of a judicial function conferred upon him unless the Judicial and Legal Service Commission concurs therein.

(3) Before the Public Service Commission makes any appointment to an office to which this subsection applies, it shall consult the Prime Minister.

(4) A person shall not be appointed to an office to which subsection (3) applies if the Prime Minister signifies to the Public Service Commission his objection to the appointment of that person to that office.

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\*See Note on page 2 *re* Acts Nos. 17 of 1983 and 8 of 1988.

(5) Subject to subsections (6) and (7), subsection (3) applies to the offices of Permanent Secretary, Chief Technical Officer, Director of Personnel Administration, to a head of a department of Government, to the chief professional adviser in a Ministry of Government and to the office of Deputy to any of these offices.

(6) Power to make appointments on transfer to the following offices shall vest in the Prime Minister:

- (a) any office of Permanent Secretary from one such office to another such office carrying the same salary;
- (b) any office the holder of which is required to reside outside Trinidad and Tobago for the proper discharge of his functions, and such offices in the Ministry of External Affairs as may from time to time be designated by the Prime Minister after consultation with the Public Service Commission.

(7) This section applies to all public offices including in particular offices in the Civil Service, the Fire Service and the Prison Service, but this section does not apply to offices to which appointments are made by the Judicial and Legal Service Commission, the Police Service Commission or the Teaching Service Commission or offices to which appointments are to be made by the President.

(8) Before the Public Service Commission makes any appointment to or transfers a member of the staff of the Auditor General or Ombudsman, it shall first consult with the Auditor General or Ombudsman, as the case may be.

(9) In subsection (7), “Civil Service”, “Fire Service” and “Prison Service” means respectively the Civil Service established under the Civil Service Act, the Fire Service established under the Fire Service Act and the Prison Service established under the Prison Service Act.

Ch. 23:01.

Ch. 35:50.

Ch. 13:02.

POLICE SERVICE COMMISSION

Police Service  
Commission.  
[6 of 2006].

**122.** (1) There shall be a Police Service Commission for Trinidad and Tobago which shall consist of a Chairman and four other members.

(2) The members of the Police Service Commission shall be appointed by the President in accordance with this section.

(3) The President shall, after consultation with the Prime Minister and Leader of the Opposition nominate persons, who are qualified and experienced in the disciplines of law, finance, sociology or management, to be appointed as members of the Police Service Commission.

(4) The President shall issue a Notification in respect of each person nominated for appointment under subsection (3) and the Notification shall be subject to affirmative resolution of the House of Representatives.

(5) The President shall make an appointment under this section only after the House of Representatives has approved the Notification in respect of the relevant person.

(6) The President may in his own discretion appoint a Chairman of the Police Service Commission from among its members.

(7) The Members of the Police Service Commission shall hold office in accordance with section 126, other than subsections (4) and (5).

Removal of  
members.  
[6 of 2006  
12 of 2007].

**122A.** (1) The President shall, after consultation with the Prime Minister and the Leader of the Opposition, terminate the appointment of a member of the Police Service Commission, if the member—

- (a) fails to attend four consecutive meetings without reasonable cause;
- (b) is convicted of a criminal offence which carries a penalty of six or more months of imprisonment in any Court;
- (c) becomes infirm in mind or body;
- (d) fails to perform his duties in a responsible or timely manner;

- (e) fails to absent himself from meetings of the Police Service Commission where there is a conflict of interest;
- (f) demonstrates a lack of competence to perform his duties; or
- (g) misbehaves in office.

(2) The President, in the exercise of his power under subsection (1)(d) to (g), may consider the report of a Joint Select Committee and the Police Service Commission laid in Parliament in furtherance of sections 66A(1)(e) and 66B respectively.

(3) A member of the Police Service Commission shall not be removed from office except in accordance with this section.

**123.** (1) The Police Service Commission shall have the power to—

- (a) appoint persons to hold or act in the office of Commissioner and Deputy Commissioner of Police;
- (b) make appointments on promotion and to confirm appointments;
- (c) remove from office and exercise disciplinary control over persons holding or acting in the offices specified in paragraph (a);
- (d) monitor the efficiency and effectiveness of the discharge of their functions;
- (e) prepare an annual performance appraisal report in such form as may be prescribed by the Police Service Commission respecting and for the information of the Commissioner or Deputy Commissioner of Police; and
- (f) hear and determine appeals from decisions of the Commissioner of Police, or of any person to whom the powers of the Commissioner of Police have been delegated, in relation to appointments on promotion or as a result of disciplinary proceedings brought against a police officer appointed by the Commissioner of Police.

Powers of the  
Police Service  
Commission.  
[6 of 2006  
12 of 2007].



Ch. 15:01.

(2) The Police Service Commission shall nominate persons for appointment to the offices specified in subsection (1)(a) and section 22(1) of the Police Service Act in accordance with the criteria and procedure prescribed by Order of the President, subject to negative resolution of Parliament.

(3) The Police Service Commission shall submit to the President a list of the names of the persons nominated for appointment to the offices of Commissioner or Deputy Commissioner of Police.

(4) The President shall issue a Notification in respect of each person nominated under subsection (3) and the Notification shall be subject to affirmative resolution of the House of Representatives.

(5) The Police Service Commission shall appoint the Commissioner or Deputy Commissioner of Police only after the House of Representatives approves the Notification in respect of the relevant office.

(6) For the purpose of subsection (1)(d)—

- (a) the Commissioner of Police shall, every six months, submit a report in writing to the Police Service Commission on the management of the Police Service; and
- (b) the Police Service Commission shall have the power to call on the Commissioner of Police to produce documents pertaining to financial, legal and personnel matters in relation to the Police Service.

(7) Notwithstanding subsection (6), the Police Service Commission may, on its own initiative, request a special report in from the Commissioner of Police at any time on any matter relating to the management of the Police Service, to which the Commissioner of Police shall respond in a timely manner.

(8) The Police Service Commission may terminate the services of the Commissioner or a Deputy Commissioner of Police on any of the following grounds:

- (a) where the officer is absent from duty without leave for seven consecutive days, during which

he has failed to notify the Police Service Commission of the cause of his absence, whether he holds a permanent, temporary, or contractual appointment;

- (b) breach of contract, where the officer is appointed on contract;
- (c) reported inefficiency based on his performance appraisal reports;
- (d) on dismissal in consequence of disciplinary proceedings,

after giving him an opportunity to be heard;

- (e) where the officer holds a permanent appointment—
  - (i) on being retired on medical grounds;
  - (ii) on being retired in the public interest; or
  - (iii) on the abolition of office.

(9) The procedure for the termination of the services of the Commissioner or a Deputy Commissioner of Police shall be prescribed by the Police Service Commission in accordance with section 129.

(10) Notwithstanding section 132, no appeal shall lie to the Public Service Appeal Board in respect of a decision made by the Police Service Commission under this section.

**123A.** (1) Subject to section 123(1), the Commissioner of Police shall have the complete power to manage the Police Service and is required to ensure that the human, financial and material resources available to the Service are used in an efficient and effective manner.

Powers of the  
Commissioner  
of Police.  
[6 of 2006].

- (2) The Commissioner of Police shall have the power to —
  - (a) appoint persons to hold or act in an office in the Police Service, other than an officer referred to in section 123(1)(a), including the power to make appointments on promotion and to confirm appointments;
  - (b) transfer any police officer; and

(c) remove from office and exercise disciplinary control over police officers, other than an officer referred to in section 123(1)(a).

(3) The functions of the Commissioner of Police under this section may be exercised by him in person or through any police officer of or above the rank of Superintendent acting under and in accordance with his general or special instructions.

(4) In the performance of his functions under this section the Commissioner of Police shall act in accordance with the Police Service Act and the Regulations made thereunder.

Ch. 15:01.

Transitional and savings.  
[6 of 2006  
329/2006].

**123B.** (1) Notwithstanding section 126 of the Constitution, all the members of the Police Service Commission, appointed under section 122, shall vacate their offices within six months after the 1st January 2007, and in any event, the offices of the Commissioners are deemed to be vacant from the day following the expiry of the said six months.

(2) Any matter which, immediately before the effective date specified in subsection (1), is pending before the Police Service Commission or before any person or authority to whom the power to deal with such matters has been delegated by the Police Service Commission, shall, from the effective date specified in subsection (1), be continued before the corresponding Police Service Commission after the commencement of this Act (i.e., 1st January 2007) or the said person or authority, as the case may require.

(3) Any appeal filed by a police officer and pending before the Public Service Appeal Board, at the commencement of this Act, shall be heard and determined by the Board after the commencement of this Act, as though this Act had not been passed.

#### TEACHING SERVICE COMMISSION

Teaching  
Service  
Commission.

**124.** (1) There shall be a Teaching Service Commission for Trinidad and Tobago which shall consist of a Chairman and not more than four other members.

(2) The members of the Teaching Service Commission shall be appointed by the President after consultation with the Prime Minister and the Leader of the Opposition.

(3) The members of the Teaching Service Commission shall hold office in accordance with section 126.

**125.** Subject to the provisions of this Constitution, power to appoint persons to hold or act in public offices in the Teaching Service established under the Education Act, including power to make appointments on promotion and transfer and to confirm appointments, and to remove and exercise disciplinary control over persons holding or acting in such offices and to enforce standards of conduct on such officers shall vest in the Teaching Service Commission.

Appointment of  
Teachers.  
[82 of 2000]  
Ch. 39:01.

#### GENERAL PROVISIONS ON SERVICE COMMISSIONS

**126.** (1) A person who—

- (a) is a member of the House of Representatives or the Senate; or
- (b) holds or is acting in any public office or has held any public office within the period of three years preceding his proposed appointment,

Qualifications,  
tenure of office,  
etc.

is not qualified to hold the office of member of a Service Commission.

(2) A person who has held office or acted as a member of a Service Commission shall not, within a period of three years commencing with the date on which he last held or acted in such an office, be eligible for appointment to any public office.

(3) The office of a member of a Service Commission shall become vacant—

- (a) upon the expiration of five years from the date of his appointment or such shorter period, not being less than three years, as may be specified at the time of his appointment; or
- (b) where with his consent he is nominated for election to the House of Representatives or where he is appointed a Senator.

(4) A member of a Service Commission, other than the Judicial and Legal Service Commission, may be removed from office by the President acting in his discretion for inability to discharge the functions of his office, whether arising from infirmity of mind or body or any other cause, or for misbehaviour.

(5) A member of a Service Commission may not be removed from office except in accordance with the provisions of this section.

First Schedule.

(6) Before entering upon the duties of his office a member of a Service Commission shall take and subscribe the oath of office before the President or a person appointed by the President for the purpose.

Delegation of functions.  
[21 of 1987  
30 of 1994  
10 of 1995  
6 of 2006].

**127.** (1) A Service Commission may, with the approval of the Prime Minister and subject to such conditions as it may think fit, delegate any of its functions other than any power conferred on the Commission by section 129, to any of its members or—

(a) in the case of the Judicial and Legal Service Commission, to a Judge;

(b) in the case of—

(i) the Public Service Commission, to any public officer or in respect of the Regional Health Authorities to the Boards of the Regional Health Authorities established under section 4 of the Regional Health Authorities Act;

(ii) the Teaching Service Commission, to any public officer.

Ch. 29:05.

(c) *(Deleted by Act No. 6 of 2006).*

(2) In this section and in section 129, as regards any matter concerning the holder of any office referred to in section 121(5) or 123(3), a reference to “public officer” includes a reference to a Judge as well as a retired public officer.

Consultation with other Service Commissions.

**128.** Before a Service Commission appoints to an office a person holding or acting in any office, power to make appointments to which is vested by this Constitution in another Service Commission, it shall consult that other Commission.

Powers and procedure of Service Commissions and protection from legal proceedings.  
[43 of 2000  
6 of 2006].

**129.** (1) Subject to subsection (3), a Service Commission may, with the consent of the Prime Minister, by regulation or otherwise regulate its own procedure, including the procedure for consultation with persons with whom it is required by this

Constitution to consult, and confer powers and impose duties on any public officer or, in the case of the holder of an office referred to in section 111(2), a Judge or on any authority of the Government, for the purpose of the discharge of its functions.

(2) At any meeting of a Service Commission three members shall constitute a quorum.

(3) *(Repealed by Act No. 43 of 2000).*

(4) No penalty may be imposed on any public officer except as a result of disciplinary proceedings.

(5) Notwithstanding subsection (4), where an officer is convicted of a criminal charge in any Court and the time allotted for an appeal has elapsed or, if the officer has appealed, the appeal process has been completed or an order has been made in the matter under section 71 of the Summary Courts Act, a Service Commission may consider the relevant proceedings on such charge and if it is of the opinion that the officer ought to be dismissed or subjected to some lesser punishment in respect of the conduct which led to his conviction on the criminal charge or to the making of the order, the Commission may thereupon dismiss or otherwise punish the officer without the institution of any disciplinary proceedings. Ch. 4:20.

(6) In furtherance of subsection (5)—

(a) a certificate of conviction issued by the Court shall be sufficient evidence of an officer's conviction for an offence;

(b) a certified copy of an order made under section 71 of the Summary Courts Act shall be sufficient evidence of the commission by the officer of the offence for which he was charged. Ch. 4:20.

(7) An officer referred to in subsection (5) shall be entitled to show cause why he should not be dismissed from office.

(8) A reference in subsection (5) to a Service Commission also includes a reference to the Commissioner of Police, as the case may be.

## PART II

### PUBLIC SERVICE APPEAL BOARD

**130.** (1) There shall be a Public Service Appeal Board (hereinafter referred to as "the Appeal Board") to which appeals Constitution of Appeal Board. [8 of 1981].

shall lie from such decisions against public officers as are specified in section 132.

(2) The Appeal Board shall consist of a Chairman, appointed by the President after consultation with the Chief Justice and two other members appointed by the President after consultation with the Prime Minister and the Leader of the Opposition.

(2A) The Chairman shall be a Judge or former Judge or a citizen of Trinidad and Tobago who has held office as a Judge of a Court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a Court having jurisdiction in appeals from any such Court.

(3) One member of the Appeal Board shall be a retired public officer.

Tenure of  
office, etc.

**131.** (1) Section 126 (which relates to qualifications for appointment, eligibility for public office and the term and tenure of office of members of Service Commissions) shall apply to members of the Appeal Board as they apply to members of a Service Commission.

First Schedule.

(2) Before entering upon the duties of his office, a member of the Appeal Board shall take and subscribe the oath of office before the President or a person appointed by the President for the purpose.

Appeals in  
disciplinary  
cases.  
[13 of 1982].

**132.** (1) An appeal shall lie to the Appeal Board from any decision of a Service Commission, or of any person to whom the powers of the Commission have been delegated, as a result of disciplinary proceedings brought against a public officer.

(2) An appeal under subsection (1) shall lie to the Appeal Board at the instance of the public officer in respect of whom the decision is made.

(3) The Appeal Board may, where it considers it necessary that further evidence be adduced—

(a) order such evidence to be adduced either before the Board or by affidavit; or

- (b) refer the matter back to the relevant Service Commission to take such evidence and—
  - (i) to adjudicate upon the matter afresh; or
  - (ii) to report for the information of the Appeal Board specific findings of fact.

(3A) Where a matter is referred to a Service Commission under paragraph (b) of subsection (3), the matter, so far as may be practicable or necessary, shall be dealt with as if it were being heard at first instance.

(3B) Upon the conclusion of the hearing of an appeal under this section, the Appeal Board may—

- (a) affirm, modify or amend the decision appealed against; or
- (b) set aside the decision; or
- (c) substitute any other decision which the Service Commission could have made.

(4) Every decision of the Appeal Board shall require the concurrence of the majority of its members.

(5) The Appeal Board may by Regulations make provision for—

- (a) procedure of its own; and
- (b) the procedure in appeals under this section.

(6) With the consent of the Prime Minister, the Appeal Board may by regulation or otherwise confer powers and impose duties on any public officer or any authority of the Government of Trinidad and Tobago for the purpose of the exercise of the functions of the Appeal Board.

(7) This section and sections 130 and 131 shall be, in addition to and not in derogation of any other provisions for review of the decision of any Service Commission.

## PENSIONS

**133.** (1) Subject to section 134, the law applicable to any benefits to which this section applies shall, in relation to any person who has been granted or who is eligible for the grant of such benefits, be that in force on the relevant date or any later law that is not less favourable to that person.

Protection of  
pension rights.



- (2) In this section, “the relevant date” means—
- (a) in relation to any benefits granted before the commencement of this Constitution, the date prescribed by section 100 of the former Constitution;
  - (b) in relation to any benefits granted or to be granted on or after the commencement of this Constitution to or in respect of any person who was a public officer before that date, the commencement of this Constitution;
  - (c) in relation to any benefits granted or to be granted to or in respect of any person who becomes a public officer on or after the commencement of this Constitution, the date on which he becomes a public officer.

(3) Where a person is entitled to exercise an option as to which of two or more laws shall apply in his case, the law specified by him in exercising the option shall, for the purposes of this section, be deemed to be more favourable to him than the other law or laws.

(4) Any benefit to which this section applies, not being a benefit that is a charge on some other public fund of Trinidad and Tobago, shall be a charge on the Consolidated Fund.

(5) A reference in this section to the law applicable to any benefits includes, without prejudice to the generality of the expression, a reference to any law relating to the time at which and the manner in which any person may retire in order to become eligible for those benefits.

(6) For the purposes of this section, service as President or as a Judge shall be deemed to be public service.

(7) This section applies to any benefits payable under any law providing for the grant of pensions, gratuities or compensation to persons who are or have been public officers in respect of their service in the public service, or to the widows, children, dependants or personal representatives of such persons in respect of such service.

Powers of  
Commissions in  
relation to grant  
of pensions, etc.  
[6 of 2006].

**134.** (1) Where under any law an authority has power to withhold, reduce in amount or suspend any benefits to which this section applies, that power shall not be exercised without the approval specified in subsection (2), (3) or (3A).

(2) Subject to subsection (3A), where a person who has been granted benefits, or who is eligible for benefits, in respect of public service was at the time he ceased to be a public officer subject to the jurisdiction of the Judicial and Legal Service Commission, the Police Service Commission or the Teaching Service Commission, the power referred to in subsection (1) shall not be exercised with respect to those benefits without the approval of that Commission.

(3) Subject to subsection (3A), where a person who has been granted benefits, or who is eligible for benefits, in respect of public service was not at the time he ceased to be a public officer subject to the jurisdiction of the Judicial and Legal Service Commission, the Police Service Commission or the Teaching Service Commission, the power referred to in subsection (1) shall not be exercised without the approval of the Public Service Commission.

(3A) Where a person, who is eligible for benefits in respect of public service, was at the time he ceased to be a public officer subject to the jurisdiction of the Commissioner of Police, the power referred to in subsection (1) with respect to those benefits shall not be exercised without the approval of the Commissioner.

(4) No benefits to which this section applies that have been granted to or in respect of any person who is or has been the holder of an office referred to in section 136(12) to (16), or for which any such person or his widow, children, dependants or his personal representatives may be eligible, shall be withheld, reduced in amount or suspended on the ground that that person has been guilty of misbehaviour, unless that person has been removed from his office under this Constitution by reason of such misbehaviour.

(5) For the purposes of this section, service as a Judge shall be deemed to be public service.

(6) This section applies to any benefits payable under any law providing for the grant of pensions, gratuities or compensation to persons who are or have been public officers in respect of their service in the public service or to the widows, children or personal representatives of such persons in respect of such service.

**SPECIAL OFFICES**

Appointments  
of principal  
representatives  
of Trinidad  
and Tobago.

**135.** (1) The President acting in accordance with the advice of the Prime Minister shall have power to appoint persons to the offices to which this section applies and to remove persons from any such office.

(2) Before tendering any advice for the purposes of this section in relation to any person who holds or is acting in any public office other than an office to which this section applies, the Prime Minister shall consult the appropriate Service Commission.

(3) This section applies to the office of—

- (a) Ambassador or High Commissioner; and
- (b) any principal representative of Trinidad and Tobago in any other country.

Tenure of  
special offices.  
[12 of 2007].

**136.** (1) The holder of an office to which this subsection and subsections (3) to (11) apply (in this section referred to as “the officer”) shall vacate his office on attaining the age of sixty-five years or such other age as may be prescribed.

(2) Notwithstanding that he has attained the age at which he is required by or under subsection (1) to vacate his office, a Judge may, with the permission of the President, acting in accordance with the advice of the Chief Justice, continue in office for such period after attaining that age as may be necessary to enable him to deliver judgment or to do any other thing in relation to proceedings that were commenced before him before he attained that age.

(3) Nothing done by the officer shall be invalid by reason only that he has attained the age at which he is required under this section to vacate his office.

(4) The officer shall vacate his office if, with his consent, he is appointed a Senator or nominated for election to the House of Representatives.

(5) The salaries and allowances payable to the holders of the offices to which subsection (1) and subsections (3) to (11) apply or an office referred to in subsections (13) to (16) shall be a charge on the Consolidated Fund.

(6) The salary and allowances payable to the holder of any office to which subsection (1) and subsections (3) to (11) apply or an office referred to in subsections (13) to (16) and his other terms of service shall not be altered to his disadvantage after his appointment and for the purposes of this subsection, in so far as the terms of service of any person depend upon the option of that person, the terms for which he opts shall be taken to be more advantageous to him than any other terms for which he might have opted.

(7) The officer may be removed from office only for inability to discharge the functions of his office whether arising from infirmity of mind or body or any other cause, or for misbehaviour and shall not be so removed except in accordance with the provisions of subsection (10).

(8) A decision that the question of removing the officer from office ought to be investigated may be made at any time—

- (a) in the case of the Ombudsman, by resolution of the House of Representatives; and
- (b) in any other case, by the President either on his own initiative or upon the representation of the Prime Minister.

(9) Where a decision is made under subsection (8) that the question of removing the officer from office ought to be investigated, then—

- (a) the President shall appoint a Tribunal which shall consist of a Chairman and not less than two other members all of whom shall be selected by the President acting in accordance with the advice of the Judicial and Legal Service Commission from among persons who hold or have held office as a Judge of a Court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a Court having jurisdiction in appeals from any such Court; and
- (b) the Tribunal shall inquire into the matter and report on the facts to the President and advise the President whether the officer ought to be removed from office on any of the grounds specified in subsection (7).

(10) Where the question of removing the officer from office is referred to a Tribunal appointed under subsection (9) and the Tribunal advises the President that the officer ought to be removed from office, the President shall, by writing signed by him, remove the officer from office.

(11) Where the question of removing the officer from office has been referred to a Tribunal under subsection (9), the President, after consultation with the Judicial and Legal Service Commission, may suspend the officer from performing the functions of his office and any such suspension may at any time be revoked by the President and shall in any case cease to have effect if the Tribunal advises the President that the officer ought not to be removed from office.

(12) Subsection (1) and subsections (3) to (11) apply to the office of Auditor General and to such other offices as may be prescribed.

(13) Subsections (1) to (6) apply to the office of Judge.

(14) Subsection (1) and subsections (3) to (6) apply to the office of Director of Public Prosecutions, Chief Parliamentary Counsel and Solicitor General.

(15) Subsections (5) to (11) apply to the office of Ombudsman, a member of the Elections and Boundaries Commission, a member of the Integrity Commission, a member of a Service Commission other than the Police Service Commission, a member of the Salaries Review Commission and to such other offices as may be prescribed.

(16) Subsections (5) and (6) apply to the Police Service Commission and the office of President.

Removal from  
office of Judge.

**137.** (1) A Judge may be removed from office only for inability to perform the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour, and shall not be so removed except in accordance with the provisions of this section.

(2) A Judge shall be removed from office by the President where the question of removal of that Judge has been referred by

the President to the Judicial Committee and the Judicial Committee has advised the President that the Judge ought to be removed from office for such inability or for misbehaviour.

(3) Where the Prime Minister, in the case of the Chief Justice, or the Judicial and Legal Service Commission, in the case of a Judge other than the Chief Justice, represents to the President that the question of removing a Judge under this section ought to be investigated, then—

- (a) the President shall appoint a tribunal which shall consist of a Chairman and not less than two other members, selected by the President acting in accordance with the advice of the Prime Minister in the case of the Chief Justice or the Prime Minister after consultation with the Judicial and Legal Service Commission in the case of a Judge, from among persons who hold or have held office as a Judge of a Court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a Court having jurisdiction in appeals from any such Court;
- (b) the tribunal shall enquire into the matter and report on the facts thereof to the President and recommend to the President whether he should refer the question of removal of that Judge from office to the Judicial Committee; and
- (c) where the tribunal so recommends, the President shall refer the question accordingly.

(4) Where the question of removing a Judge from office has been referred to a tribunal under subsection (3), the President, acting in accordance with the advice of the Prime Minister in the case of the Chief Justice or the Chief Justice in the case of a Judge other than the Chief Justice, may suspend the Judge from performing the functions of his office, and any such suspension may at any time be revoked by the President, acting in accordance with the advice of the Prime Minister in

the case of the Chief Justice or the Chief Justice in the case of a Judge other than the Chief Justice, and shall in any case cease to have effect—

- (a) where the tribunal recommends to the President that he should not refer the question of removal of the Judge from office to the Judicial Committee; or
- (b) where the Judicial Committee advises the President that the Judge ought not to be removed from office.

#### CHAPTER 10

#### THE INTEGRITY COMMISSION

The Integrity  
Commission.  
[81 of 2000  
89 of 2000].

**138.** (1) There shall be an Integrity Commission (in this section and in section 139 referred to as “the Commission”) for Trinidad and Tobago consisting of such number of members, qualified and appointed in such manner and holding office upon such tenure as may be prescribed.

- (2) The Commission shall be charged with the duty of—
  - (a) receiving, from time to time, declarations in writing of the assets, liabilities and income of Members of the House of Representatives, Ministers of Government, Parliamentary Secretaries, Senators, Judges, Magistrates, Permanent Secretaries, Chief Technical Officers, Members of the Tobago House of Assembly, Members of Municipalities, Members of Local Government Authorities and Members of the Boards of all Statutory Bodies, State Enterprises and the holders of such other offices as may be prescribed;
  - (b) the supervision of all matters connected therewith as may be prescribed;
  - (c) the supervision and monitoring of standards of ethical conduct prescribed by Parliament to be observed by the holders of offices referred to in

paragraph (a), as well as Members of the Diplomatic Service, Advisers to the Government and any person appointed by a Service Commission or the Statutory Authorities' Service Commission;

- (d) the monitoring and investigating of conduct, practices and procedures which are dishonest or corrupt.

**139.** Subject to this Constitution, Parliament may make provision for—

Power to make laws relating to Commission.  
[81 of 2000].

- (a) the procedure in accordance with which the Commission is to perform its functions;
- (b) conferring such powers on the Commission and imposing such duties on persons concerned as are necessary to enable the Commission to carry out effectively the purposes of section 138;
- (c) the proper custody of declarations and other documents delivered to the Commission;
- (d) the maintenance of secrecy in respect of all information received by the Commission in the course of its duties with respect to the assets, liabilities and income of any member of Parliament and any other person;
- (da) the preparation by the Commission, of a Register of Interests for public inspection; and
- (e) generally to give effect to the provisions of section 138.

#### CHAPTER 11

#### THE SALARIES REVIEW COMMISSION

**140.** (1) There shall be a Salaries Review Commission which shall consist of a Chairman and four other members all of whom shall be appointed by the President after consultation with the Prime Minister and the Leader of the Opposition.

Constitution of Commission.

(2) The members of the Salaries Review Commission shall hold office in accordance with section 126.



Functions of  
Commission.  
[30 of 1979].

**141.** (1) The Salaries Review Commission shall from time to time with the approval of the President review the salaries and other conditions of service of the President, the holders of offices referred to in section 136(12) to (15), members of Parliament, including Ministers of Government and Parliamentary Secretaries, and the holders of such other offices as may be prescribed.

(2) The report of the Salaries Review Commission concerning any review of salaries or other conditions of service, or both, shall be submitted to the President who shall forward a copy thereof to the Prime Minister for presentation to the Cabinet and for laying, as soon as possible thereafter, on the table of each House.

#### CHAPTER 11A

#### THE TOBAGO HOUSE OF ASSEMBLY

Tobago House  
of Assembly.  
[39 of 1996].

**141A.** (1) There shall be an Assembly for Tobago to be called “the Tobago House of Assembly”, in this Chapter referred to as “the Assembly”.

(2) The Assembly shall consist of a Presiding Officer and such other members qualified and appointed in such manner and holding office upon such terms and conditions as may be prescribed.

Powers of the  
Assembly.  
[39 of 1996].

**141B.** Subject to this Constitution, the Assembly shall have such powers and functions in relation to Tobago as may be prescribed.

Executive  
Council.  
[39 of 1996].

**141C.** (1) There shall be an Executive Council of the Assembly consisting of a Chief Secretary and such number of Secretaries as may be prescribed, to be appointed in such manner as may be prescribed.

(2) The functions of the Chief Secretary and other Secretaries shall be prescribed.

Fund.  
[39 of 1996].

**141D.** There is established a fund to be called “the Tobago House of Assembly Fund” which shall consist of—

- (a) such monies as may be appropriated by Parliament for the use of the Assembly; and

- (b) such other monies as the Assembly may lawfully collect.

## CHAPTER 12

## MISCELLANEOUS AND GENERAL

**142.** (1) Subject to the provisions of this Constitution, any person who is appointed or elected to or otherwise selected for any office established by this Constitution, including the office of Prime Minister or other Minister, or Parliamentary Secretary, may resign from that office by writing under his hand addressed to the person or authority by whom he was appointed, elected or selected. Resignations.

(2) The resignation of any person from any such office shall take effect when the writing signifying the resignation is received by the person or authority to whom it is addressed or by any person authorised by that person or authority to receive it.

**143.** (1) Where any person has vacated any office as established by this Constitution, including the office of Prime Minister or other Minister, or Parliamentary Secretary, he may, if qualified, again be appointed, elected or otherwise selected to hold that office in accordance with the provisions of this Constitution. Reappointments,  
etc.

(2) Where by this Constitution a power is conferred upon any person or authority to make any appointment to any public office, a person may be appointed to that office notwithstanding that some other person may be holding that office, when that other person is on leave of absence pending relinquishment of the office; and where two or more persons are holding the same office by reason of an appointment made in pursuance of this subsection then for the purposes of any function conferred upon the holder of that office the person last appointed shall be deemed to be the sole holder of the office.

**FIRST SCHEDULE**

Section 37.

**FORMS OF OATH (OR AFFIRMATION) OF  
ALLEGIANCE AND OF OFFICE**

**FORM OF OATH (AFFIRMATION) FOR THE PRESIDENT**

I, *A.B.*, do swear by ..... (solemnly affirm) that I will bear true faith and allegiance to Trinidad and Tobago and to the best of my ability preserve and defend the Constitution and the law, that I will conscientiously and impartially discharge the functions of President and will devote myself to the service and well-being of the people of Trinidad and Tobago.

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Section 84.

**FORM OF OATH (AFFIRMATION) FOR A MINISTER OR  
PARLIAMENTARY SECRETARY**

I, *A.B.*, do swear by ..... (solemnly affirm) that I will bear true faith and allegiance to Trinidad and Tobago and will uphold the Constitution and the law, that I will conscientiously, impartially and to the best of my ability discharge my duties as ..... and do right to all manner of people without fear or favour, affection or ill-will.

Section 57.

**FORM OF OATH (AFFIRMATION) FOR A MEMBER OF THE HOUSE  
OF REPRESENTATIVES OR THE SENATE**

I, *A.B.*, having been elected/appointed a member of Parliament do swear by ..... (solemnly affirm) that I will bear true faith and allegiance to Trinidad and Tobago, will uphold the Constitution and the law, and will conscientiously and impartially discharge the responsibilities to the people of Trinidad and Tobago upon which I am about to enter.

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Sections 3, 91,  
107, 117, 126,  
131.

**FORM OF OATH (AFFIRMATION) FOR THE OMBUDSMAN, A  
JUDGE, THE AUDITOR GENERAL, A MEMBER OF A SERVICE  
COMMISSION OR A MEMBER OF THE PUBLIC SERVICE  
APPEAL BOARD**

I, *A.B.*, having been appointed ..... of Trinidad and Tobago do swear by ..... (solemnly affirm) that I will bear true faith and allegiance to Trinidad and Tobago and will uphold the Constitution and the law, that I will conscientiously, impartially and to the best of my knowledge, judgment and ability discharge the functions of my office and do right to all manner of people after the laws and usages of Trinidad and Tobago without fear or favour, affection or ill-will.

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**SECOND SCHEDULE**

[Section 72].

**BOUNDARIES OF CONSTITUENCIES**

1. These rules are the Delimitation of Constituencies Rules in accordance with which the constituencies of Trinidad and Tobago are to be delimited under section 72(1).

2. Subject to paragraph 3, the electorate shall so far as is practicable be equal in all constituencies.

3. The number of constituencies in Tobago shall not be less than two.

4. In Trinidad and in Tobago, respectively, the electorate in any constituency shall not be more than one hundred and ten per cent nor be less than ninety per cent of the total electorate of the island divided by the number of constituencies in that island.

5. Special attention shall be paid to the needs of sparsely populated areas which on account of size, isolation or inadequacy of communications cannot adequately be represented by a single member of Parliament.

6. Natural boundaries such as major highways and rivers shall be used wherever possible.

7. In this Schedule “Trinidad” means the Island of Trinidad and its offshore islands, and “Tobago” means the Island of Tobago and its offshore islands.

**THIRD SCHEDULE**

[Section  
94(4)(b)].

**MATTERS NOT SUBJECT TO INVESTIGATION**

1. Action taken in matters certified by the Attorney General to affect relations or dealings between the Government of Trinidad and Tobago and any other Government or any International Organisation.

2. Action taken in any country or territory outside Trinidad and Tobago by or on behalf of any officer representing or acting under the authority of the Government of Trinidad and Tobago.

3. Action taken under any law relating to extradition or fugitive offenders.

4. Action taken for the purposes of investigating crime or of protecting the security of the State.

5. The commencement or conduct of civil or criminal proceedings before any Court in Trinidad and Tobago or before any international Court or tribunal.

6. Any exercise of the power of pardon.
  7. Action taken in matters relating to contractual or other commercial transactions, being transactions of a department of Government or an authority to which section 93 applies not being transactions for or relating to—
    - (a) the acquisition of land compulsorily or in circumstances in which it could be acquired compulsorily;
    - (b) the disposal as surplus of land acquired compulsorily or in circumstances in which it could be acquired compulsorily.
  8. Action taken in respect of appointments or removals, pay, discipline, superannuation or other personnel matters in relation to service in any office or employment in the public service or under any authority as may be prescribed.
  9. Any matter relating to any person who is or was a member of the armed forces of Trinidad and Tobago in so far as the matter relates to—
    - (a) the terms and conditions of service as such member; or
    - (b) any order, command, penalty or punishment given to or affecting him in his capacity as such member.
  10. Any action which by virtue of any provision of this Constitution may not be enquired into by any Court.
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SUBSIDIARY LEGISLATION

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*Note on Orders made under section 5(2)*

Orders made under section 5(2) and under the corresponding provisions of former Constitutions comprised provisions of two categories—(a) specific amendments of various written laws, and (b) general provisions for the adaptation of existing laws. The former have been incorporated in the written laws amended and are omitted from the Orders published. Only those provisions of the Orders that constitute general adaptation provisions and that are still relevant are published below. The gaps are indicated by dotted lines.

The Orders made under the **present** and the **previous** three Constitutions are as follows:

**Present Constitution**—GN 136/1976 and 110/1977.

**Previous Constitutions**—

- (A) The Trinidad and Tobago (Constitution) Order 1959 (1959 No. 1044, U.K.)—GN 109/1959.  
*(This Order was repealed by GN 8/1962 and 97/1963).*
  - (B) The Trinidad and Tobago (Constitution) Order 1961 (1961 No. 1192, U.K.)—GN 172/1961, 176/1961, 52/1962, **5/1962**, **44/1962**, 8/1962, 11/1962 and 38/1962.  
*(GN 5/1962 was repealed by GN 44/1962 (before Independence); and, all the remaining Orders except GN 44/1962 were repealed by GN 8/1962 (after Independence)).*
  - (C) The Trinidad and Tobago (Constitution) Order 1962 (1962 No. 1872, U.K.)—GN 8/1962 and 97/1963.
-

**EXISTING LAWS AMENDMENT ORDER**

8/1962.

*made under section 4 of the Trinidad and Tobago (Constitution)  
Order-in-Council 1962*

**1.** This Order may be cited as the Existing Laws Amendment Order 1962. Citation.

. . . . .  
. . . . .

**3. (1)** Subject to this Order and the Constitution, a reference in any existing law to the Governor (meaning thereby a Governor of the former Colony of Trinidad and Tobago) including a reference to the Governor in Council or the Governor in Executive Council, shall be read and construed as reference to the Governor-General. References to Governor to be construed as references to Governor-General.

**(2)** For the avoidance of doubt it is hereby declared that—

- (a)* where immediately before the commencement of this Order a function was, under an existing law, expressed to be exercisable by the Governor acting in his discretion or absolute discretion, then unless that function is, under the Constitution, expressed to be exercisable by the Governor-General acting in accordance with his own deliberate judgment or in accordance with the advice of any person or authority other than the Cabinet, that function is exercisable by the Governor-General acting in accordance with the advice of the Cabinet or of a Minister acting under the General authority of the Cabinet;
- (b)* where immediately before the commencement of this Order a function was, under an existing law, expressed to be exercisable by the Governor or any person or authority and that function is, under the Constitution, expressed to be exercisable by some other person or authority, then that function is exercisable by that other person or authority in accordance with the Constitution.

LAWS OF TRINIDAD AND TOBAGO

136

Chap. 1:01

*Constitution of the Republic  
of Trinidad and Tobago*

[Subsidiary]

*Existing Laws Amendment Order*

Reference to  
Secretary of  
State to cease to  
have effect or to  
refer to  
Governor-  
General.

4. (1) Where it is provided in any existing law that any matter or thing shall be reported to a Secretary of State or that a Secretary of State shall be consulted that provision shall cease to have effect.

(2) Where it is provided in any existing law that any matter or thing shall require the approval or consent of a Secretary of State, then—

- (a) if the matter or thing for which such approval or consent is required would, had it been done or omitted before the commencement of this Order, have been an act or omission of the Governor, the provision shall cease to have effect; and
- (b) in any other case, such provision shall have effect as if that matter or thing required the approval or consent of the Governor-General.

(3) Where it is provided in any existing law that any matter or thing not included in subsections (1) and (2) is required to be or may be done by a Secretary of State, such provision shall have effect as if that matter or thing were required to be or might be done by the Governor-General.

(4) Nothing in this section shall apply to any such matter or thing done or omitted in respect of, or in relation to the United Kingdom or any dependency thereof.

. . . . .  
. . . . .

Power of  
Governor-  
General to  
make subsidiary  
legislation.

6. (1) Where under any Act of the Parliament of the United Kingdom which extends expressly or by necessary implication or is applied to Trinidad and Tobago as part of the law thereof, or under any Imperial Order in Council which applies to Trinidad and Tobago as part of the law thereof (being in either case an existing law), power to make subsidiary legislation is given to a person or authority other than a person or authority in or under the Government, that power may be exercised by the Governor-General.

(2) In this section “subsidiary legislation” means any regulation, rule, bye-law, order, scheme or other instrument having legislative effect.



LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

**Chap. 1:01**

137

*Existing Laws Amendment Order*

[Subsidiary]

**EXISTING LAWS AMENDMENT ORDER**

97/1963.

*made under section 4 of the Trinidad and Tobago (Constitution)  
Order-in-Council 1962*

1. (1) This Order may be cited as the Existing Laws Citation.  
Amendment Order 1963, and shall be read as one with the  
Existing Laws Amendment Order 1962 (in this Order referred to  
as “the previous Order”).

. . . . .  
. . . . .

5. Where in any existing law it is provided that—

Charge on  
Consolidated  
Fund.

- (a) any expenditure is a charge on the public funds  
of the former Colony of Trinidad and Tobago;
- (b) any money for meeting expenditure shall be  
appropriated out of the said public funds; or
- (c) any person is entitled to be paid or to recover  
from the said funds any expenditure by him or  
defrayed by him pursuant to any law,

that provision shall have effect as if it charged such expenditure  
on the Consolidated Fund.

6. (1) Subject to this Order, for any reference in an existing Legislative  
law to a legislature of the former Colony of Trinidad and Tobago matters.  
there is substituted a reference to Parliament; and for any  
reference to a chamber of such legislature there is substituted a  
reference to the corresponding chamber of Parliament.

(2) Subject to subsection (3), where under any existing  
law such a legislature had power to approve, affirm, confirm,  
amend or do any matter or thing by resolution, that power may be  
exercised by a resolution of each chamber of Parliament or,  
where that power was exercisable by a single chamber of such  
legislature, of the corresponding chamber of Parliament; and  
such law shall be construed accordingly.

(3) Where under any existing law such a legislature had  
power to annul or revoke any matter or thing by resolution, that

LAWS OF TRINIDAD AND TOBAGO

138

Chap. 1:01

*Constitution of the Republic  
of Trinidad and Tobago*

[Subsidiary]

*Existing Laws Amendment Order*

power may, in like manner, be exercised by both chambers of Parliament or, where that power was exercisable by a single chamber of such legislature, by the corresponding chamber of Parliament; and such law shall be construed accordingly.

(4) Where under any existing law any matter or thing was required to be submitted to or laid before such a legislature, then that matter or thing shall in like manner, be submitted to or laid before each chamber of Parliament or, where the matter or thing was required to be submitted to or laid before a single chamber of such legislature, the corresponding chamber of Parliament and such law shall be construed accordingly.

(5) The Legislative Council (Powers and Privileges) Ordinance shall be cited as the House of Representatives (Powers and Privileges) Ordinance and—

- (a) for any reference to the Legislative Council therein and in the long title thereto, there is substituted a reference to the House of Representatives, and for any reference to the Speaker, Deputy Speaker or other member or officer of the Council, there is substituted a reference to the Speaker, Deputy Speaker or other corresponding member or officer of the House;
- (b) for any reference to the Standing Orders of the Legislative Council there is substituted a reference to the Standing Orders of the House,

and until otherwise provided by Parliament, that Ordinance as amended by this Order shall, *mutatis mutandis*, apply in relation to the Senate and to the President, Deputy President and other members and officers thereof as it applies in relation to the House of Representatives and to the Speaker, Deputy Speaker and other members and officers thereof.

. . . . .  
. . . . .

LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

**Chap. 1:01**

139

*Existing Laws Amendment Order*

[Subsidiary]

7. In an existing law—

Administrative  
matters.

- (a) for any reference to the Executive Council there is substituted a reference to the Cabinet, for any reference to a member of the Executive Council there is substituted a reference to a member of the Cabinet and for any reference to the Clerk to the Executive Council there is substituted a reference to the Secretary to the Cabinet;
- (b) for any reference to the Premier or the Chief Minister there is substituted a reference to the Prime Minister;
- (c) for any reference to the Colony or the Territory (meaning thereby the former Colony of Trinidad and Tobago) there is substituted a reference to Trinidad and Tobago;
- (d) for any reference to the Director of Audit there is substituted a reference to the Auditor General.

LAWS OF TRINIDAD AND TOBAGO

140                      **Chap. 1:01**                      *Constitution of the Republic  
of Trinidad and Tobago*

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[Subsidiary]

136/1976.

**EXISTING LAWS MODIFICATION ORDER**

*made under section 5(2) of the Constitution of the Republic of  
Trinidad and Tobago Act 1976*

Citation.

**1.** This Order may be cited as the Existing Laws  
Modification Order 1976.

. . . . .  
. . . . .

Reference to  
Public Seal.

**5.** A reference in any enactment to the Public Seal of  
Trinidad and Tobago shall be read and construed so as to include  
a reference to the Seal of the President of the Republic of  
Trinidad and Tobago.

Reference to  
Queen's  
Counsel.

**6.** Any reference to Her Majesty's Counsel or Queen's  
Counsel whichever expression is used shall be read and  
construed as a reference to Senior Counsel in the legal profession  
of the Republic of Trinidad and Tobago.

Adaptation of  
reference to  
Attorney  
General.

**7. (1)** A reference to the Attorney General in any  
enactment respecting his functions in criminal proceedings  
shall be read and construed as a reference to the Director of  
Public Prosecutions.

. . . . .  
. . . . .

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**LAWS OF TRINIDAD AND TOBAGO**

*Constitution of the Republic  
of Trinidad and Tobago*

**Chap. 1:01**

141

[Subsidiary]

**LETTERS PATENT**

[110/1983  
121/2008  
165/2011].

establishing the

**DISTINGUISHED SOCIETY OF TRINIDAD AND TOBAGO**

*\*deemed to be issued under section 6 of the Act*

Effective:

30th August 1969;

Dated:

26th August 1969

TO ALL TO WHOM these Presents shall come or whom the same  
may in anywise concern,

**GREETING:**

WHEREAS by and with the advice of the Cabinet a society of honour known by and having the name, style and designation of the “Order of the Trinity” was established and constituted on the 26th day of August, 1969 and came into effect on the 30th day of August, 1969, for the purpose of according recognition to citizens of Trinidad and Tobago and other persons for distinguished or meritorious service or for gallantry:

And whereas it was ordained, directed and appointed by and with the advice of the Cabinet that the said Order consist of the President of Trinidad and Tobago and such members together with honorary members as the President shall in accordance with the Constitution of the Order from time to time appoint:

And whereas it was further ordained, directed and appointed that the said Order be governed by the Constitution of the Order of the Trinity set out in the Schedule:

Now let it be known that it is hereby ordained, directed and appointed by and with the advice of the Cabinet that the society of honour known as the “Order of the Trinity” shall henceforth be known as the “Distinguished Society of Trinidad and Tobago”:

And it is further ordained, directed and appointed by and with the advice of the Cabinet that the “Trinity Cross of the Order of the Trinity” shall henceforth be known as the “Order of the Republic of Trinidad and Tobago”.

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\*These Letters Patent were originally issued by Command of QUEEN ELIZABETH The Second, then Queen of Trinidad and Tobago, and have been modified in accordance with section 5 of the Constitution of the Republic of Trinidad and Tobago Act so as to be brought into accord with the Act (and the Constitution).

LAWS OF TRINIDAD AND TOBAGO

142

Chap. 1:01

*Constitution of the Republic  
of Trinidad and Tobago*

[Subsidiary]

*Letters Patent establishing the Distinguished Society of Trinidad and Tobago*

SCHEDULE

THE CONSTITUTION OF THE DISTINGUISHED SOCIETY OF  
TRINIDAD AND TOBAGO

THE DISTINGUISHED SOCIETY OF TRINIDAD AND TOBAGO

1. (1) The Distinguished Society of Trinidad and Tobago, hereinafter called “the Society” shall consist of the President of Trinidad and Tobago and the members and honorary members of the Society.

(2) Every citizen of Trinidad and Tobago to whom the Order of the Republic of Trinidad and Tobago, the Chaconia Medal, the Humming Bird Medal, the Medal of Merit or the Medal for the Development of Women is awarded is a Member of the Society.

(3) Every person other than a citizen of Trinidad and Tobago to whom the Order of the Republic of Trinidad and Tobago, the Chaconia Medal, the Humming Bird Medal or the Medal for the Development of Women is awarded on an honorary basis is an Honorary Member of the Society.

2. The President of Trinidad and Tobago shall, by virtue of that Office, be the Chancellor of the Society.

3. The Chancellor is charged with the administration of the Society.

4. The Secretary to the President shall be Secretary of the Society and shall maintain the records of the Society, arrange for investitures and perform such other functions in respect of the Society as the President may require him to perform.

5. The President may appoint such other officials for the Society as may be necessary.

[110/1983].

6. (1) There shall be a standing National Awards Committee for the Society hereinafter called “the Committee” comprising—

- (a) the Chief Justice of Trinidad and Tobago who shall be the Chairman of the Committee;
- (b) the Chairman of the Public Service Commission;
- (c) the Chairman of the Teaching Service Commission;
- (d) the Chairman of the Elections and Boundaries Commission;
- (e) a Senior Public Officer appointed by the Prime Minister;
- (f) two persons representative of the General Public appointed by the Prime Minister. Such appointment shall be for a period not exceeding three years but a person whose appointment so expires shall be eligible for reappointment.

(2) The Committee shall have a Secretary who shall be appointed by the Prime Minister.

## LAWS OF TRINIDAD AND TOBAGO

### *Constitution of the Republic of Trinidad and Tobago*

**Chap. 1:01**

143

*Letters Patent establishing the Distinguished Society of Trinidad and Tobago*

[Subsidiary]

7. A person is not a member or honorary member of the Society by reason only of his being a member of the Committee or an official for the Society.

8. The Committee shall—

- (a) consider nominations of persons of merit who are citizens of Trinidad and Tobago together with recommendations and supporting material received by the Committee for awards of the Order of the Republic of Trinidad and Tobago, the Chaconia Medal, the Humming Bird Medal, the Medal of Merit or the Medal for the Development of Women;
- (b) compile separate lists in respect of the Order of the Republic of Trinidad and Tobago and of each medal of those nominees to whom an award may be made;
- (c) forward to the Prime Minister the lists compiled pursuant to paragraph (b) together with its recommendations respecting awards;
- (d) advise the President in respect of any other matters concerning the Society referred to it by the President for consideration.

9. Any person or organisation may submit to the Committee for its consideration a nomination of a citizen of Trinidad and Tobago for an award of the Order of the Republic of Trinidad and Tobago, the Chaconia Medal, the Humming Bird Medal, the Medal of Merit or the Medal for the Development of Women.

10. (1) Awards of the Order of the Republic of Trinidad and Tobago, the Chaconia Medal, the Humming Bird Medal and the Medal of Merit shall be made by Instrument signed by the President and sealed with the Seal of the Society and shall have effect from the date of the affixing of the Seal unless another effective date is specified in the Instrument.

(2) The power conferred on the President under subsection (1) shall be exercised by him on the advice of the Prime Minister given after consideration of the recommendation of the Advisory Committee.

(3) Only citizens of Trinidad and Tobago are eligible for the award of the Medal of Merit.

(4) Only persons other than citizens of Trinidad and Tobago are eligible for the award of the Order of the Republic of Trinidad and Tobago, the Chaconia Medal or the Humming Bird Medal on an honorary basis.

(5) Any distinguished citizen of a country other than Trinidad and Tobago whom Trinidad and Tobago desires to honour may be awarded the Order of the Republic of Trinidad and Tobago, the Chaconia Medal or the Humming Bird Medal on an honorary basis.

(6) Awards of the Order of the Republic of Trinidad and Tobago, the Chaconia Medal and the Humming Bird Medal to persons other than citizens of Trinidad and Tobago shall be made on the advice of the Prime Minister.

## LAWS OF TRINIDAD AND TOBAGO

144

### Chap. 1:01

#### *Constitution of the Republic of Trinidad and Tobago*

[Subsidiary]

*Letters Patent establishing the Distinguished Society of Trinidad and Tobago*

#### THE ORDER OF THE REPUBLIC OF TRINIDAD AND TOBAGO

11. (1) The Order of the Republic of Trinidad and Tobago of the Society of the Trinity herein called the “Order of the Republic of Trinidad and Tobago” may be awarded in connection with the Society to any person who has rendered distinguished and outstanding service to Trinidad and Tobago.

(2) The Order of the Republic of Trinidad and Tobago may be awarded posthumously but a deceased recipient does not become a member of the Society.

(3) The Order of the Republic of Trinidad and Tobago shall be awarded only in Gold.

(4) The President may award the Order of the Republic of Trinidad and Tobago to a maximum of—

- (a) ten persons in 1969;
- (b) five persons in any year thereafter.

#### THE CHACONIA MEDAL

12. (1) The Chaconia Medal of the Distinguished Society of Trinidad and Tobago herein called the “Chaconia Medal” may be awarded in connection with the Society to any person who has performed long and meritorious service to Trinidad and Tobago tending to promote the national welfare or strengthen the community spirit.

(2) The Chaconia Medal may be awarded posthumously but a deceased recipient does not become a member of the Society.

(3) The Chaconia Medal may be awarded in Gold, Silver or Bronze in accordance with the Committee’s assessment of the value of the recipient’s service to Trinidad and Tobago.

(4) The President may award the Chaconia Medal to a maximum of—

- (a) fifteen persons in 1969;
- (b) ten persons in any year thereafter.

#### THE HUMMING BIRD MEDAL

13. (1) The Humming Bird Medal of the Distinguished Society of Trinidad and Tobago herein called the “Humming Bird Medal” may be awarded in connection with the Society to any person who has rendered loyal and devoted service beneficial to Trinidad and Tobago in any field of human endeavour or for gallantry or other humane action.

(2) The Humming Bird Medal may be awarded posthumously but a deceased recipient does not become a member of the Society.

(3) The Humming Bird Medal may be awarded in Gold, Silver or Bronze in accordance with the Committee’s assessment of the level of the service rendered by the recipient.

(4) The President may award the Humming Bird Medal for loyal and devoted service to a maximum of—

- (a) twenty persons in 1969;
- (b) fifteen persons in any year thereafter.



## LAWS OF TRINIDAD AND TOBAGO

### *Constitution of the Republic of Trinidad and Tobago*

**Chap. 1:01**

145

*Letters Patent establishing the Distinguished Society of Trinidad and Tobago*

[Subsidiary]

#### **MEDAL OF MERIT**

14. (1) The Public Service Medal of Merit of the Distinguished Society of Trinidad and Tobago herein referred to as the “Medal of Merit” may be awarded for outstanding and meritorious service in the Public Services, the Defence and Protective Services or service with Statutory Bodies performing national functions.

(2) Only citizens of Trinidad and Tobago are eligible for the award of the Medal of Merit.

(3) The Medal of Merit may be awarded posthumously but a deceased recipient does not become a member of the Society.

(4) The Medal of Merit may be awarded in Gold, Silver or Bronze according to the length or merit of the services rendered as assessed by the Committee.

#### **MEDAL FOR THE DEVELOPMENT OF WOMEN**

14A. (1) The Medal for the Development of Women of the Distinguished Society of Trinidad and Tobago herein called “the Medal for the Development of Women” may be awarded to any person for outstanding contribution to the development of women’s rights and issues. 165/2011.

(2) The Medal for the Development of Women may be awarded posthumously but a deceased recipient does not become a member of the Society.

(3) The Medal for the Development of Women may be awarded in Gold, Silver or Bronze according to the length or merit of the contribution made as assessed by the Committee.

(4) The President may award the Medal for the Development of Women to a maximum of ten persons in any year.

#### **TERMINATION OF MEMBERSHIP IN THE SOCIETY**

15. A person ceases to be a member or honorary member of the Society upon—

- (a) his death;
- (b) his resignation from the Society which shall have effect on the date on which a resignation in writing is accepted by the President;
- (c) the revocation of his award by the President; provided that an award of the Humming Bird Medal for gallantry or humane action shall not be revoked.

#### **DESIGNATIONS**

16. (1) A person to whom the Order of the Republic of Trinidad and Tobago is awarded is entitled to—

- (a) have the letters “O.R.T.T.” placed after his name on all occasions when the use of such letters is customary; and
- (b) wear as a decoration the insignia prescribed by the President for recipients of the Order of the Republic of Trinidad and Tobago.

## LAWS OF TRINIDAD AND TOBAGO

146

### Chap. 1:01

#### *Constitution of the Republic of Trinidad and Tobago*

[Subsidiary]

*Letters Patent establishing the Distinguished Society of Trinidad and Tobago*

- (2) A person to whom the Chaconia Medal is awarded is entitled to—
  - (a) have the letters “C.M.T.T.” placed after his name on all occasions when the use of such letters is customary; and
  - (b) wear as a decoration the insignia prescribed by the President for recipients of the Chaconia Medal.
- (3) A person to whom the Humming Bird Medal is awarded is entitled to—
  - (a) have the letters “H.B.M.” placed after his name on all occasions when the use of such letters is customary; and
  - (b) wear as a decoration the insignia prescribed by the President for recipients of the Humming Bird Medal.
- (4) A person to whom the Medal of Merit is awarded is entitled to—
  - (a) have the letters “M.O.M.” placed after his name on all occasions when the use of such letters is customary; and
  - (b) wear as a decoration the insignia prescribed by the President for recipients of the Medal of Merit.
- (5) A person to whom the Medal for the Development of Women is awarded is entitled to—
  - (a) have the letters “M.D.W.” placed after his name on all occasions when the use of such letters is customary; and
  - (b) wear as a decoration the insignia prescribed by the President for recipients of the Medal for the Development of Women.

17. (1) When worn in Trinidad and Tobago by a citizen of Trinidad and Tobago the Order of the Republic of Trinidad and Tobago shall be worn suspended from the neck and takes precedence of all other decorations.

(2) When worn in Trinidad and Tobago by a citizen of Trinidad and Tobago the Chaconia Medal shall be worn immediately after the Order of the Republic of Trinidad and Tobago and in front of all other decorations.

(3) When worn in Trinidad and Tobago by a citizen of Trinidad and Tobago the Humming Bird Medal shall be worn immediately after the Chaconia Medal and in front of all other decorations.

(4) When worn in Trinidad and Tobago the Medal of Merit shall be worn immediately after the Humming Bird Medal and in front of all other decorations.

(5) When worn in Trinidad and Tobago the Medal for the Development of Women shall be worn immediately after the Medal of Merit and in front of all other decorations.

\*18. Acting in accordance with the advice of the Prime Minister, the President may, where in any year exceptional circumstances so warrant, make awards of the Order of the Republic of Trinidad and Tobago, the Chaconia Medal or the Humming Bird Medal in excess of the maximum number prescribed, respectively, in clause 11(4), 12(4), 13(4) or 14A(4).

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\*This clause was inserted in pursuance of a Cabinet decision set out in Cabinet Minute No. 3700(1) of 30th August, 1979.

**ELECTORAL COLLEGE REGULATIONS**

ARRANGEMENT OF REGULATIONS

**REGULATION**

1. Citation.
2. Interpretation.
3. Application.
4. Nomination of candidates.
5. Decisions as to validity of nomination papers.
6. Withdrawal of candidate.
7. Death of candidate.
8. Electoral College to meet on election day whether election contested or not.
9. Mode of election.
10. Ballot papers.
11. Officers of the Electoral College—functions and duties.
12. Taking of the ballot.
13. Secrecy of ballot.
14. Manner of voting.
15. Spoiled ballots.
16. Closing of poll.
17. Procedure by Clerk after closing of poll.
18. Declaration of election.
19. Report of proceedings.
20. Adjournments.
21. Keeping of records.
22. Amendments.
23. Speaker to regulate procedure.

**SCHEDULE.**

**LAWS OF TRINIDAD AND TOBAGO**

*Constitution of the Republic  
of Trinidad and Tobago*

148

**Chap. 1:01**

[Subsidiary]

187/1976.

**ELECTORAL COLLEGE REGULATIONS**

*made under section 28(4) of the Constitution*

- Citation.           **1.** These Regulations may be cited as the Electoral College Regulations.
- Interpretation.   **2.** In these Regulations—  
“ballot box” means a receptacle for the reception of ballots cast at an election;  
“ballot paper” means a ballot paper prepared in accordance with these Regulations;  
“Clerk” means the Clerk of the House of Representatives and includes the Clerk of the Senate so acting on the direction of the Speaker;  
“election” means an election for President under section 245 of the Constitution;  
“member” means a member of the Electoral College.
- Application.       **3.** These Regulations shall have effect for the purpose of holding an election for President under section 26 of the Constitution, and any other meeting of the Electoral College.
- Nomination of candidates.  
Form 1.  
Schedule.       **4.** (1) Every candidate for election shall be nominated by a separate nomination paper in the form set out as Form 1 in the Schedule.  
  
                          (2) The nomination paper shall state the full name and address of the candidate and his proposers, the occupation of the candidate and the constituencies represented by his proposers.
- Decisions as to validity of nomination papers.   **5.** Where a nomination paper is delivered to the Speaker in accordance with section 30 of the Constitution the candidate shall be deemed to stand nominated unless proof is given to the satisfaction of the Speaker that the candidate is dead or is not qualified under section 23 of the Constitution or the candidate withdraws.

LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

**Chap. 1:01**

149

*Electoral College Regulations*

[Subsidiary]

6. (1) Any candidate may withdraw his candidature at any time before the taking of the ballot by delivering to the Speaker a declaration in writing to that effect signed by himself and attested by the signatures of at least four of his proposers and any votes cast for the candidate who has so withdrawn shall be null and void.

Withdrawal of  
candidate.

(2) Where a candidate has withdrawn after the ballot papers are printed and time does not permit the printing of fresh ballot papers his name shall be deleted therefrom and initialled by the Speaker in every ballot paper.

7. (1) Where before the expiration of the time limited by section 30(b) of the Constitution for delivery of the nomination paper proof is given to the satisfaction of the Speaker of the death of any candidate, a fresh nomination may be made in place of the deceased candidate.

Death of  
candidate.

(2) Where the death of a candidate occurs after the expiration of the time limited by section 30(b) of the Constitution, the name of such candidate shall be deleted from the ballot paper and initialled by the Speaker where time does not permit the printing of a fresh ballot paper.

8. (1) For the purpose of every election under section 27 of the Constitution, the Electoral College shall meet on the date announced in the *Gazette* by the Speaker pursuant to section 26(2) of the Constitution and the Constitution (Prescribed Matters) Act, whether or not the election for the office of President is contested.

Electoral  
College to meet  
on election day  
whether election  
contested or not.  
Ch. 1:02.

(2) A member, other than the Speaker and the President of the Senate, shall, on the first occasion of taking his seat at a meeting of the Electoral College for an election, present to the Clerk for scrutiny a letter of accreditation signed—

(a) in the case of a member who is a Senator, by the President of the Senate;

(b) in the case of a member who is a member of the House of Representatives, by the Speaker.

(3) Members of the public may attend any meeting of the Electoral College at which an election is held and the press and

LAWS OF TRINIDAD AND TOBAGO

150

Chap. 1:01

*Constitution of the Republic  
of Trinidad and Tobago*

[Subsidiary]

*Electoral College Regulations*

other news media shall be admitted on such conditions as the Speaker may impose.

(4) At an election one only of the proposers of every candidate may speak for not more than fifteen minutes on the merits of the candidate, but only if the text of the speech is first approved by the Speaker.

(5) In order to obtain approval of a text by the Speaker for the purposes of paragraph (4), every such text shall be submitted at least twenty-four hours before the meeting at which the speech is to be made; and the Speaker shall reject any speech which in his opinion impugns the character of any candidate.

(6) Subject to subregulations (4) and (5), no debate on the merits of a candidate shall be held.

Mode of  
election.

**9.** (1) Where on the expiration of the time limited by section 30(b) of the Constitution for delivery of the nomination papers—

- (a) more than one person stands nominated, a poll shall be taken in accordance with these Regulations;
- (b) only one person stands nominated, such nominated person shall at the meeting of the Electoral College be declared by the Speaker to be elected;
- (c) the number of persons standing nominated is reduced to one, the remaining person standing nominated shall be declared to be elected in accordance with paragraph (b).

(2) Where pursuant to subregulation (1)(b) or regulation 18 a person is declared elected, the Speaker shall thereupon issue an instrument signed and sealed by him stating—

- (a) in the case of an uncontested election to the office of President, that the person named in the instrument was or became the only person nominated for the election and was in consequence declared elected; or

LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

**Chap. 1:01**

151

*Electoral College Regulations*

[Subsidiary]

- (b) in the case of a contested election, that the person named in the instrument was declared elected at that meeting in consequence of a ballot.

**10.** (1) As soon as possible after the expiration of the time limited by section 30(b) of the Constitution for the nomination of candidates for the election, the Speaker shall, if a ballot is to be held, cause ballot papers to be printed for use in that election.

Ballot papers.

(2) A ballot paper shall be in the form set out as Form 2 in the Schedule.

Form 2.  
Schedule.

**11.** The Clerk of the House of Representatives and the Clerk of the Senate and such other officers of both those Houses as the Speaker may appoint shall be officers of the Electoral College and shall have and exercise such functions and perform such duties as are conferred or imposed on them by these Regulations or by direction of the Speaker.

Officers of the  
Electoral  
College—  
functions and  
duties.

**12.** (1) Immediately before the taking of the ballot the Clerk shall in the presence and view of members open and inspect the ballot box to ascertain that there are no ballot papers or other papers or materials therein, after which the box shall be locked and placed on the table in full view of all present and shall remain so placed until the end of the balloting.

Taking of the  
ballot.

(2) The Clerk shall call upon every member present to cast his ballot and shall immediately thereafter deliver the ballot paper to every such member who is willing to vote.

(3) The member shall then proceed to such place provided for the purpose where he shall mark his ballot by marking an “X” against the name of the candidate of his choice.

(4) The member shall then fold his ballot so that the initials of the Clerk can be seen without opening the ballot, return to the Clerk and display the ballot.

(5) The Clerk shall satisfy himself—

- (a) that the ballot is the ballot he gave to the member;  
(b) that the ballot is correctly folded.

LAWS OF TRINIDAD AND TOBAGO

152	<b>Chap. 1:01</b>	<i>Constitution of the Republic of Trinidad and Tobago</i>
[Subsidiary]		<i>Electoral College Regulations</i>
		(6) Upon the Clerk being so satisfied, the member shall insert his ballot into the ballot box.
Secrecy of ballot.		<b>13.</b> A place or places shall be provided in order to ensure secrecy in the marking of the ballot.
Manner of voting.		<b>14.</b> (1) The “X” shall be marked in the space provided therefor on the right-hand side of the name of the candidate as printed on the ballot paper.  (2) A ballot paper shall not be rejected by reason only that the “X” is marked outside the space provided or that more than one “X” is marked thereon so long as there is a clear indication as to the candidate for whom the member intended to vote.
Spoiled ballots.		<b>15.</b> A member who has inadvertently dealt with the ballot paper delivered to him in such manner that it cannot conveniently be used shall return it to the Clerk who shall— <ul style="list-style-type: none"><li>(a) deface it in such manner as to render it a spoiled ballot;</li><li>(b) deliver another ballot paper to the member;</li><li>(c) place the spoiled ballot in an envelope provided therefor.</li></ul>
Closing of poll.		<b>16.</b> Immediately after the last member present and desirous of voting has voted, the Speaker shall announce the close of the poll.
Procedure by Clerk after closing of poll.		<b>17.</b> (1) Immediately after the Speaker has complied with the requirements of regulation 16 the Clerk shall— <ul style="list-style-type: none"><li>(a) count the number of spoiled ballots, if any, and place them in the special envelope;</li><li>(b) count the unused ballot papers undetached from the book of ballot papers, and place them with the stub of all used ballot papers in the special envelope;</li><li>(c) check the number of ballot papers supplied by the Speaker against the number of spoiled ballot</li></ul>



papers, if any, the number of unused ballot papers and the number of members who cast their votes in order to ascertain that all ballot papers are accounted for;

- (d) open the ballot box and empty its contents upon a table;
  - (e) with the assistance of at least one proposer of every candidate, if willing, count the number of votes given to each candidate on his tally sheet.
- (2) In counting the votes the Clerk shall reject all ballots—
- (a) that are on ballot papers that have not been supplied by him;
  - (b) that have not been marked for any candidate or have not been marked in the manner prescribed by these Regulations;
  - (c) on which votes have been given for more than one candidate;
  - (d) where it cannot be established for whom the member has voted;
  - (e) upon which there is any writing or mark by which the member can be identified.

(3) No ballot shall be rejected by reason only that it has on it any number or mark placed thereon by the Clerk.

(4) After the completion of the count, the Clerk shall complete the Statement of the Poll in the form set out as Form 3 in the Schedule and certify a copy for the Speaker.

Form 3.  
Schedule.

**18.** Upon the final determination of an election pursuant to section 31 of the Constitution, the Speaker shall at the meeting of the Electoral College at which the election was finally determined declare the candidate who was elected President.

Declaration of  
election.

**19.** (1) An official report of the proceedings and of all speeches made in the Electoral College shall be prepared under the supervision of the Clerk, acting under such instructions as the Speaker may from time to time give.

Report of  
proceedings.

LAWS OF TRINIDAD AND TOBAGO

154	<b>Chap. 1:01</b>	<i>Constitution of the Republic of Trinidad and Tobago</i>
[Subsidiary]		<i>Electoral College Regulations</i>
		(2) The report shall be published in such form as the Speaker may direct and a copy thereof shall be sent to each member as soon as practicable.
Adjournments.	<b>20.</b>	A meeting of the Electoral College for an election and any other meeting of the Electoral College may be adjourned from time to time by a resolution for the purpose.
Keeping of records.	<b>21.</b>	All documents, Minutes and other records of the proceedings of the Electoral College at a meeting for an election, including nomination papers, ballot papers, Statement of the Poll, speeches, letters of accreditation and other communications, shall be kept in custody of the Clerk for a period of five years next after an election.
Amendments.	<b>22.</b>	(1) The Electoral College shall, upon the summons of the Speaker for the purpose, meet from time to time to consider any amendments to these Regulations.  (2) Where a motion for an amendment of these Regulations is presented to him by not less than twelve members the Speaker shall, within ten days of the receipt thereof, summon a meeting of the Electoral College to consider the amendments.
Speaker to regulate procedure.	<b>23.</b>	In all matters not provided for in these Regulations, the Speaker when presiding at a meeting of the Electoral College shall have power to regulate the conduct of business.

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**LAWS OF TRINIDAD AND TOBAGO**

*Constitution of the Republic  
of Trinidad and Tobago*

**Chap. 1:01**

155

*Electoral College Regulations*

**[Subsidiary]**

**SCHEDULE**

Regulation 4(1).

**FORM 1**

**ELECTORAL COLLEGE REGULATIONS**

**NOMINATION PAPER**

We, the undersigned members of the House of Representatives do hereby nominate the following person as a proper person to serve as President of the Republic of Trinidad and Tobago and we certify that to the best of our belief he is qualified for election under section 23 of the Constitution.

**PARTICULARS REGARDING CANDIDATE**

Surname	Other Names	Address	Occupation
.....	.....	.....	.....

*(Continued on page 38)*

(Signature)

**LAWS OF TRINIDAD AND TOBAGO**

*Constitution of the Republic  
of Trinidad and Tobago*

**Chap. 1:01**

157

*Electoral College Regulations*

**[Subsidiary]**

**FORM 2**

Regulation  
10(2).

(Front)

**BALLOT PAPER**

Stub	Name and Address of Candidate	Space for Placing Mark
	Emmanuel ABDULLAH 475, Marli Street Insurance Broker	
Consecutive  No. ....	Conrad D. BABULAH 72, Chancery Lane Engineer	
	Francis CARTER 291, Hoyte Street Merchant	

(Back)

**THE CONSTITUTION OF THE REPUBLIC  
OF TRINIDAD AND TOBAGO**

**BALLOT PAPER**

PRESIDENTIAL ELECTION

**REPUBLIC OF TRINIDAD AND TOBAGO**

Election Day:

Space for  
initials of  
Clerk

**LAWS OF TRINIDAD AND TOBAGO**

158

**Chap. 1:01**

*Constitution of the Republic  
of Trinidad and Tobago*

**[Subsidiary]**

*Electoral College Regulations*

Regulation  
17(4).

**FORM 3**

**ELECTORAL COLLEGE REGULATIONS**

**STATEMENT OF THE POLL**

In the Electoral College

<hr/> <hr/>									
Number of ballot papers received from the Speaker .....									
Number of ballots cast for .....									
Number of ballots cast for .....									
Number of ballots cast for .....									
Number of rejected ballots .....									
<hr/> <hr/>									
(a) Total number of ballots found in box ... ..									
(b) Number of spoiled ballot papers ... ..									
(c) Number of unused ballot papers undetached									
from the book ... ..									
Total ... ..									
<hr/> <hr/>									

**I HEREBY CERTIFY** that the above statement is correct and that a copy was handed to the Speaker.

Dated at the House of Representatives this ..... day of ....., 20 .....

*Clerk.*

\_\_\_\_\_

LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

**Chap. 1:01**

159

[Subsidiary]

**PUBLIC SERVICE COMMISSION  
(DELEGATION OF POWERS) ORDER**

158/1966.  
[109/1981  
232/1990  
105/2006].

*\*made or deemed to be made under section 127  
of the Constitution*

**1.** This Order may be cited as the Public Service Commission (Delegation of Powers) Order. Citation.

**2.** In this Order, “regulation” means the Public Service Commission Regulations and “the Regulations” shall be construed accordingly. Interpretation.  
Sub. Leg.  
below.

**3.** The Public Service Commission (hereinafter called “the Commission”) with the approval of the Prime Minister, hereby delegates to the authorities designated in the First and Second Schedules the powers specified therein in relation to such authorities. Delegations.  
[232/1990].  
First and  
Second  
Schedules.

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\*Most of these delegations were made under section 93 of the former Constitution and were saved and deemed to be made under the Constitution by section 13 of the Constitution of the Republic of Trinidad and Tobago Act. (Ch. 1:01).

# LAWS OF TRINIDAD AND TOBAGO

## *Constitution of the Republic of Trinidad and Tobago*

160

**Chap. 1:01**

[Subsidiary]

*Public Service Commission (Delegation of Powers) Order*

158/1966.  
[232/1990].

### **FIRST SCHEDULE**

#### **PART I**

#### **CHAIRMAN AND DEPUTY CHAIRMAN, PUBLIC SERVICE COMMISSION**

Powers  
delegated.

1. The Chairman and the Deputy Chairman of the Commission are hereby delegated the power to appoint persons on recruitment from outside the particular Service in the public service on a temporary basis in any public office other than the public offices, the appointment to which is subject to consultation with the Prime Minister.

Acting  
appointments.

Ch. 23:01  
Ch. 35:50  
Ch. 13:02  
Ch. 39:01  
158/1966.

2. The power delegated under paragraph 1, is in respect of the public offices specified in the Classification of Offices set out in the First Schedule to the Civil Service Act, the Third Schedule to the Fire Service Act, the First Schedule to the Prison Service Act.

#### **PART II**

#### **PERMANENT SECRETARIES AND HEADS OF DEPARTMENTS**

Powers  
delegated.

1. The powers delegated to Permanent Secretaries and Heads of Departments are as follows:

Acting  
appointments.

(a) to appoint a public officer to act in the public office in the Civil Service up to and including Salary Range 68 for periods up to six months in exercise of which power, the Permanent Secretary shall apply the principles of selection prescribed in regulations 18 and 26 and the provisions of regulation 25 of the Regulations;

Transfers.

(b) to transfer a public officer from an office in a grade in the Ministry or Department to which such an officer is assigned to a similar office in that grade in the same Ministry with no alteration in remuneration up to and including Salary Range 68 and this power shall be exercised subject to the provisions of regulation 29 of the Regulations which requires notice to be given to such officer and to the right of such officer and to make representations to the Commission;

Further  
temporary  
appointment.

(c) to appoint persons temporarily to offices in the public service for periods not exceeding six months at a time where such persons have already been appointed temporarily by the Public Service Commission for a fixed period;

Confirmation.

(d) to confirm the appointment of a public officer to a public office after consideration of all performance appraisal reports



## LAWS OF TRINIDAD AND TOBAGO

### *Constitution of the Republic of Trinidad and Tobago*

**Chap. 1:01**

161

*Public Service Commission (Delegation of Powers) Order*

[Subsidiary]

and medical reports on the officer, where applicable during the probationary period if satisfied that the service of the officer on probation has been satisfactory.

2. The powers delegated in this Part are in respect of public officers in the Ministry under his supervision who hold the public offices specified in Salary Ranges Nos. 1 to 68 of the Classification of Offices set out in the First Schedule to the Civil Service Act, except that the power to confirm appointments to public offices applies to all offices within the Ministry or Department.

Application.

Ch. 23:01.

3. The powers delegated in this Part do not apply to offices, the appointment or promotion to which is subject to consultation with the Prime Minister.

Application.

4. A Permanent Secretary or Head of Department shall submit to the Commission once in every quarter a report of the exercise of the powers delegated to him.

Report to  
Commission.

## PART III

### DEPUTY PERMANENT SECRETARIES

1. The powers delegated to Deputy Permanent Secretaries are as follows:
- (a) to appoint a public officer to act in a public office in the Civil Service in Salary Ranges up to and including Salary Range 45 for periods up to six months, in the exercise of which power the Deputy Permanent Secretary shall apply the principles of selection prescribed in regulations 18 and 26 and the provisions of regulation 25 of the Regulations;
  - (b) to appoint persons temporarily to offices in Salary Ranges up to and including Salary Range 45 in the Public Service for periods not exceeding six months at a time where such persons have already been appointed temporarily by the Public Service Commission for a fixed period;
  - (c) to confirm the appointment of a public officer to a public office in Salary Ranges up to and including Salary Range 45 after consideration of all performance appraisal reports and medical reports on the officer where applicable during the probationary period if satisfied that the service of the officer on probation has been satisfactory.

Powers  
delegated.

Acting  
appointments.

Further  
temporary  
appointment.

Confirmation.

2. The powers hereby delegated are in respect of public officers in the Ministry under the supervision of the Deputy Permanent Secretary who hold the public offices specified in Salary Ranges up to and including Salary Range 45 of the Classification of Offices set out in the First Schedule to the Civil Service Act.

Application.

## LAWS OF TRINIDAD AND TOBAGO

### *Constitution of the Republic of Trinidad and Tobago*

162

#### **Chap. 1:01**

[Subsidiary]

#### *Public Service Commission (Delegation of Powers) Order*

Application. 3. The powers hereby delegated do not apply to offices the appointment or promotion to which is subject to consultation with the Prime Minister.

Report to Commission. 4. A Deputy Permanent Secretary shall submit to the Commission once in every quarter through the Permanent Secretary a report on the exercise of the power delegated to him.

### **PART IV**

#### **DIRECTORS, HUMAN RESOURCES**

Powers delegated. 1. The powers delegated to Directors, Human Resources are as follows:

Acting appointment. (a) to appoint a public officer to act in a public office in the Civil Service up to and including Salary Range 34 for periods up to six months, in the exercise of which power delegated the Directors, Human Resources shall apply the principles of selection prescribed in regulations 18 and 26 and the provisions of regulation 25 of the Regulations;

Further temporary appointment. (b) to appoint persons temporarily to offices up to and including Salary Range 34 in the Public Service for periods not exceeding six months at a time where such persons have already been appointed temporarily by the Public Service Commission for a fixed period;

Confirmation. (c) to confirm the appointment of a public officer to a public office up to and including Salary Range 34 after consideration of all performance appraisal reports and medical reports on the officer where applicable during the probationary period if satisfied that the service of the officer on probation has been satisfactory.

Application. 2. The powers delegated in this Part are in respect of public officers in the Ministry under the supervision of the Director, Human Resources, who hold the public offices specified in Salary Ranges Nos. 1 to 34 of the Classification of Offices set out in the First Schedule to the Civil Service Act.

Application. 3. The powers hereby delegated do not apply to offices the appointment or promotion to which is subject to consultation with the Prime Minister.

Report to Commission. 4. A Director, Human Resources shall submit to the Commission once in every quarter through the Permanent Secretary a report on the exercise of its powers delegated to him.

**LAWS OF TRINIDAD AND TOBAGO**

*Constitution of the Republic  
of Trinidad and Tobago*

**Chap. 1:01**

**163**

*Public Service Commission (Delegation of Powers) Order*

**[Subsidiary]**

**PART V**

**PERMANENT SECRETARY, MINISTRY OF HEALTH**

1. The Permanent Secretary, Ministry of Health is delegated the powers to appoint persons temporarily to the offices of Clinical Instructor and Nursing Instructor. Powers delegated.
2. The Permanent Secretary, Ministry of Health, shall submit to the Commission once in every quarter, a report of the exercise of the powers delegated to him under this Part. Report to Commission.

**PART VI**

**THE DIRECTOR OF STATISTICS, CENTRAL  
STATISTICAL OFFICE, MINISTRY OF PLANNING AND  
DEVELOPMENT**

1. (1) The powers delegated to the Director of Statistics, Central Statistical Office, Ministry of Planning and Development are as follows: Powers delegated.
  - (a) to appoint persons to the temporary posts of—
    - (i) Field Interviewer;
    - (ii) Clerical Assistant;
    - (iii) Statistical Assistant,in the Central Statistical Office;
  - (b) to remove and exercise disciplinary control over any person appointed under and in exercise of the power of appointment delegated under paragraph (a).
- (2) All appointments made under this Part shall be on a temporary basis.
- (3) The Director of Statistics shall submit to the Commission once in every quarter, a report of the exercise of any of the powers delegated under this Part. Report to Commission.

**PART VII**

**THE COMMISSIONER OF PRISONS**

1. The powers delegated to the Commissioner of Prisons are as follows: Powers delegated.
  - (a) the power to appoint persons and prison officers on promotion to offices in the Prison Service below the rank of Prison Supervisor and to confirm the appointment of Prison Officers to such offices in accordance with the Regulations, but the power hereby delegated shall not include the power Appointment.

## LAWS OF TRINIDAD AND TOBAGO

### *Constitution of the Republic of Trinidad and Tobago*

164

#### **Chap. 1:01**

[Subsidiary]

#### *Public Service Commission (Delegation of Powers) Order*

- to terminate an appointment on probation or extend a period of probation under regulation 44 of the Regulations;
- (b) in the case of a person recruited for training to serve as a prison officer below the rank of Prison Supervisor, the power to terminate the appointment at any time on the ground of unsuitability arising from any cause;
- Acting Appointment. (c) the power to appoint prison officers to act in offices in the Prison Service below the office of Prison Supervisor and in the exercise of this power the Commissioner shall apply the principles of selection prescribed in regulation 172 of the Regulations;
- Transfers. (d) the power to transfer prison officers from one Prison to another;
- Suspension. (e) the power to direct a prison officer to cease to report for duty in accordance with regulation 88 of the Regulations and the Commissioner shall report the exercise of this power forthwith to the Commission;
- Resignation. (f) the functions of the Commission under regulation 48 of the Regulations in respect of a prison officer in an office in the Prison Service below the office of Prison Supervisor.

2. In the exercise of the powers delegated under paragraph 1 of this Part to the Commissioner of Prisons to appoint persons and prison officers to offices specified therein, the reference to the Director in regulation 166 shall be construed as reference to the Commissioner.

Report to  
Commission.

3. The Commissioner shall submit to the Commission, once in every quarter, a report of the exercise of any of the powers delegated to the Commissioner and to any other prison officer.

## **PART VIII**

### **THE CHIEF FIRE OFFICER**

Powers  
delegated.

1. The powers delegated to the Chief Fire Officer are as follows:

Appointments.

- (a) the power to appoint persons and fire officers on promotion to offices in the Second Division of the Fire Service below the office of Fire Station Officer and to confirm the appointment of Fire Officers to such offices in accordance with the Regulations, but the power hereby delegated shall not include power to terminate an appointment on probation or extend a period of probation under regulation 44 of the Regulations;
- (b) in the case of a person recruited for training to serve as a fire officer below the office of Fire Station Officer, the power to

## LAWS OF TRINIDAD AND TOBAGO

### *Constitution of the Republic of Trinidad and Tobago*

**Chap. 1:01**

165

*Public Service Commission (Delegation of Powers) Order*

[Subsidiary]

terminate the appointment at any time on the ground of unsuitability arising from the cause;

- (c) the power to appoint fire officers to act in offices in the Second Division of the Fire Service below the office of Fire Station Officer and in the exercise of this power the Chief Fire Officer shall apply the principles of selection prescribed in regulations 154, 157 and 158, and the provisions of regulations 154 and 155 of the Regulations; Acting Appointments.
- (d) the power to transfer Fire Officers from one Division or District or Branch in the Fire Service to another such Division or District or Branch; Transfers.
- (e) the power to direct a fire officer to cease to report for duty in accordance with regulation 88 of the Regulations and the Chief Fire Officer shall report the exercise of this power forthwith to the Commission; Suspension.
- (f) the functions of the Commission under regulation 164 of the Regulations in respect of a fire officer in an office in the Second Division of the Fire Service below the office of Fire Station Officer. Resignation.

2. The Chief Fire Officer shall submit to the Commission, once in every quarter, a report of the exercise of any of the powers delegated to the Chief Fire Officer and to any other fire officer. Report to Commission.

## PART IX

### **CHIEF ADMINISTRATOR, TOBAGO HOUSE OF ASSEMBLY, TOBAGO**

1. The powers delegated to the Chief Administrator, Tobago House of Assembly, Tobago are as follows:

- (a) to appoint persons on recruitment from outside the Civil Service in a temporary capacity to an office in the Tobago House of Assembly, subject to section 26(1) and the Sixth Schedule of the Tobago House of Assembly Act, No. 40 of 1996 which powers are in respect of the public offices specified in the classification of offices set out in the First Schedule to the Civil Service Act, and which are regarded as the basic normal entry points to the general clerical, secretarial and manipulative classes; Appointments.  
Ch. 23:01.
- (b) to appoint a public officer to act in a public office in the Civil Service, Tobago House of Assembly, for periods up to six Acting Appointments.

## LAWS OF TRINIDAD AND TOBAGO

### *Constitution of the Republic of Trinidad and Tobago*

166

#### **Chap. 1:01**

[Subsidiary]

#### *Public Service Commission (Delegation of Powers) Order*

months whether such acting appointment is in a vacant office or not except that where an acting appointment is made in a vacant office the officer must be informed that such acting appointment would not give him any prior claim to eventual permanent appointment thereto and in respect of such power the Chief Administrator shall apply the principles of selection prescribed in regulations 18, 24 and 26 and the provisions of regulation 25 of the Regulations;

Transfers.

- (c) to transfer a public officer from an office in a grade in the Tobago House of Assembly, to which such an officer is assigned to a similar office in that grade within the Tobago House of Assembly, with no alteration in his remuneration which power shall be exercised by the Chief Administrator subject to the provisions of regulation 29.
- (d) to direct a public officer assigned to an office in the Tobago House of Assembly, to cease to report for duty in accordance with regulation 88 of the Regulations and the Chief Administrator, Tobago House of Assembly, shall report the exercise of this power forthwith to the Commission;
- (e) to exercise disciplinary control in respect of any alleged act of misconduct or indiscipline described in Column 1 of the Second Schedule being a breach of a regulation in respect of the Civil Service as specified in Column 2.

2. In the exercise of the powers delegated under paragraph 1(e), the Chief Administrator shall—

- (a) exercise the powers of the Commission under regulation 90(6) and (7);
- (b) assign a public officer of a grade higher than that of the officer charged with misconduct or indiscipline, but in no case of a grade lower than that of the Clerk IV to be a disciplinary tribunal and that officer shall hear the facts and make a report thereon to the Chief Administrator in accordance with the provisions respecting the function and duties of a Disciplinary Tribunal as prescribed in the Regulations;
- (c) any fine which the Chief Administrator imposes under paragraph (e) shall not exceed an amount calculated on four days pay per month to a maximum of three months.

Report.

3. The Chief Administrator shall submit to the Commission once in every quarter, a report on the exercise of powers delegated to him in this Part.

Application.

4. The powers and functions delegated in this Part are in respect of public officers who hold any of the public offices specified in Salary Ranges

## LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

**Chap. 1:01**

167

*Public Service Commission (Delegation of Powers) Order*

[Subsidiary]

Nos. 1 to 68 inclusive of the Classification of Offices set out in the First Schedule to the Civil Service Act, 1965, except that the powers delegated do not apply to offices the appointment or promotion to which is subject to consultation with the Prime Minister.

### **PART X**

#### **THE SENIOR PUBLIC OFFICER, HIGH COMMISSIONS, MISSIONS AND EMBASSIES OF TRINIDAD AND TOBAGO**

1. The powers delegated to the Senior Public Officer, High Commissions, Missions, and Embassies of Trinidad and Tobago are as follows: Powers delegated.

- (a) the power to appoint, on a temporary basis only persons resident in the jurisdiction where the particular High Commission, Mission or Embassy is situated to the non-representational staff of the said High Commission, Mission or Embassy that is to say to any office of the grade of Clerk IV and under;
- (b) the power to remove and exercise disciplinary control over any person appointed under and in exercise of the power of appointment delegated under subparagraph (a).

### **PART XI**

#### **THE PERMANENT SECRETARY, CENTRAL ADMINISTRATIVE SERVICES, TOBAGO**

1. The powers delegated to the Permanent Secretary, Central Administrative Services, Tobago, are as follows: Powers delegated.

- (a) to appoint persons on recruitment from outside the Civil Service in a temporary capacity to an office in a Ministry or Department or in a Division of a Ministry or Department located in Tobago (exclusive of offices in the Prison and Fire Services) which power is in respect of the public offices specified in the Classification of Offices set out in the First Schedule to the Civil Service Act, and which are regarded as the basic normal entry points to the general clerical, secretarial and manipulative classes; Ch. 23:01.
- (b) to appoint a public officer to act in a public office in the Civil Service and located in the Department of Central Administrative Services, Tobago, for periods up to six months whether such acting appointment is in a vacant post or not except that where an acting appointment is made in a vacant post, the officer must be informed that such acting

## LAWS OF TRINIDAD AND TOBAGO

168

### Chap. 1:01

#### *Constitution of the Republic of Trinidad and Tobago*

[Subsidiary]

#### *Public Service Commission (Delegation of Powers) Order*

appointment would not give him any prior claim to eventual permanent appointment thereto, in respect of which power the Permanent Secretary shall apply the principles of selection prescribed in regulations 18, 24 and 26 and the provisions of regulation 25 of the Regulations;

Transfers.

- (c) to transfer a public officer from an office in a grade in the Department of Central Administrative Services, Tobago to which such an officer is assigned to a similar office in that grade in the same Department of Central Administrative Services, Tobago, with no alteration in his remuneration, which power shall be exercised by the Permanent Secretary subject to the provisions of regulation 29 of the Regulations, which require notice to be given to such officer and which preserves the right of such officer to make representations to the Commission;
- (d) to direct a public officer assigned to an office in the Department of Central Administrative Services, Tobago, to cease to report for duty in accordance with regulation 88 of the Regulations, and the Permanent Secretary, Central Administrative Services, Tobago shall report the exercise of this power forthwith to the Commission;
- (e) to exercise disciplinary control in respect of any alleged act of misconduct or indiscipline described in column 1 of the Second Schedule being a breach of a regulation in respect of the Civil Service as specified in Column 2.

2. In exercise of the power delegated under paragraph 1(e) the Permanent Secretary shall—

- (a) exercise the powers of the Commission under regulation 90(6) and (7);
- (b) assign a public officer of a grade higher than that of the officer charged with misconduct or indiscipline but in no case of a grade lower than that of a Clerk IV to be a disciplinary tribunal, and that officer shall hear the evidence, find the facts and make a report thereon to the Permanent Secretary in accordance with the provisions respecting the functions and duties of a Disciplinary Tribunal as prescribed in the Regulations.

3. Any fine which the Permanent Secretary imposes under paragraph 1(e) shall not exceed an amount calculated on four days pay per month to a maximum of three months.



## LAWS OF TRINIDAD AND TOBAGO

### *Constitution of the Republic of Trinidad and Tobago*

**Chap. 1:01**

169

---

#### *Public Service Commission (Delegation of Powers) Order*

[Subsidiary]

4. The Permanent Secretary shall submit to the Commission, once in every quarter, a report of the exercise of any powers delegated to him.

5. The powers and functions hereby delegated under this Part are in respect of public officers who hold any of the public offices specified in Salary Ranges Nos. 1 to 68 inclusive of the Classification of Offices set out in the First Schedule to the Civil Service Act, except where such offices require the holders to perform as Heads or Deputy Heads of Ministries/Departments/Divisions and in respect of which offices consultation with the Prime Minister is required by the Commission. Ch. 23:01.

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## SECOND SCHEDULE

### DISCIPLINARY POWERS DELEGATED

For the purposes of regulation 85 of the Regulations, an act of misconduct or indiscipline which the Permanent Secretary or Head of Department has jurisdiction to hear and determine under that regulation is an act of misconduct or indiscipline described in Column 1 of the following Table being a breach of a regulation:

- (a) in respect of officers in the Civil Service, in Chapter XI of the Civil Service Regulations;
- (b) in respect of officers in the Fire Service, in Chapter VII of the Fire Service (Terms and Conditions of Employment) Regulations, 1998;
- (c) in respect of officers in the Prison Service, in Chapter II of the Prison Service (Code of Conduct) Regulations, 1990,

as specified in Columns 2, 3 and 4 of that Table in respect of the Civil Service, the Fire Service, and the Prison Service, respectively.

**LAWS OF TRINIDAD AND TOBAGO**

*Constitution of the Republic  
of Trinidad and Tobago*

170

**Chap. 1:01**

[Subsidiary]

*Public Service Commission (Delegation of Powers) Order*

**SECOND SCHEDULE—Continued**

COLUMN 1	COLUMN 2 CIVIL SERVICE	COLUMN 3 FIRE SERVICE	COLUMN 4 PRISON SERVICE
<i>Description of Misconduct</i>	<i>Reference to Regulation of Civil Service Regulations</i>	<i>Reference to Regulation of Fire Service (Terms and Conditions of Employment) Regulations, 1998</i>	<i>Reference to Regulation of Prison Service (Code of Conduct) Regulations, 1990</i>
Failure to attend to matters promptly within scope of office	Regulation 135(1)	Regulation 101(1)	Regulation 4(1)
Lack of courtesy to a member of the public or member of the: (a) Civil Service (b) Fire Service (c) Prison Service	Regulation 135(2)	Regulation 101(5)	Regulation 4(2)
Wilful failure to perform duties	Regulation 135(3)		
Absence without leave or reasonable excuse	Regulation 136(1)	Regulation 103(1)	
Failure to report absence from country	Regulation 136(2)	Regulation 103(2) and (3)	
Failure to disclose activities outside Service	Regulation 137(2)	Regulation 104(1)(b) and (2)	Regulation 6(1)(d)
Breach of rules relating to broadcast	Regulation 140	Regulation 110	Regulation 12

# LAWS OF TRINIDAD AND TOBAGO

## *Constitution of the Republic of Trinidad and Tobago*

**Chap. 1:01**

171

*Public Service Commission (Delegation of Powers) Order*

**[Subsidiary]**

COLUMN 1  <i>Description of Misconduct</i>	COLUMN 2 CIVIL SERVICE  <i>Reference to Regulation of Civil Service Regulations</i>	COLUMN 3 FIRE SERVICE  <i>Reference to Regulation of Fire Service (Terms and Conditions of Employment) Regulations, 1998</i>	COLUMN 4 PRISON SERVICE  <i>Reference to Regulation of Prison Service (Code of Conduct) Regulations, 1990</i>
Act of indebtedness to the extent it impairs efficiency, etc.	Regulation 141	Regulation 111	Regulation 13(1)
Failure to notify of bankruptcy proceedings	Regulation 142	Regulation 112	Regulation 14
Failure to perform duty in a proper manner	Regulation 149(1)(a)	Regulation 119(1)(a)	Regulation 20(1)(a)
Contravention of the: (a) Civil Service Regulations and other written law; (b) Fire Service (Terms and Conditions of Employment) Regulations, 1998 and other written law; (c) Prison Service (Code of Conduct) Regulations, 1990	Regulation 149(1)(b) Regulation 149(1)(c)	Regulation 119(1)(b) Regulation 119(1)(c)	Regulation 20(1)(b)
Act that is prejudicial to, or discredits reputation of the Service	Regulation 149(1)(d)	Regulation 119(1)(d)	Regulation 20(1)(c) Regulation 20(1)(d)
Disobedience to orders	Regulation 149(2)(b)	Regulation 119(2)(c)	Regulation 20(2)(c)

**LAWS OF TRINIDAD AND TOBAGO**

172                      **Chap. 1:01**                      *Constitution of the Republic  
of Trinidad and Tobago*

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[Subsidiary]                      *Public Service Commission (Delegation of Powers) Order*

**SECOND SCHEDULE—Continued**

COLUMN 1	COLUMN 2 CIVIL SERVICE	COLUMN 3 FIRE SERVICE	COLUMN 4 PRISON SERVICE
<i>Description of Misconduct</i>	<i>Reference to Regulation of Civil Service Regulations</i>	<i>Reference to Regulation of Fire Service (Terms and Conditions of Employment) Regulations, 1998</i>	<i>Reference to Regulation of Prison Service (Code of Conduct) Regulations, 1990</i>
Neglect of duty	Regulation 149(2)(d) and (f)	Regulation 119(2)(d)	Regulation 20(2)(d)
Unlawful or unnecessary exercise of duty	Regulation 149(2)(g)	Regulation 119(2)(h)	Regulation 20(2)(l)
Malingering	Regulation 149(2)(a)	Regulation 119(2)(i)	Regulation 20(2)(m)
Absence without leave or being late for duty	Regulation 149(2)(a)	Regulation 119(2)(j)	Regulation 20(2)(n)
Persistently unpunctual			
Damage to clothing supplied		Regulation 119(2)(l)	Regulation 20(2)(p)
Unfit for duty through drunkenness	Regulation 149(2)(c)	Regulation 119(2)(m)	Regulation 20(2)(q)
Drinking on duty or soliciting drink		Regulation 119(2)(n)	Regulation 20(2)(r)
Entering licensed premises		Regulation 119(2)(o)	Regulation 20(2)(s)

**TEACHING SERVICE COMMISSION (DELEGATION OF  
POWERS) ORDER** 88/1969.

*\*made or deemed to be made under section 127 of the Constitution*

**1.** This Order may be cited as the Teaching Service Commission (Delegation of Powers) Order. Citation.

**2.** In this Order, “regulation” means regulation of the Public Service Commission Regulations, which Regulations have been adopted by the Teaching Service Commission; and “the Regulations” shall be construed accordingly. Interpretation. Sub. Leg. below.

**3.** The Teaching Service Commission (hereinafter called “the Commission”), with the approval of the Prime Minister, and subject to the provisions set out in the Schedule, hereby delegates to the Permanent Secretary of the Ministry of Education and Culture, in respect of the Teaching Service established under section 53 of the Education Act, the powers specified in the Schedule hereto. Delegation. Schedule. Ch. 39:01.

**SCHEDULE**

88/1969,  
[146/1978].

**POWERS DELEGATED**

**1.** (1) The power to appoint persons temporarily in the office of Teacher for both Government and Assisted Schools, for a period not exceeding three months, from a priority list of candidates approved by the Commission. Appointments.

(2) The power to remove any person appointed under and in exercise of the power of appointment delegated under subparagraph (1).

**2.** (1) The power to appoint a member of the Teaching Service to act in an office of the Teaching Service when such acting appointment is not a prelude to a substantive appointment. Acting appointments.

(2) In the exercise of the power delegated under subparagraph (1), the Permanent Secretary shall apply the provisions of regulation 25, and the principles of selection prescribed in regulation 26.

(3) The power hereby delegated does not apply to—  
(a) any office in an assisted school; or

\*Most of these delegations were made under section 99C of the former Constitution and were saved and deemed to be made under the Constitution by section 13 of the Constitution of the Republic of Trinidad and Tobago Act.

# LAWS OF TRINIDAD AND TOBAGO

## *Constitution of the Republic of Trinidad and Tobago*

174

### **Chap. 1:01**

[Subsidiary]

#### *Teaching Service Commission (Delegation of Powers) Order*

- (b) any office in the Teaching Service the appointment to which is subject to consultation with the Prime Minister.

Increments.

3. (1) The power to certify the eligibility of teachers whose Staff Reports are not adverse, for annual increments of salary (when due).

(2) The power to certify eligibility of teachers for annual increments hereby delegated shall not affect the duty to render Staff Reports to the Commission in accordance with the provisions of regulation 34.

Discipline.

4. (1) The power to exercise disciplinary control in respect of any alleged act of misconduct or indiscipline prescribed in \*regulations 62 and 64 and in regulation 83(2)(a), (b), (c), (d), (e), (f) and (h) or of any indiscipline prescribed in regulation 84 to the extent that the Permanent Secretary may charge a member of the Teaching Service with any offence prescribed as aforesaid and may impose, in respect of such misconduct or indiscipline the penalty of a fine under paragraph (g) or of a reprimand under paragraph (f) of regulation 110(1).

(2) In exercise of the powers delegated under subparagraph (1) the Permanent Secretary shall—

- (a) exercise the powers of the Commission under regulation 88(1) and regulation 90(6) and (7); and
- (b) assign a member of the Teaching Service holding an office in a grade higher than that of the teacher charged with misconduct or indiscipline but in no case holding an office in a grade lower than that of a Schools Supervisor II, to be a disciplinary tribunal, and that member shall hear the evidence, find the facts and make a report thereon to the Permanent Secretary in accordance with the provisions respecting the functions and duties of a disciplinary tribunal as prescribed in the Regulations.

(3) Any fine which the Permanent Secretary imposes under subparagraph (1) shall not exceed an amount calculated on four days pay per month to a maximum of three months.

Application.

5. (1) The powers hereby delegated except that concerning increments are in respect of public offices in the Teaching Service specified in Ranges Nos. 4 to 40A (inclusive) of the Classification of Offices set out in the First Schedule to the Education Act.

Ch. 39:01.

(2) The power to exercise disciplinary control hereby delegated does not extend to a member of the Teaching Service who is the holder of an office in an assisted school.

Monthly report  
to Commission.

6. The Permanent Secretary, Ministry of Education and Culture shall submit to the Commission once in every month, a report of the exercise of the powers delegated under paragraph 1 of this Schedule.

Quarterly report  
to Commission.

7. The Permanent Secretary shall submit to the Commission once in every quarter a report of the exercise of any of the powers delegated to the Permanent Secretary under paragraphs 2, 3 and 4 of this Schedule.

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\*Regulations 60 to 83 of the Public Service Commission Regulations were Revoked by LN 28/1991.

**PUBLIC SERVICE COMMISSION REGULATIONS**

ARRANGEMENT OF REGULATIONS

REGULATION

**CHAPTER I**

**PRELIMINARY**

1. Citation.
2. Interpretation.
- 2A. Application and saving of regulations to officers in the Fire Service.

**CHAPTER II**

**THE PUBLIC SERVICE COMMISSION**

3. Oath of Office.
4. Meetings.
5. Procedure, quorum and voting.
6. Decisions other than at meetings.
7. Record of meetings and decisions.  
Dissents.
8. Consultation with other persons.
9. Non-compliance.
10. Instrument of delegation to be published.

**CHAPTER III**

**APPOINTMENTS, PROMOTIONS AND TRANSFERS**

11. Application for appointment.
12. Selection for appointment on basis of competitive examination.
13. Filling of vacancies.
14. Appointments to be by competition within the particular service.
15. Advertisement of vacancies.
16. Selection Boards.
17. Examination Boards.
18. Principle of selection for promotion.
19. Promotion to Administrative Class.

## LAWS OF TRINIDAD AND TOBAGO

176

**Chap. 1:01**

*Constitution of the Republic  
of Trinidad and Tobago*

[Subsidiary]

*Public Service Commission Regulations*

### ARRANGEMENT OF REGULATIONS—*Continued*

#### REGULATION

20. Seniority lists to be kept up-to-date.
21. Seniority of officer to be reckoned from date of appointment or reappointment.
22. Commission to determine seniority.
23. Commencing pay.
24. Principles of selection for acting appointment as prelude to appointment.
25. Permanent Secretary to notify eligible officers of vacancy.
26. Principles of selection for acting appointment not as prelude to appointment.
27. Permanent Secretary to submit recommendations in advance.
28. Permanent Secretary to state reasons for passing over officers.
29. Transfers.
30. Officer to assume duties pending review of transfer order. Exception.
31. Date of appointment.
32. Medical examination on appointment.
33. Exemption from medical examination.

#### CHAPTER IV

##### STAFF REPORTS

34. Staff Reports.
35. Officer to be informed of adverse report.
36. *(Revoked by LN 282/1998).*

#### CHAPTER V

##### PROBATIONARY APPOINTMENTS

37. Period of probation on first appointment.
38. Period of probation on appointment.
39. Period of probation on promotion.
40. Waiver of portion of period of probation.



## LAWS OF TRINIDAD AND TOBAGO

### *Constitution of the Republic of Trinidad and Tobago*

**Chap. 1:01**

177

#### *Public Service Commission Regulations*

[Subsidiary]

#### REGULATION

41. Principles to be observed while officer on probation.
42. Confidential reports on officer on probation.
43. Officer may make representation on recommendation of Permanent Secretary.
44. Commission to confirm appointment.
45. Incremental date when period of probation extended.
46. Permanent Secretary to keep record.
47. Permanent Secretary not to allow payment out of public funds in certain circumstances.

#### CHAPTER VI

#### RESIGNATIONS, RETIREMENTS AND TERMINATION OF APPOINTMENTS

48. Resignation.
49. Abandonment.
50. Reasons for termination of appointment.
51. Compulsory and voluntary retirement.
52. Permanent Secretary to notify Director of officers aged 60 years, compulsory.
53. Premature retirement.
54. Retirement in the public interest.
55. Termination of appointment on abolition of office or for facilitating improvement in the organisation of a Ministry or Department.
56. Termination of appointment on grounds of inefficiency.
57. ***(Revoked by LN 282/1998).***
58. Medical Boards.
59. Unfit officers.

#### CHAPTER VII

#### CONDUCT

60. )
- to ) ***(Revoked by LN 28/1991).***
83. )

**LAWS OF TRINIDAD AND TOBAGO**

178

**Chap. 1:01**

*Constitution of the Republic  
of Trinidad and Tobago*

[Subsidiary]

*Public Service Commission Regulations*

ARRANGEMENT OF REGULATIONS—*Continued*

**REGULATION**

**CHAPTER VIII**

**DISCIPLINE**

**GENERAL**

- 84. Officer liable to disciplinary proceedings.
- 84A. Definition.
- 84B. Commission to exercise disciplinary control on Permanent Secretary or Head of Department.
- 85. Permanent Secretary to report misconduct or indiscipline.
- 86. Permanent Secretary may inform Police of offence.
- 87. Commission to issue instructions on how certain cases to be dealt with.
- 88. Suspension by Commission.
- 89. Interdiction.
- 90. Investigation of charges.
- 91. Documents to be supplied to accused.
- 92. Officer to admit or deny charge in writing and may include explanation.
- 93. Hearing on failure to admit or deny charge.
- 94. Witnesses.
- 95. Appointment of disciplinary tribunal.
- 96. Duty of officers appointed to disciplinary tribunal.
- 97. Officer on charge not to be permitted leave.
- 98. Procedure at hearing.
- 99. Adjournment of hearing.
- 100. Hearing in absence of accused officer.
- 101. Standard of proof.
- 102. Tribunal to report.  
Report confidential.
- 103. Disciplinary tribunal may adjourn and report to Commission.
- 104. Disciplinary tribunal to report where evidence insufficient.

## LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

**Chap. 1:01**

179

*Public Service Commission Regulations*

[Subsidiary]

### REGULATION

- 105. Disciplinary tribunal to report evidence of other misconduct or indiscipline disclosed at hearing of charges.
- 106. Penalties that may be awarded under delegated authority.
- 107. Commission to inform officer of penalty imposed and of his right to apply for review.
- 108. Commission may remove officer in public interest.
- 109. Proceedings in private.
- 110. Penalties.
- 111. )
- to } *(Revoked by LN 28/1991).*
- 113. )
- 114. Non-payment of remuneration on conviction of a criminal charge.

### CHAPTER IX

#### REVIEWS

- 115. )
- to } *(Revoked by LN 28/1991).*
- 122. )

### CHAPTER X

#### MISCELLANEOUS

- 123. Application of Regulations to all officers.
- 124. Commission facsimile signatures.

### CHAPTER XI

#### THE TEACHING SERVICE

##### PART I

##### PRELIMINARY

- 125. Definitions.

##### PART II

##### APPOINTMENTS

- 126. Application for first appointment.
- 127. Duty of Permanent Secretary to keep separate seniority lists for primary school teachers.

## LAWS OF TRINIDAD AND TOBAGO

180

### Chap. 1:01

#### *Constitution of the Republic of Trinidad and Tobago*

[Subsidiary]

#### *Public Service Commission Regulations*

---

#### ARRANGEMENT OF REGULATIONS—*Continued*

##### REGULATION

- 128. Vacancies in Government schools.
- 129. Vacancies in assisted schools.
- 130. Advertising of vacancy by Commission in certain circumstances.
- 131. Director to advertise vacancies.
- 132. Duty of Permanent Secretary *re* applications in response to advertisements.
- 133. Commission to make appointment to assisted schools.

##### TRANSFERS

###### (GENERAL)

- 134. Application for transfer.
- 135. Orders of transfer. Review of orders.
- 136. Officer to assume duties pending review of transfer order.

##### TRANSFERS

###### (SPECIAL)

- 137. Board of Management may request transfer of teacher.
- 138. Application to be in writing.
- 139. Board to give teacher notice of application.
- 140. Teacher may make representation.
- 141. Decision of Commission.
- 142. Commission may institute disciplinary proceedings.
- 143. Teacher not to suffer loss of service, etc., through transfers.
- 144. No transfer without consent of Board.
- 145. Application of Regulations.

#### CHAPTER XII

#### THE FIRE SERVICE

##### PART I

##### PRELIMINARY

- 146. Definitions.

**LAWS OF TRINIDAD AND TOBAGO**

*Constitution of the Republic  
of Trinidad and Tobago*

**Chap. 1:01**

181

*Public Service Commission Regulations*

[Subsidiary]

**REGULATION**

**PART II**

**APPOINTMENTS, PROMOTIONS AND TRANSFERS**

- 147. Commission to determine forms.
- 148. Date of appointment.
- 149. Application for appointment as Firefighter.
- 150. Appointment to office of Firefighter.
- 151. Application for appointment to an office in the Service (other than Firefighter).
- 152. Appointment generally to be by competition within the Service.
- 153. Commission may consider eligible officers who fail to apply.
- 154. Criteria for acting appointment.
- 155. Officers to be informed of acting appointment.
- 156. Chief Fire Officer to submit recommendations in advance.
- 157. Acting appointment in special circumstances.
- 158. Criteria for promotion.
- 159. Performance appraisal report.
- 160. Process of promotion in the Fire Service.
- 161. Transfer.
- 162. **(N.B.—LN 282/1998 which amended the Regulations did not contain regulation 162).**

**PART III**

**CONFIRMATION**

- 163. Confirmation or otherwise.

**PART IV**

**RESIGNATION, RETIREMENT**

- 163A. Resignation.
- 163B. Removal on abandonment.
- 163C. Retirement.
- 163D. Commission to issue instructions on matters not dealt with in Regulations *re* Fire Officer.

**LAWS OF TRINIDAD AND TOBAGO**

182                      **Chap. 1:01**                      *Constitution of the Republic  
of Trinidad and Tobago*

**[Subsidiary]**                      *Public Service Commission Regulations*

---

**ARRANGEMENT OF REGULATIONS—Continued**

**REGULATION**

**CHAPTER XIII**

**THE PRISON SERVICE**

**PART I**

**PRELIMINARY**

164. Definitions.

**PART II**

**APPOINTMENTS, PROMOTIONS AND TRANSFERS**

- 165. Commission to determine form of application.
- 166. Application for appointment of Prison Officer I.
- 167. Appointment of office in senior grade.
- 168. Establishment of Promotions Advisory Board.
- 169. *(Revoked by LN 107/2000).*
- 170. Appointments to be by competition within the Prison Service.
- 171. Advertisement of vacancies.
- 172. Principles of selection for promotion.
- 173. Director and Commissioner to keep seniority lists.
- 174. )
- to    ) *(Revoked by LN 28/1991).*
- 176. )
- 177. Commissioner to submit recommendations in advance.
- 178. Commissioner to state reasons for passing over officers.
- 179. Rule where power to appoint delegated.

**PART III**

**DISCIPLINE**

- 180. )
- 181. ) *(Revoked by LN 28/1991).*

**FIRST SCHEDULE.**

**SECOND SCHEDULE.**

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**PUBLIC SERVICE COMMISSION REGULATIONS**

132/1966.†

*\*deemed to be made under section 129 of the Constitution*

**CHAPTER I**

**PRELIMINARY**

1. These Regulations may be cited as the Public Service Commission Regulations. Citation.

2. In these Regulations—

Interpretation.  
[28/1991].

“acting appointment” means the temporary appointment of an officer to a higher office or otherwise whether that office is vacant or not;

“appointment” means the placing of a person in an office in the public service;

“the Chairman” means the Chairman of the Commission;

“Civil Service” means the Civil Service Established by the Civil Service Act; Ch. 23:01.

“the Commission” means the Public Service Commission constituted under section 120 of the Constitution;

“the Constitution” means the Constitution of The Republic of Trinidad and Tobago;

“Director” means the Director of Personnel Administration;

“Fire Service” means the Fire Service established by the Fire Service Act; Ch. 35:50.

“*Gazette*” means the *Gazette* published by the order of the Government and includes supplements thereto and any *Extraordinary Gazette* so published;

“Head of Department” means the officer charged with the administration of a Department not under the control of a Minister;

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\* These Regulations were made under section 102 of the former Constitution, and continue in force by virtue of section 29(3) of the Interpretation Act (Ch. 3:01).

† These Regulations are amended by 47 of 1980; 28/1991; 108/1991; 238/1998; 267/1998; 282/1998; 107/2000; 173/2000; 143/2006; 174/2007; 267/2007; 41/2008 and 41/2009.

**LAWS OF TRINIDAD AND TOBAGO**

184

**Chap. 1:01**

*Constitution of the Republic  
of Trinidad and Tobago*

[Subsidiary]

*Public Service Commission Regulations*

---

Ch. 39:01. “officer” means a person employed in that part of the public service established respectively as the Civil Service, the Fire Service, the Prison Service, or any other service in the public service who is subject to the jurisdiction of the Commission and, for the purposes of section 53 of the Education Act, shall be deemed to include all persons employed in the Teaching Service;

“prescribed form” means the appropriate form as may from time to time be prescribed by the Commission;

Ch. 13:02. “Prison Service” means the Prison Service established by the Prison Service Act;

“promotion” means the appointment of an officer to an office in a grade carrying a higher remuneration whether such office be in the same Ministry or Department or not;

“public office” includes a public office in the Civil Service, the Fire Service, the Prison Service and for the purposes of section 53 of the Education Act, shall be deemed to include an office in the Teaching Service;

“public service” includes the Civil Service, the Fire Service, the Prison Service and for the purposes of section 53 of the Education Act, shall be deemed to include the Teaching Service;

“secondment” means the transfer of an officer in a particular service to serve for a period in an office in another service or in an office in the public service or in an office under another Government or under a Statutory Board or organisation approved by the President;

“Teaching Service” means the unified Teaching Service established under section 53 of the Education Act.

Application and saving of regulations to officers in the Fire Service. [282/1998 267/1998].

**\*2A.** (1) Regulations contained in Chapter III to Chapter VI (inclusive) of the Public Service Commission Regulations (other than regulations 16, 50, 52, 53, 54, 55, 56, 58 and 59) shall cease to apply in respect of an officer in the Fire Service on the commencement of the Fire Service (Terms and Conditions of Employment) Regulations, 1998.

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\* See LN 267/1998 published as Legal Supplement Part B in the *Gazette*—Vol. 37 No. 194 dated 15th October 1998.



(2) Where, at the date of the commencement of the Fire Service (Terms and Conditions of Employment) Regulations, 1998, an action has been taken in respect of an officer in the Fire Service or a benefit, including a permission or approval, has been given to an officer in the Fire Service under a regulation referred to in subregulation (1) that ceases to apply to fire officers, that action, privilege or benefit shall remain in force and in effect notwithstanding the cessation of the application of that regulation.

## CHAPTER II

### THE PUBLIC SERVICE COMMISSION

**3.** (1) The Chairman and other members of the Commission shall, as soon as possible after appointment, take the oath or make the affirmation set out in Form I of the First Schedule.

Oath of Office.

Form I.  
First Schedule.

(2) Every person appointed a member of the staff of the Commission shall, as soon as possible after appointment, take the oath or make the affirmation set out in Form II of the First Schedule.

Form II.  
First Schedule.

**4.** (1) The Commission shall meet as often as may be necessary for the purpose of performing its functions and such meetings shall be held on such days and at such time and place as the Chairman shall determine.

Meetings.

(2) Where a member fails to attend at least four meetings in any one month over a period of three months without reasonable excuse, the Commission shall make a report to the President.

**5.** (1) The Chairman, or in his absence the Deputy Chairman, shall preside at meetings of the Commission, and in the absence of the Chairman and the Deputy Chairman from any meeting, the members present shall elect one of their number to preside at that meeting.

Procedure,  
quorum and  
voting.

(2) At any meeting of the Commission three members shall constitute a quorum.

**LAWS OF TRINIDAD AND TOBAGO**

*Constitution of the Republic  
of Trinidad and Tobago*

186

**Chap. 1:01**

[Subsidiary]

*Public Service Commission Regulations*

(3) All questions for discussion at a meeting of the Commission shall be decided by a majority of the votes of the members present and voting.

(4) The Chairman or other member presiding at a meeting shall have an original vote, and in the event of an equality of votes, he shall have as well a second or casting vote.

Decisions other  
than at  
meetings.

**6.** (1) Notwithstanding regulation 5 but subject to subregulation (2), questions may also be decided by the Commission without a meeting by circulation of the relevant papers among the members and the expression of their views in writing, and in such case the decision shall be the view of the majority of members expressing a view.

(2) If any member requires that a matter or question being dealt with by circulation of the relevant papers shall be reserved for consideration at the next following meeting of the Commission, no decision shall be made on that matter or question except at a meeting of the Commission.

Record of  
meetings and  
decisions.

**7.** (1) The Director shall ensure that Minutes of all meetings of the Commission and of all decisions arrived at under regulation 6, shall be duly recorded and kept and that the same be presented for confirmation by the Commission as soon as practicable at a subsequent meeting or by individual members on circulation thereof.

Dissents.

(2) Any member of the Commission who dissents from a decision may require that his dissent and reasons for dissenting be recorded in the Minutes.

Consultation  
with other  
persons.

**8.** The Commission in considering any matter or question may consult with any such public officer or other person as the Commission may consider proper and desirable and may require any public officer to attend for the purpose of assisting the Commission in its deliberations and producing any official documents relating to such matter or question.

LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

**Chap. 1:01**

187

*Public Service Commission Regulations*

[Subsidiary]

9. Any public officer who without reasonable cause or excuse fails to appear before the Commission when required to do so, or who fails to comply with any request made by the Commission or with any requirement of these Regulations shall be guilty of misconduct.

Non-compliance.

10. (1) Whenever the Commission delegates any of its powers to any of its members or to any public officer in accordance with section 127(1) of the Constitution, the Director shall cause notice of such delegation to be published in the *Gazette*.

Instrument of delegation to be published.

(2) A notice published under subregulation (1) shall contain the following information:

- (a) the powers delegated;
- (b) the person or persons to whom such delegation is made;
- (c) the extent of such delegation;
- (d) the terms and conditions of such delegation and the manner in which matters dealt with under such delegated authority may reach the Commission.

(3) Any power so delegated shall be exercised in such manner as the Commission may direct.

(4) Every delegation under this regulation shall be revocable.

CHAPTER III

**APPOINTMENTS, PROMOTIONS AND TRANSFERS**

11. Every application for first appointment to the public service shall be addressed to the Director on the prescribed form.

Application for appointment.

12. (1) Candidates for permanent appointment to public offices in the clerical or secretarial classes as prescribed by the Civil Service Regulations and to such other classes in the public service as the Commission may from time to time specify, shall be selected on the basis of written competitive examinations and interviews.

Selection for appointment on basis of competitive examination.  
Ch. 23:01.  
Sub. Leg.

LAWS OF TRINIDAD AND TOBAGO

188

Chap. 1:01

*Constitution of the Republic  
of Trinidad and Tobago*

[Subsidiary]

*Public Service Commission Regulations*

(2) A candidate who fails the examination for entry into the public service in the class or classes specified in subregulation (1) in any year, shall, if he wishes to be considered for a permanent appointment, reapply and resubmit himself for the examination in any following year, notwithstanding that he may have held an acting appointment in the meantime.

(3) A candidate who passes the examination for entry into the class or classes specified in subregulation (1) in any year but fails to obtain an appointment shall, if he wishes to be considered for a permanent appointment, be required to reapply and resubmit himself for examination in any following year, but the Commission may, in such case as it shall think fit, waive the requirements of this subregulation.

Filling of  
vacancies.  
[267/2007].

**13.** (1) As soon as it is known that a vacancy will occur the Permanent Secretary or Head of Department shall communicate to the Director in writing and shall make his recommendations regarding the filling of the vacancy.

(2) Where a vacancy exists for more than three months and no request has been made by the Permanent Secretary or Head of Department for the filling of the vacant post, the Director shall send to each Permanent Secretary or Head of Department a statement of existing vacancies in his Ministry or Department requesting early recommendations for filling vacancies.

(3) If recommendations, or satisfactory explanations for a lack thereof, are not received within a month, the Director shall report the fact to the Commission and the Commission shall require the Permanent Secretary or Head of Department to inform it of the reasons for failure to request the filling of the vacancy.

(4) The Director shall, from time to time by circular memorandum or by publication in the *Gazette*, give notice of vacancies which exist in the particular service and any officer may make application for appointment to any such vacancy. Such application shall be forwarded through the appropriate Permanent Secretary or Head of Department to the Director, but the failure to

LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

**Chap. 1:01**

189

*Public Service Commission Regulations*

[Subsidiary]

apply shall not prejudice the consideration of the claims of all eligible public officers.

(5) Notwithstanding subregulation (4), a Permanent Secretary or Head of Department may with the consent of the Public Service Commission and in consultation with the Director of Personnel Administration by—

- (a) circular memorandum; and
- (b) publication in the *Gazette*,

give notice of vacancies which exist in offices specific to the particular Ministry or Department to which any eligible officer may apply.

(6) An application to fill a vacancy as advertised pursuant to subregulation (5) shall be made directly to the Permanent Secretary or Head of Department.

(7) The failure of an eligible officer to apply for a vacancy as advertised pursuant to subregulation (5) shall not prejudice the Commission's consideration of the claims by that officer.

**14.** Whenever in the opinion of the Commission it is possible to do so and it is in the best interest of the particular service within the public service, appointments shall be made from within the particular service by competition, subject to any Regulations limiting the number of appointments that may be made to any specified office in the particular service.

Appointments to be by competition within the particular service.

**15.** Where the Commission considers either that there is no suitable candidate already in the particular service available for the filling of any vacancy or that having regard to qualifications, experience and merit, it would be advantageous and in the best interest of the particular service that the services of a person not already in that service be secured, the Commission may authorise the advertisement of such vacancy.

Advertisement of vacancies.

**16. (1)** The Commission may from time to time appoint one or more Selection Boards to assist in the selection of candidates

Selection Boards.  
[267/2007].

**LAWS OF TRINIDAD AND TOBAGO**

190

**Chap. 1:01**

*Constitution of the Republic  
of Trinidad and Tobago*

[Subsidiary]

*Public Service Commission Regulations*

for appointment to the public service and the composition of any such Board and the form in which its reports are to be submitted shall be in the discretion of the Commission.

(2) On consideration of any report of a Selection Board, the Commission may, in its discretion, summon for interview any of the candidates recommended by such Board.

(3) Where a Permanent Secretary or Head of Department has issued a notice of vacancy pursuant to regulation 13(5), that Permanent Secretary or Head of Department shall appoint a Selection Board to assist in the selection of a candidate for appointment to the vacancy.

(4) The Selection Board appointed under subregulation (3) shall include the Director or his representative and shall be constituted in accordance with guidelines issued by the Public Service Commission.

(5) A Selection Board appointed under subregulation (3) shall follow the procedures outlined by the Public Service Commission in “Guidelines for the selection of candidates” issued from time to time.

(6) The report of a Selection Board appointed under subregulation (3) shall be submitted to the Public Service Commission for consideration and the Commission may in its discretion summon for interview any of the candidates recommended by that Selection Board.

Examination  
Boards.

**17.** (1) All examinations to be held under these Regulations shall be set and the papers marked by such Examination Board as may be appointed for the purpose.

(2) The Director shall be responsible for the conduct of examinations set under subregulation (1).

Principle of  
selection for  
promotion.

**18.** (1) In considering the eligibility of officers for promotion, the Commission shall take into account the seniority, experience, educational qualifications, merit and ability, together with relative efficiency of such officers, and in the event of an equality of

efficiency of two or more officers, shall give consideration to the relative seniority of the officers available for promotion to the vacancy.

(2) The Commission, in considering the eligibility of officers under subregulation (1) for an appointment on promotion, shall attach greater weight to—

- (a) seniority, where promotion is to an office that involves work of a routine nature, or
- (b) merit and ability, where promotion is to an office that involves work of progressively greater and higher responsibility and initiative than is required for an office specified in paragraph (a).

(3) In the performance of its functions under subregulations (1) and (2), the Commission shall take into account as respects each officer—

- (a) his general fitness;
- (b) the position of his name on the seniority list;
- (c) any special qualifications;
- (d) any special courses of training that he may have undergone (whether at the expense of Government or otherwise);
- (e) the evaluation of his overall performance as reflected in annual staff reports by any Permanent Secretary, Head of Department or other senior officer under whom the officer worked during his service;
- (f) any letters of commendation or special reports in respect of any special work done by the officer;
- (g) the duties of which he has had knowledge;
- (h) the duties of the office for which he is a candidate;
- (i) any specific recommendation of the Permanent Secretary for filling the particular office;
- (j) any previous employment of his in the public service, or otherwise;

LAWS OF TRINIDAD AND TOBAGO

192

Chap. 1:01

*Constitution of the Republic  
of Trinidad and Tobago*

[Subsidiary]

*Public Service Commission Regulations*

- (k) any special reports for which the Commission may call;
- (l) his devotion to duty.

(4) In addition to the requirements prescribed in subregulations (1), (2) and (3), the Commission shall consider any specifications that may be required from time to time for appointment to the particular office.

Promotion to  
Administrative  
Class.  
Ch. 23:01.  
Sub. Leg.

**19.** Promotion to the Administrative Class as prescribed by the Civil Service Regulations shall be determined by the order of merit in an examination fixed for the purpose, and such examination shall be open to all officers in the Civil Service holding an office not lower than that of Principal Officer or other comparable office.

Seniority lists  
to be kept  
up-to-date.

**20.** (1) The Director shall keep up-to-date seniority lists of all officers holding offices in the several grades in the public service.

(2) The Permanent Secretary or Head of Department shall keep in the prescribed form, up-to-date seniority lists of all officers holding offices in the several grades in his Ministry or Department, for the purpose of making recommendations for promotion and acting appointments.

(3) The seniority of an officer shall be determined by the date of his appointment to the particular grade within the range in which he is serving. The seniority of officers promoted to the same grade from the same date shall be determined by their seniority in their former grade.

(4) Where officers have entered the particular service within the public service by competitive examination and are appointed to the same grade in a range with effect from the same date, the relative seniority of such officers shall be determined according to their performance in such examination.

Seniority of  
officer to be  
reckoned from  
date of  
appointment or  
reappointment.

**21.** The seniority of an officer who voluntarily resigns from the public service and is subsequently reappointed to it shall be reckoned from the date of his reappointment.



LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

**Chap. 1:01**

193

*Public Service Commission Regulations*

[Subsidiary]

**22.** In any case not covered by regulation 20 or 21, the Commission shall determine the seniority of the officer.

Commission to determine seniority.

**23.** The Commission may authorise payment to an officer of a commencing pay at an incremental point higher than the minimum in the scale attaching to the office to which he is appointed or promoted.

Commencing pay.

**24.** (1) The Permanent Secretary or Head of Department shall ensure that any recommendation made in relation to an acting appointment as a prelude to a substantive appointment shall be based on the principles prescribed in regulation 18.

Principles of selection for acting appointment as prelude to appointment.

(2) Where, in the exigencies of the particular service, it has not been practicable to apply the principles prescribed in regulation 18, an officer selected for an acting appointment in consequence of a recommendation made under subregulation (1) shall not thereby have any special claim to the substantive appointment.

(3) In considering the claims of eligible candidates for a substantive appointment, the Commission shall take into account the claims of all eligible officers.

**25.** (1) Where an acting appointment falls to be made whether as a prelude to a substantive appointment or not, the Permanent Secretary or Head of Department shall notify those officers within the Ministry or Department who are eligible for consideration.

Permanent Secretary to notify eligible officers of vacancy.

(2) The Permanent Secretary or Head of Department shall, after notification as required by subregulation (1), allow a period of seven days to elapse before forwarding any recommendations in relation to such acting appointment, for the purpose of allowing the officers of the Ministry or Department to make representations on the filling of such vacancy.

(3) Where representations have been made by or on behalf of any officer in the Ministry or Department, the

LAWS OF TRINIDAD AND TOBAGO

194

Chap. 1:01

*Constitution of the Republic  
of Trinidad and Tobago*

[Subsidiary]

*Public Service Commission Regulations*

Permanent Secretary or Head of Department shall forward such representations in their original form to the Director.

(4) Where a vacancy occurs in an office and an acting appointment falls to be made for a period not likely to exceed twenty-eight days as a result of sudden illness or other very special circumstances, the Permanent Secretary or Head of Department may appoint an officer to act for such period and the provisions of subregulations (1), (2) and (3) shall not apply to such acting appointment.

Principles of selection for acting appointment not as prelude to appointment.

**26.** (1) Where an acting appointment falls to be made otherwise than as a prelude to a substantive appointment, the officer appointed shall—

- (a) as a general rule be the senior officer in the Ministry or Department eligible for such acting appointment;
- (b) assume and discharge the duties and responsibilities of the office to which he is appointed to act.

(2) In submitting any recommendations for an acting appointment, the Commission shall examine whether the exigencies of the particular service would best be served by transferring an officer from another district next in line of seniority to act when there is an officer in the same district who is capable of performing the duties of the higher grade, and in such examination the question of additional Government expenditure for travelling and subsistence allowances and other expenditure shall be borne in mind.

Permanent Secretary to submit recommendations in advance.

**27.** The Permanent Secretary or Head of Department shall submit, well in advance, recommendations for acting appointments to permit of their consideration by the Commission before the date on which the acting appointment is intended to become effective, but the Commission may waive the provisions of this regulation where the necessity to submit recommendations has been occasioned by sudden illness, or very special circumstances or in any other circumstances which the Commission may consider appropriate.

LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

**Chap. 1:01**

195

*Public Service Commission Regulations*

[Subsidiary]

**28.** In submitting recommendations for acting appointments, Permanent Secretaries and Heads of Departments shall state the reasons why officers, if any, are being passed over.

Permanent Secretary to state reasons for passing over officers.

**29.** (1) Where the Commission proposes to transfer an officer, the Commission shall, except where the exigencies of the particular service do not permit, make an order of transfer in writing and shall give not less than one month's notice to an officer who is to be transferred.

Transfers.

(2) An officer who is aggrieved by an order under subregulation (1) may make representation to the Commission for a review of the order in accordance with subregulation (3).

(3) Where an officer desires to make representation to the Commission for a review of an order made under subregulation (1), he shall give notice in writing to the Permanent Secretary or Head of Department within seven days of the receipt of such order and shall submit, with the notice, his representations in writing.

(4) The Permanent Secretary or Head of Department shall, within seven days, forward any representations made to him in writing under subregulation (3), together with his comments thereon to the Commission.

(5) The Commission shall consider the representations of the officer and the Permanent Secretary or Head of Department submitted to it under subregulations (3) and (4) and shall communicate its decision in writing.

**30.** (1) Notwithstanding that an officer in respect of whom an order has been made under regulation 29(1) has made representation under subregulations (2) and (3) of the said regulation, the officer shall assume his duties on transfer pending the review of the order by the Commission.

Officer to assume duties pending review of transfer order.

(2) Where the order of transfer involves the exchange of an officer in an office in a grade to another office in the same grade, the officer shall not assume his duties on transfer pending the review of the order by the Commission.

Exception.

**LAWS OF TRINIDAD AND TOBAGO**

*Constitution of the Republic  
of Trinidad and Tobago*

196

**Chap. 1:01**

[Subsidiary]

*Public Service Commission Regulations*

Date of  
appointment.

**31.** (1) The date of appointment to an office in a particular service within the public service shall normally be the date on which the officer assumes substantively the duties of the office to which he has been appointed.

(2) The date of appointment on promotion shall be such date as the Commission shall specify.

(3) If an officer is selected for appointment from outside Trinidad and Tobago, the date of appointment shall be the date specified in the letter of appointment.

Medical  
examination on  
appointment.

**32.** (1) A candidate selected for appointment shall undergo a medical examination by a Government Medical Officer and shall not be confirmed in his appointment unless and until he has been passed as medically fit.

(2) The Permanent Secretary or Head of Department to which the candidate has been assigned, shall make appropriate arrangements for the new appointee to be medically examined as soon as practicable after his assumption of duty.

(3) The Government Medical Officer who examines the new appointee shall submit his medical report on the prescribed form to the Director under confidential cover as soon as practicable after the examination.

(4) The Director shall inform the new appointee whether the medical report is favourable or unfavourable.

(5) All communications relating to the medical report on a new appointee shall be strictly confidential and any officer who communicates the details of any such medical report to any other person except for the purpose of, and as provided for in this regulation, shall be guilty of misconduct and be liable to dismissal from the public service.

Exemption  
from medical  
examination.

**33.** An officer selected for appointment to an office in a service within the public service, other than the particular service in which he holds an office and who has undergone a medical examination by a medical officer in the public service

for appointment to that particular service may be exempted from further medical examination as a candidate on appointment to any other service in the public service.

#### CHAPTER IV

#### STAFF REPORTS

**34.** (1) A Permanent Secretary or Head of Department shall forward to the Director in each year— Staff Reports.

- (a) in respect of all officers who are within the scale of pay, a staff report not later than sixty days before an increment is due to an officer; and
- (b) in respect of all officers who are at the maximum in the scale of pay or who receive a fixed pay, a staff report not later than the anniversary of the date of appointment of an officer to the office.

(2) A staff report shall relate to the period of service during the immediately preceding twelve months.

(3) In the preparation of a staff report, the Permanent Secretary or Head of Department shall be guided by his own deliberate judgment and shall in such report—

- (a) make an unbiased assessment of the officer's performance and conduct over the past twelve months; and
- (b) give an indication of the future prospects of the officer.

(4) A staff report shall be in such form as may from time to time be prescribed by the Commission and shall be made in respect of every officer whether he holds an acting appointment, a temporary appointment or is employed for a specified period.

**35.** In order that an officer may be given every opportunity to correct any shortcomings which he might evince during the course of the twelve months' period of service to be reported on, a Permanent Secretary or Head of Department shall— Officer to be informed of adverse report.

- (a) as and when such shortcomings are noticed, cause the officer to be informed in writing thereof;

**LAWS OF TRINIDAD AND TOBAGO**

198	<b>Chap. 1:01</b>	<i>Constitution of the Republic of Trinidad and Tobago</i>
[Subsidiary]		<i>Public Service Commission Regulations</i>

- (b) when adverse markings are included in the staff report, cause the officer to be informed in writing thereof before he submits the report to the Director.

**36. (Revoked by LN 282/1998).**

**CHAPTER V**

**PROBATIONARY APPOINTMENTS**

Period of  
probation on  
first  
appointment.

**37.** Except as otherwise provided in this Chapter, an officer on first appointment to the public service shall be required to serve on probation for a period of two years.

Period of  
probation on  
appointment.

**38. (1)** Where an officer is to be appointed to an office in which he has satisfactorily performed the duties, whether in an acting or temporary capacity or on secondment for periods of equal or longer duration than the period of probation prescribed by regulation 39, the officer shall not be required to serve on probation.

(2) Where an officer is appointed on promotion to an office in which he has acted satisfactorily for periods of less duration than the period of probation prescribed by regulation 39, not more than one year and not less than six months acting service shall be offset against the period of probation.

(3) Where an officer is appointed on probation to an office in which he has not acted satisfactorily, the Commission shall determine the period of probation to be served.

Period of  
probation on  
promotion.

**39. (1)** Subject to regulation 38, an officer who is appointed on promotion to an office shall be required to serve on probation for one year in the office to which he is promoted.

(2) Subject to subregulation (3), where within two years immediately preceding his promotion an officer has served in an acting appointment in the office to which he is promoted, the period of probation shall be abated by the extent of the aggregate of service in such acting appointment unless the Commission otherwise directs.

LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

**Chap. 1:01**

199

*Public Service Commission Regulations*

[Subsidiary]

(3) In calculating the aggregate of service in an acting appointment for the purpose of subregulation (2), only continuous service of three months or more shall count.

(4) Where an officer is transferred from one Ministry or Department to another, the Permanent Secretary or Head of Department shall take immediate steps to ensure the release of such officer to assume duties in his new office on the date fixed by the Commission.

(5) Where an officer is promoted and transferred from one Ministry or Department to another and the exigencies of the service preclude his assumption of duties in his new office on the date fixed by the Commission, the period of probation shall be deemed to commence from such date.

**40.** Where an officer is promoted before he has completed the full period of probation in the lower office, the unserved portion of that period of probation shall be deemed to be waived and the officer deemed to be confirmed in that appointment.

Waiver of  
portion of  
period of  
probation.

**41.** The following principles shall be observed for the treatment of an officer during his period of probation:

Principles to be  
observed while  
officer on  
probation.

- (a) the officer on probation shall be given an opportunity to learn his work and be tested as to his suitability for it;
- (b) he shall be accorded all possible facilities for acquiring experience in his duties;
- (c) he shall be subject to continual and sympathetic supervision;
- (d) so far as the exigencies of the service permit, he shall be assigned to duty only where such observation is possible; and
- (e) if at any time during his period of probation he shall exhibit tendencies which render it in any way doubtful that he is likely to become fit for confirmation in his appointment, these shall at

LAWS OF TRINIDAD AND TOBAGO

200

Chap. 1:01

*Constitution of the Republic  
of Trinidad and Tobago*

[Subsidiary]

*Public Service Commission Regulations*

once be drawn to his attention in writing by the Permanent Secretary or Head of Department and he shall be given such assistance as may be possible to enable him to correct his faults.

Confidential  
reports on  
officer on  
probation.

**42.** (1) In the case of an officer serving a two-year period of probation, the Permanent Secretary or Head of Department shall submit to the Director three confidential reports as follows:

- (a) a first report after the officer has completed one year's service;
- (b) an interim report six months before the period of probation expires; and
- (c) a final report one month before the period of probation expires.

(2) In the case of an officer serving a period of probation of one year, two confidential reports shall be submitted as follows:

- (a) a first report six months before the period of probation expires;
- (b) a final report one month before the period of probation expires.

(3) The Director shall report to the Commission whenever a Permanent Secretary or Head of Department fails to submit a confidential report on an officer on probation within the terms specified in this regulation.

(4) In submitting the final report, the Permanent Secretary or Head of Department shall make a firm recommendation—

- (a) that the officer be confirmed in the appointment; or
- (b) that the period of probation be extended; or
- (c) that the services of the officer be terminated; or
- (d) that the officer revert to his former office.

(5) A report of the Permanent Secretary or Head of Department under this regulation shall not be seen by the officer on probation, but any adverse comments on his work shall be in



LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

**Chap. 1:01**

201

*Public Service Commission Regulations*

[Subsidiary]

specific terms; the officer shall be notified in writing in duplicate as early as possible, so that he should have sufficient time in which to make an effort to correct his shortcomings before his period of probation expires. The officer shall retain the original notification and shall sign the duplicate and return it to the Permanent Secretary or Head of Department for the record.

**43.** (1) Before any recommendation is made to the Commission for the extension of the period of probation of an officer or for the termination of his appointment, the Permanent Secretary or Head of Department shall inform the officer of this recommendation and of the specific reasons therefor and he shall invite the officer to submit any representations he may wish to make.

Officer may make representation on recommendation of Permanent Secretary.

(2) Subject to the provisions of these Regulations, the first appointment on probation of an officer may, at any time during the period of probation, be terminated by the Commission.

**44.** (1) If, after consideration of the final report of the Permanent Secretary or Head of Department, the Commission is satisfied that the service of an officer on probation has been satisfactory, the Commission shall confirm his appointment with effect from the date of appointment.

Commission to confirm appointment.

(2) If the Commission is not satisfied that the service of an officer on probation has been satisfactory, the Commission may extend the period of probation for a further period.

**45.** Where the period of probation of an officer has been extended and he is subsequently confirmed in his appointment, the Commission may direct that the officer's increment be paid—

Incremental date where period of probation extended.

- (a) with effect from the date following that on which the extended period of probation expired without change in the incremental date; or
- (b) with effect from the date following that on which the extended period of probation expired which would then become his incremental date.

**LAWS OF TRINIDAD AND TOBAGO**

202                      **Chap. 1:01**                      *Constitution of the Republic  
of Trinidad and Tobago*

**[Subsidiary]**                      *Public Service Commission Regulations*

---

Permanent  
Secretary to  
keep record.

**46.** A Permanent Secretary or Head of Department shall keep a record of every officer who has been appointed on probation to an office in his Ministry or Department.

Permanent  
Secretary not to  
allow payment  
out of public  
funds in certain  
circumstances.

**47.** The Permanent Secretary or Head of Department shall ensure that no payment shall be made out of public funds in respect of any matter requiring the approval of the Commission until such approval has been obtained.

**CHAPTER VI**

**RESIGNATIONS, RETIREMENTS AND TERMINATION  
OF APPOINTMENTS**

Resignation.

**48.** (1) An officer who wishes to resign shall give to the Commission notice in writing of his intention at least one month before the date on which he wishes to relinquish his appointment, but the Commission may waive the requirement of notice in whole or in part if it thinks fit.

(2) Notwithstanding any regulation respecting the non-forfeiture of leave, an officer who fails without reasonable cause to comply with subregulation (1) may forfeit all leave and the benefits and privileges accruing to him in respect of leave.

(3) An officer is not entitled to withdraw his notice of resignation before such resignation becomes effective but the Commission may accept such withdrawal if tendered in writing at any time before the effective date of the resignation.

Abandonment.

**49.** An officer who is absent from duty without leave for a period of one month may be declared by the Commission to have resigned his office and thereupon the office becomes vacant and the officer ceases to be an officer.

Reasons for  
termination of  
appointment.

**50.** The services of an officer may be terminated only for the reasons stated hereafter—

- (a) where the officer holds a permanent appointment—
  - (i) on dismissal or removal in consequence of disciplinary proceedings;

- (ii) on compulsory retirement;
- (iii) on voluntary retirement;
- (iv) on retirement for medical reasons;
- (v) on being retired in the public interest;
- (vi) on resignation without benefits payable under any written law providing for the grant of pensions, gratuities or compensation;
- (vii) on the abolition of office;
- (b) where the officer holds a temporary appointment—
  - (i) on the expiry or other termination of an appointment for a specified period;
  - (ii) where the office itself is of a temporary nature and is no longer necessary;
  - (iii) on the termination of appointment in the case of an officer on probation;
  - (iv) on the termination of appointment in the case of an officer holding a non-pensionable office with no service in a pensionable office;
  - (v) on dismissal or removal in consequence of disciplinary proceedings;
  - (vi) ill health;
- (c) where the officer is on contract his services shall be terminated in accordance with the terms of the contract.

**51. (1)** Subject to subregulation (2), an officer—

- (a) shall be required to retire on attaining the age of sixty years or such other age as prescribed by the Civil Service Regulations; or
- (b) may retire voluntarily at the age of fifty-five years; or
- (c) may at any time after he attains the age of fifty years and before attaining the age of fifty-five

Compulsory  
and voluntary  
retirement.  
[41/2009].

**LAWS OF TRINIDAD AND TOBAGO**

204	<b>Chap. 1:01</b>	<i>Constitution of the Republic of Trinidad and Tobago</i>
<b>[Subsidiary]</b>		<i>Public Service Commission Regulations</i>
Ch. 23:52.		years, apply to the Commission for permission to retire pursuant to section 15(1) of the Pensions Act and shall in his application state the grounds on which it is based.
		(2) An officer who is a member of the Fire Service and holds a rank therein below that of Second Officer shall retire in accordance with any provision enacted in respect of such office.
Permanent Secretary to notify Director of officers aged 60 years, compulsory.		<b>52.</b> A Permanent Secretary or Head of Department shall inform the Director of all officers in his Ministry or Department who are within one year of the compulsory retirement age.
Premature retirement. Ch. 23:52.		<b>53.</b> (1) If it appears to the Commission that pursuant to section 14 of the Pensions Act an officer who has attained the age of fifty years ought to be called upon to retire from the public service, the Commission shall advise the officer accordingly.  (2) Any such officer shall be afforded an opportunity of submitting to the Commission any representations he may wish to make regarding his proposed retirement.  (3) If the Commission, after considering the representations, if any, made by the officer, is of the opinion that, having regard to all the circumstances of the case, the officer should be retired in the public interest, the Commission shall require the officer to retire on such date as the Commission shall determine, and the officer shall be retired accordingly.
Retirement in the public interest.		<b>54.</b> (1) Where it is represented to the Commission or the Commission considers it desirable in the public interest that any officer should be required to retire on grounds which cannot suitably be dealt with under any of these Regulations, it shall call for a full report on the officer from the Permanent Secretary or Head of Department in which he is serving and shall take into account the officer's previous record during the last preceding ten years.  (2) If, after considering such report and such record and giving the officer an opportunity of submitting a reply to the

LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

**Chap. 1:01**

205

*Public Service Commission Regulations*

[Subsidiary]

grounds on which his retirement is contemplated, and having regard to the conditions of the particular service of which the officer is a member, the usefulness of the officer thereto, and all the other circumstances of the case, the Commission is satisfied that it is desirable in the public interest to do so, it shall require the officer to retire on such date as the Commission shall determine, and he shall be retired accordingly.

55. (1) Where an office, being one of a number of like offices, has been abolished but one or more than one such office remains, the Permanent Secretary or Head of Department shall make a report thereon to the Director for consideration by the Commission, and shall recommend with his reasons therefor, which officer shall be retired or removed from the public service in consequence of such abolition.

Termination of appointment on abolition of office or for facilitating improvement in the organisation of a Ministry or Department.

(2) Where it is necessary to retire or remove an officer from the public service for the purpose of facilitating improvement in the organisation of a Ministry or Department in order to effect greater efficiency or economy, the Permanent Secretary or Head of Department shall make a report thereon to the Director for consideration by the Commission, and shall recommend with his reasons therefor, which officer shall be retired or removed from the public service in consequence of such reorganisation.

(3) Where the Permanent Secretary or Head of Department makes any recommendation under subregulation (1) or (2), the Permanent Secretary or Head of Department shall at the same time notify the officer concerned in writing of his recommendations, and such officer may, within seven days of the receipt of the notification, make representations thereon.

(4) Where an officer makes representation in respect of recommendations made under subregulation (1) or (2), the representations shall be forwarded in their original form to the Commission by the Permanent Secretary or Head of Department together with such comments as the Permanent Secretary or Head of Department thinks fit.

**LAWS OF TRINIDAD AND TOBAGO**

206

**Chap. 1:01**

*Constitution of the Republic  
of Trinidad and Tobago*

[Subsidiary]

*Public Service Commission Regulations*

(5) Notwithstanding subregulation (1) or (2), and after consideration of the representations of the officer, the Commission may, instead of retiring or removing the officer from the public service, transfer the officer concerned to another office not lower in status than that which he held.

Termination of  
appointment on  
grounds of  
inefficiency.

**56.** (1) The Commission may terminate the appointment of an officer on grounds of inefficiency.

(2) Where a Permanent Secretary or Head of Department makes a recommendation in writing that the appointment of an officer should be terminated on grounds of inefficiency, the officer shall be informed in writing of such recommendation and shall be given an opportunity to make representations thereon.

(3) Where an officer makes representations under subregulation (2), the representations shall be forwarded in their original form to the Commission by the Permanent Secretary or Head of Department together with such comments as the Permanent Secretary or Head of Department thinks fit.

(4) The Commission may, upon application of the officer or on its own motion, cause an investigation to be made before making a final decision.

**57. (Revoked by LN 282/1998).**

Medical  
Boards.

**58.** (1) A Medical Board shall be held whenever it is necessary for an officer to be examined with a view to ascertaining whether or not the officer should be retired on grounds of ill-health, or in any case or class of case in which the Commission directs.

(2) An officer may be required by the Commission to undergo a medical examination at any time.

(3) An officer who is required to undergo a medical examination shall submit himself to be examined by a Medical Board at such time and place as the Permanent Secretary may direct on behalf of the Board.

## LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

**Chap. 1:01**

207

*Public Service Commission Regulations*

[Subsidiary]

(4) Where an officer, through refusal or neglect to obtain specialist advice or to obtain treatment when so recommended by the Medical Board, falls sick and in consequence is unable to perform his duties, the Commission may direct that the period during which he is unable to perform his duties shall be counted as leave without pay.

(5) Whenever it is considered necessary for an officer to be examined with a view to ascertaining whether or not he should be retired on grounds of ill health, the Permanent Secretary or Head of Department shall make a recommendation to this effect to the Commission and where there is a medical record of the officer, the record shall be made available to the Medical Board.

(6) Where a deterioration in the work of the officer is the reason or one of the reasons for requesting that the officer undergo a medical examination, the Permanent Secretary or Head of Department shall submit, with his recommendation under subregulation (5), a detailed report on any change in the quality of the officer's work in order to assist the Medical Board in carrying out the medical examination of the officer concerned.

**59.** An officer who is medically boarded and found unfit for further service shall not be allowed to remain on duty after receipt of the Medical Board's report, and shall be granted such annual leave and accumulated annual leave for which he is eligible or two months leave, which ever is the greater, as from the date on which he is notified of his unfitness for further duty. Unfit officers.

## CHAPTER VII

### CONDUCT

60. }  
to } *(Revoked by LN 28/1991).*  
83. }

## LAWS OF TRINIDAD AND TOBAGO

208

Chap. 1:01

*Constitution of the Republic  
of Trinidad and Tobago*

[Subsidiary]

*Public Service Commission Regulations*

### CHAPTER VIII

#### DISCIPLINE

##### GENERAL

Officer liable to  
disciplinary  
proceedings.

**84.** An officer who is alleged to be guilty of misconduct or who is alleged to be guilty of indiscipline by failing to comply with any regulation, order or directive for the time being in force in the Ministry or Department to which he is assigned, is liable to disciplinary proceedings in accordance with the procedure prescribed in these Regulations.

Definition.  
[28/1991].

**84A.** For the purposes of this Chapter, “Head of Department” includes the person occupying or performing the duties of the office of Chief Fire Officer being a public office established by the Fire Service Act, or Commissioner of Prisons being a public office established by the Prison Service Act.

Ch. 35:50.  
Ch. 13:02.

Commission to  
exercise  
disciplinary  
control on  
Permanent  
Secretary or  
Head of  
Department.  
[28 of 1991].

**84B.** (1) Where the Commission becomes aware of an allegation of indiscipline or misconduct of an officer being a Permanent Secretary or Head of Department, the Commission shall appoint an officer to investigate such allegation.

(2) Regulation 90(3) to 90(6) inclusive, shall apply in respect of such investigation.

Permanent  
Secretary to  
report  
misconduct or  
indiscipline.  
[28 /1991].

**85.** (1) Where an officer is alleged to have committed an act of misconduct or indiscipline which is a breach of a regulation that is the subject of a delegation to the Permanent Secretary or Head of Department, such act of misconduct or indiscipline shall be referred to an officer senior in office to the officer against whom the report or allegation has been made.

(2) The senior officer referred to in subregulation (1) may charge the officer against whom the report or allegation has been made and refer the charge to the Permanent Secretary or Head of Department.

(3) Where a charge is referred to the Permanent Secretary or Head of Department under subregulation (2), the Permanent Secretary or Head of Department shall act as a disciplinary



tribunal, or appoint, in writing as a disciplinary tribunal, an officer in his Ministry or Department, as the Commission directs, holding or performing the duties of a senior officer who is senior in office to the person charged.

(4) The disciplinary tribunal referred to in subregulation (3) comprising—

- (a) the Permanent Secretary or Head of Department may impose in respect of a charge any of the penalties prescribed in regulation 110(1)(c) to (g); or
- (b) an officer appointed as such under subregulation (3) may impose in respect of a charge any of the penalties prescribed in regulation 110(1)(f) or (g).

(5) A fine imposed by a disciplinary tribunal, other than the Permanent Secretary or Head of Department, under subregulation (4) shall not exceed an amount calculated on four days pay to be deducted from the salary of the officer in no more than two instalments.

(6) Where a disciplinary tribunal, other than a Permanent Secretary or Head of Department, finds the officer guilty and is of the opinion that, owing to the special circumstances of the case (including the previous record of the offender), the penalty that could be imposed by it is inadequate it may so certify and refer the matter to the Permanent Secretary or Head of Department.

(7) The Permanent Secretary or Head of Department on receipt of a certificate made under subregulation (6) may impose a penalty prescribed in regulation 110(1)(c) to (g) inclusive.

(8) A fine imposed by the Permanent Secretary or Head of Department under subregulation (4) shall not exceed an amount calculated on four days pay per month to a maximum of three months.

(9) Where the Permanent Secretary or Head of Department is the person making the allegation or report he shall not exercise any power as a disciplinary tribunal but refer it to the Commission to determine as if it were a matter to which regulation 90 applies.

## LAWS OF TRINIDAD AND TOBAGO

210

Chap. 1:01

*Constitution of the Republic  
of Trinidad and Tobago*

[Subsidiary]

*Public Service Commission Regulations*

(10) Where a disciplinary tribunal during the course of hearing a matter to which this regulation refers is of the opinion that the matter is such that the officer has been inadequately charged with an offence to which subregulation (1) applies, it may so certify and refer the matter to the Permanent Secretary or Head of Department.

(11) The Permanent Secretary or Head of Department shall, no later than three days after receipt of a certificate referred to him in accordance with subregulation (10), refer the matter to an investigating officer to deal with under regulation 90 as if it were a report or allegation of indiscipline or misconduct to which regulation 90 applies.

(12) Regulations 94, 96, 97, 98, 99, 100(1) and 106(2) and (3) apply *mutatis mutandis* in respect of the hearing of a charge to which this regulation applies.

Permanent  
Secretary may  
inform Police  
of offence.

**86.** Nothing in these Regulations shall be deemed to restrict a Permanent Secretary or Head of Department from reporting to the Police directly where an offence against any law appears to have been committed by an officer.

Commission to  
issue  
instructions on  
how certain  
cases to be  
dealt with.

**87.** The Permanent Secretary or Head of Department shall report any case not covered by these Regulations to the Director and the Commission may issue instructions as to how the case shall be dealt with and the case shall be dealt with accordingly.

Suspension by  
Commission.

**88.** (1) When the Commission becomes aware of any act of indiscipline or misconduct and the Commission is of the opinion that the public interest or the repute of the public service requires it, the Commission may direct the officer in writing to cease to report for duty until further notice from the Commission, and an officer so directed shall cease to perform the functions of his office forthwith.

(2) An officer directed to cease to perform the duties of his office in accordance with subregulation (1) shall continue to draw full salary until notice is given to him by the Commission under regulation 89.

LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

**Chap. 1:01**

211

*Public Service Commission Regulations*

[Subsidiary]

**89.** (1) Where there have been or are about to be instituted against an officer—

Interdiction.  
[28 of 1991].

- (a) disciplinary proceedings for his dismissal; or
- (b) criminal proceedings,

and where the Commission is of opinion that the public interest requires that that officer should forthwith cease to perform the functions of his office, the Commission shall interdict him from such performance.

(2) The effective date of interdiction shall be—

- (a) where an officer has continued to perform the duties of his office, the date of receipt by him of the notification of his interdiction;
- (b) where, in accordance with regulation 88, an officer has ceased to perform the duties of his office, such date as the Commission may direct.

(3) An officer so interdicted shall, subject to the provisions of regulation 114, be permitted to receive such proportion of the pay of his office, not being less than one-half, as the Commission may determine, after taking into consideration the amounts being deducted per month from the pay of the officer.

(4) If disciplinary proceedings against any such officer result in his exoneration, he shall be entitled to the full amount of the remuneration which he would have received if he had not been interdicted, but if the proceedings result in any punishment other than dismissal, the officer shall be allowed such pay as the Commission may in the circumstances determine.

(5) ***(Revoked by LN 28/1991).***

**90.** (1) Where a report or allegation of indiscipline or misconduct by an officer is received other than a report or allegation of indiscipline to which regulation 85 applies, the Permanent Secretary or Head of Department shall report the matter to the Director for the attention of the Commission and concurrently warn the officer in writing of the report or allegation of indiscipline or misconduct.

Investigation of  
charges.  
[28/1991  
238/1998  
41/2008].

**LAWS OF TRINIDAD AND TOBAGO**

212

**Chap. 1:01**

*Constitution of the Republic  
of Trinidad and Tobago*

[Subsidiary]

*Public Service Commission Regulations*

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(2) An investigating officer shall be appointed by the Director from the Public Service Investigations Unit to investigate the report or allegation.

(2A) An investigating officer may also be appointed by a Permanent Secretary or Head of Department of the Ministry or Department to which the officer is assigned and shall hold an office in a grade higher than that of the officer.

(3) The investigating officer shall, within three days of his appointment, give the officer a written notice specifying the time, not exceeding seven days from the date of the receipt of such notice, within which he may, in writing, give an explanation concerning the report or allegation to the investigating officer.

(4) The investigating officer shall require those persons who have direct knowledge of the alleged indiscipline or misconduct to make written statements within seven days for the information of the Commission.

(5) The investigating officer shall with all possible dispatch but not later than thirty (30) days from the date of his appointment, forward to the Director of Personnel Administration for the information of the Commission an investigating officer's report consisting of the original statements and all relevant documents together with his own report on the particular act.

(5A) Where the Commission considers that the circumstances before it warrants an extension of time, the period referred to in subregulation (5) may be extended by a period not extending thirty days.

(6) The Commission, after considering the report of the investigating officer and any explanation given under subregulation (3), shall decide whether the officer should be charged with an offence, and if the Commission decides that the officer should be so charged, the Commission shall, as soon as possible, cause the officer to be informed in writing of the charge together with such particulars as will leave the officer under no misapprehension as to the precise nature of the allegations on which the charge is based.

LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

**Chap. 1:01**

213

*Public Service Commission Regulations*

[Subsidiary]

(7) Where, in the explanations given under subregulation (3), the officer makes an admission of guilt, the Commission may determine the penalty to be awarded without further inquiry.

(8) Where the Commission, under section 127 of the Constitution, has delegated to an officer its duty of deciding under subregulation (6) whether an officer shall be charged and of charging such officer with an offence, the reference in subregulations (4), (5), (6) and (7) to the Commission shall be construed as a reference to that officer.

**91.** Where an officer is charged with an alleged act of indiscipline or misconduct he shall, as soon as possible, be given a copy of any written explanation he may have made under regulation 90(3).

Documents to be supplied to accused.

**92.** (1) Where an officer is charged with indiscipline or misconduct the officer shall be requested to state in writing within a specified period whether he admits or denies the charge and shall be allowed to give to the disciplinary tribunal or the Commission any explanation he may wish.

Officer to admit or deny charge in writing and may include explanation.

(2) Where an officer admits the charge under subregulation (1), he shall be allowed to include in his explanation any extenuating circumstances in mitigation.

**93.** Where an officer—

- (a) fails to give an explanation under regulation 90(3); or
- (b) fails to admit or deny the charge under regulation 92(1); or
- (c) gives an explanation under regulation 90(3), or under regulation 92(1), that—
  - (i) places the facts in dispute; or
  - (ii) does not exculpate him,

Hearing on failure to admit or deny charge.

the hearing shall proceed as though the officer denied the charge.

**94.** (1) The officer shall be allowed to state the names and addresses of any witnesses to relevant facts whom he may desire to give evidence at the hearing of the case.

Witnesses.

**LAWS OF TRINIDAD AND TOBAGO**

214

**Chap. 1:01**

*Constitution of the Republic  
of Trinidad and Tobago*

[Subsidiary]

*Public Service Commission Regulations*

(2) Any such witness who is an officer shall be ordered to attend at the hearing of the case and any other witness shall be given due notice that his attendance is desired and of the time and place of the hearing.

Appointment of  
disciplinary  
tribunal.  
[173/2000].

**95.** (1) Where the Commission under regulation 90(6) charges an officer with an alleged act of indiscipline or misconduct and the provisions of regulation 93 apply, the Commission may appoint a disciplinary tribunal to hear and find the facts.

(2) A disciplinary tribunal which the Commission appoints under subregulation (1) may be constituted of—

- (a) one officer; or
- (b) an uneven number of officers not being less than three.

(3) For the purposes of subregulation (2), a reference to officer includes a reference to a retired officer.

(4) (i) An officer selected under subregulation (2) shall be, or in the case of a retired officer, shall have been, of a grade higher than that of the officer charged.

(ii) An officer selected under subregulation (2) shall in no case be of a grade lower than Clerk IV, or in the case of a retired officer shall not have retired at a grade lower than Clerk IV.

(5) Notwithstanding subregulation (2), the Commission may appoint a tribunal consisting of such other persons as it may consider suitable.

Duty of officers  
appointed to  
disciplinary  
tribunal.  
[174/2007].

**96.** (1) It shall be the duty of every officer appointed under regulation 95 to hear the evidence, find the facts and make a report to the Commission in accordance with regulations 98 and 102 as soon as possible, and such officer may not be permitted any leave, other than sick leave or maternity leave, until the report is made to the Commission.

(2) Notwithstanding these Regulations, where an officer referred to in subsection (1) is unable to perform his

functions for whatever reason, the disciplinary tribunal of which he is a member may continue to hear and conclude the case and make a report, but such a tribunal shall not be constituted of less than two members.

**97.** An officer who is charged with an alleged act of indiscipline or misconduct shall not be permitted to take leave other than sick leave or maternity leave until the determination of the case.

Officer on charge not to be permitted leave.

**98. (1)** The following procedure shall apply to the hearing by a disciplinary tribunal of a charge of alleged misconduct or indiscipline:

Procedure at hearing.

- (a) The officer shall be summoned to appear at the hearing and shall be given full opportunity to defend himself.
- (b) The case against the officer may be presented by an officer of the Ministry or Department to which the officer is assigned, but such officer shall be the holder of an office in a grade higher than that of the officer charged.
- (c) Before the case against the officer is presented, the officer may submit that the facts alleged in the charge are not such as to constitute the offence with which he is charged, and the disciplinary tribunal shall make a report of the submission to the Commission for its decision.
- (d) At the hearing before a disciplinary tribunal, the officer may conduct his defence either in person or may be represented by an officer of his choice who is a member of the service, or by his staff association or by an Attorney-at-law; and if the officer is represented by such member, or by his staff association, or by an Attorney-at-law, the officer or his representative may cross-examine the witnesses called in support of the case against him, but where the hearing is before a

**LAWS OF TRINIDAD AND TOBAGO**

216	<b>Chap. 1:01</b>	<i>Constitution of the Republic of Trinidad and Tobago</i>
<b>[Subsidiary]</b>		<i>Public Service Commission Regulations</i>
		disciplinary tribunal constituted of one officer, the officer charged shall not be represented by an Attorney-at-law.
		(e) A true record of the proceedings at the hearing of the case shall be taken and a copy of the record shall be made if the officer desires to make application for a review.
		(2) Nothing in this regulation shall be construed so as to deprive the officer from at any time making a submission that the facts disclosed in the evidence do not support the charge.
Adjournment of hearing.		<b>99.</b> The hearing of any case may be adjourned from time to time as may appear necessary for due hearing of the case.
Hearing in absence of accused officer.		<b>100.</b> (1) If the officer does not attend the hearing of the charge, without good reason, the hearing may be proceeded with and concluded in his absence, but if good reason is given to the disciplinary tribunal by or on behalf of the officer why the officer is unable to attend the hearing, the hearing shall be postponed or adjourned, as the case may be.  (2) Where, owing to the absence of the officer, it is impossible to comply with the procedure described in regulation 90(3), regulations 91, 92, 94, and regulation 98(1) shall be dispensed with.
Standard of proof. [28/1991 143/2006].		<b>101.</b> (1) The standard of proof in any proceedings under this Chapter shall be that required in a Court of law in civil cases.  (2) In the hearing of any matter before it the Tribunal may act without regard to technicalities and legal form and shall not be bound to follow the rules of evidence stipulated in the Evidence Act, but the Tribunal may inform itself on any matter in such manner as it thinks just and may take into account opinion evidence and such facts as it considers relevant but in any such case, the parties to the proceedings shall be given the opportunity if they so desire, of adducing evidence in regard thereto.
Ch. 7:02.		



LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

**Chap. 1:01**

217

*Public Service Commission Regulations*

[Subsidiary]

(3) No documentary evidence shall be used against the officer unless he has previously been supplied with a copy thereof or given access thereto.

(4) Any explanation given by an officer under regulation 90(3) shall be admissible at any hearing.

**102.** (1) The disciplinary tribunal shall make a report to the Commission, and the report shall contain its findings of fact and an expression of its opinion as to the meaning and value of the facts found, together with the record of the proceedings required by regulation 98(1)(e). Tribunal to report. [28/1991].

(2) The disciplinary tribunal shall not disclose the contents of the report made under subregulation (1) to the officer charged, or to any officer not authorised to receive such report. Report confidential.

(3) *(Deleted by LN 28/1991).*

**103.** (1) Where, during the course of the hearing of a case and before the hearing is concluded by the disciplinary tribunal constituted of one officer, it appears to the disciplinary tribunal that there are grounds disclosed which could form the basis of a charge for which the penalty that could be imposed could be any one of the penalties specified in regulation 110(1)(a) to (e), the disciplinary tribunal shall adjourn the hearing for a period not exceeding 14 days and shall forthwith report its findings of fact with a report of the proceedings up to date to the Commission. Disciplinary tribunal may adjourn and report to Commission.

In this subregulation, a reference to the Commission shall be construed as a reference to the officer to whom the Commission has delegated its powers under section 127 of the Constitution.

(2) Where such officer receives a report of the proceedings, he shall submit that report to the Commission, and if in the opinion of the Commission—

(a) the officer should be charged with an alleged act of indiscipline or misconduct, the Commission shall cause the officer to be so charged and the proceedings before the disciplinary tribunal shall cease; or

LAWS OF TRINIDAD AND TOBAGO

218

Chap. 1:01

*Constitution of the Republic  
of Trinidad and Tobago*

[Subsidiary]

*Public Service Commission Regulations*

(b) the officer, on the findings of fact submitted, may be liable to any one of the penalties specified in regulation 110(1)(b) to (e), the Commission may direct the disciplinary tribunal to continue the hearing of the evidence, find the facts and make a report to the Commission.

(3) On consideration of the report of the disciplinary tribunal the Commission may impose any one of the penalties specified in regulation 110(1)(b) to (e).

Disciplinary  
tribunal to  
report where  
evidence  
insufficient.

**104.** (1) Where the disciplinary tribunal constituted of three officers hearing the evidence finds that the evidence is insufficient to support the charge or charges, the disciplinary tribunal shall report to the Commission its findings of fact together with the record of the proceedings as required by regulation 98(1)(e) without calling on the officer for his defence.

(2) If on receipt of the report and record of the proceedings under subregulation (1) the Commission is of the opinion that the report should be amplified in any respect or that further enquiry is desirable it may refer the case back to the disciplinary tribunal for further enquiry or report accordingly.

Disciplinary  
tribunal to  
report evidence  
of other  
misconduct or  
indiscipline  
disclosed at  
hearing of  
charges.

**105.** Where the disciplinary tribunal constituted of three officers in hearing the evidence is of the opinion that such evidence discloses other misconduct or indiscipline, the disciplinary tribunal shall report the matter to the Commission and if the Commission thinks fit to proceed against the officer on such misconduct or indiscipline, it shall cause the officer to be informed in writing of any further charges and the procedure prescribed in these Regulations in respect of the original charge shall apply in respect of such charge.

Penalties that  
may be  
awarded under  
delegated  
authority.  
[28/1991].

**106.** (1) The Commission on consideration of the report under regulation 102 may either exonerate the officer or impose the penalty specified in regulation 110(1)(f) or (g).

(2) The Commission shall, as soon as possible after the hearing of the charge, inform the officer in writing of its findings

LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

**Chap. 1:01**

219

*Public Service Commission Regulations*

[Subsidiary]

and of the penalty imposed on him, of his right to apply for an appeal to the Public Service Appeal Board and of the time specified in the Public Service Appeal Board Regulations for making such an application. Sub. Leg.

(3) Where the officer—

- (i) makes application for an appeal to the Public Service Appeal Board within the time specified in the Public Service Appeal Board Regulations, the penalty shall not take effect pending the determination of the appeal by the Public Service Appeal Board; or
- (ii) does not make an application for an appeal to the Public Service Appeal Board, the penalty shall take effect at the expiry of the time specified in the Public Service Appeal Board Regulations for making such an application.

(4) In this regulation a reference to the Commission shall be construed as a reference to the officer to whom the Commission has delegated its powers under section 127 of the Constitution.

**107.** (1) Where on consideration of the report of the findings of fact by a disciplinary tribunal the Commission is of the opinion that—

- (a) the officer should be exonerated, the Commission shall exonerate the officer;
- (b) the officer should be dismissed, the Commission shall dismiss the officer; or
- (c) some penalty other than dismissal should be imposed on the officer, the Commission may impose any of the penalties specified in regulation 110(1)(b) to (g).

Commission to inform officer of penalty imposed and of his right to apply for review. [28/1991].

(2) The Commission shall, as soon as possible after the hearing of the charge, inform the officer in writing of its

LAWS OF TRINIDAD AND TOBAGO

220	<b>Chap. 1:01</b>	<i>Constitution of the Republic of Trinidad and Tobago</i>
[Subsidiary]		<i>Public Service Commission Regulations</i>
Sub. Leg.	<p>findings and the penalty imposed on him, of his right to apply for an appeal to the Public Service Appeal Board and of the time specified in the Public Service Appeal Board Regulations for making such application.</p> <p>(3) Where the officer—</p> <p>(i) makes an application for an appeal to the Public Service Appeal Board within the time specified in the Public Service Appeal Board Regulations, the penalty shall not take effect pending the determination of the appeal by the Public Service Appeal Board; or</p> <p>(ii) does not appeal, the penalty shall take effect at the expiration of the said time.</p> <p>(4) Where the Commission under subregulation (1) informs the officer that it proposes to impose the penalty of dismissal, the officer, notwithstanding that he gives notice of appeal within the time specified in the Public Service Appeal Board Regulations, shall not receive any pay or allowance from the date of the expiration of such time.</p>	
Commission may remove officer in public interest.	<p><b>108.</b> Where on a consideration of the report of the findings of fact of a disciplinary tribunal as defined in regulation 95(2)(b), the Commission is of the opinion that the officer does not deserve to be dismissed by reason of the charges alleged but that the proceedings disclose other grounds for removing him from the public service in the public interest, the Commission may make an order for the removal of such officer without recourse to the procedure prescribed by regulation 53.</p>	
Proceedings in private.	<p><b>109.</b> The proceedings before a disciplinary tribunal shall be held in private.</p>	
Penalties.	<p><b>110.</b> (1) The following are the penalties that may be imposed by the Commission by disciplinary proceedings brought</p>	

against an officer in respect of misconduct, indiscipline, or unsatisfactory service:

- (a) dismissal, that is termination of appointment;
- (b) reduction in rank, that is, removal to another grade with an immediate reduction in salary;
- (c) reduction of remuneration, that is, an immediate adjustment of remuneration to a lower point on the scale of remuneration attached to the particular office;
- (d) deferment of increment, that is, a postponement of the date on which the next increment is due, with corresponding postponement in subsequent years;
- (e) stoppage of increment, that is, no payment for a specified period of an increment otherwise due;
- (f) reprimand;
- (g) fine.

(2) Where a fine is imposed the amount of such fine shall be deducted from the pay of the officer in such manner as may be specified at the time the penalty is imposed.

111. )  
to } *(Revoked by LN 28/1991).*  
113. )

**114.** (1) An officer convicted of a criminal charge and sentenced to imprisonment without the option of a fine or convicted of a criminal charge involving—

Non-payment  
of remuneration  
on conviction  
of a criminal  
charge.

- (a) dishonesty,
- (b) fraud, or
- (c) moral turpitude,

shall not receive any pay or allowance after the date of conviction pending consideration of his case by the Commission.

(2) The Commission may direct that an officer convicted of a charge described in subregulation (1) shall cease to perform the duties of his office forthwith.

## LAWS OF TRINIDAD AND TOBAGO

222

Chap. 1:01

*Constitution of the Republic  
of Trinidad and Tobago*

[Subsidiary]

*Public Service Commission Regulations*

(3) Notwithstanding that an officer convicted of a charge described in subregulation (1) has appealed against the conviction, such officer shall not receive any pay or allowance after the date of conviction.

### CHAPTER IX

#### REVIEWS

115. }  
to } *(Revoked by LN 28/1991).*  
122. }

### CHAPTER X

#### MISCELLANEOUS

Application of  
Regulations to  
all officers.

**123.** Chapter VIII of these Regulations shall not apply to persons appointed to act in or appointed temporarily to public offices or engaged on contract for a specified term and on specified conditions, but where the termination of such an appointment is contemplated on grounds of misconduct or unsatisfactory work or conduct, the person holding the appointment shall be given an opportunity to show cause why his appointment shall not be terminated.

Commission  
facsimile  
signatures.

**124.** Where in the performance of his duties, the Chairman, the Deputy Chairman or a member of the Commission is required to sign any document, the Chairman, the Deputy Chairman or a member of the Commission, as the case may be, may sign such document by imprinting thereon a facsimile of his signature.

### CHAPTER XI

#### THE TEACHING SERVICE

##### PART I

#### PRELIMINARY

Definitions.

Ch. 39:01.

**125.** In this Chapter—  
“Act” means the Education Act;

LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

**Chap. 1:01**

223

*Public Service Commission Regulations*

[Subsidiary]

- “assisted school” means a public school, the Board of Management of which has received or is in receipt of public funds for building or extension or rebuilding or for the equipment and facilities provided for the school;
- “Board” means the governing body of an assisted school established under section 15 of the Act;
- “Government school” means a public school wholly owned by the Government;
- “primary school” means a school for the provision of primary education within the meaning of section 6 of the Act;
- “public school” means a Government school or an assisted school;
- “teacher” means a person registered as such under the former Education Ordinance, or under the Act and the Regulations, 27 of 1951, who is a member of the Teaching Service;
- “Teaching Service” means the unified Teaching Service established under section 53 of the Act.

**PART II**

**APPOINTMENTS**

**126.** (1) Every application for first appointment to an office of teacher in the Teaching Service shall be addressed to the Permanent Secretary on the prescribed form.

Application  
for first  
appointment.

(2) The Permanent Secretary shall check every application under subregulation (1) to ensure that the applicant is eligible for appointment to the office of teacher in accordance with the Act and the Regulations made thereunder.

(3) The Permanent Secretary shall forward the applications of all eligible applicants to the Director for submission to the Commission.

**127.** (1) The Permanent Secretary in the performance of the duty imposed on him by regulation 20 of keeping up-to-date seniority lists of the Teaching Service shall keep, in respect of teachers holding offices in primary schools—

Duty of  
Permanent  
Secretary to  
keep separate  
seniority lists  
for primary  
school teachers.

- (a) a seniority list, hereinafter referred to as List “A”, of Grade I trained teachers; and

**LAWS OF TRINIDAD AND TOBAGO**

224

**Chap. 1:01**

*Constitution of the Republic  
of Trinidad and Tobago*

[Subsidiary]

*Public Service Commission Regulations*

(b) a seniority list, hereinafter referred to as List “B”, of Grade I untrained teachers.

(2) For the purpose of determining the seniority of teachers on List “A” the effective date of seniority of the teachers who have taken the Teachers’ Diploma shall be the date of passing the Teachers’ Provisional Certificate or its equivalent, which, for the purpose, shall be held to be the second year examination of the Teachers’ Training College.

(3) Where two or more teachers pass the Teachers’ Provisional Certificate Examination or its equivalent on the same date, the teacher who takes the Teachers’ Diploma first, shall be the senior.

(4) For the purpose of determining the seniority of teachers on List “B” the effective date of seniority shall be the date of eligibility of the teacher for acceptance into Training College.

(5) List “A” shall be the list employed by the Permanent Secretary for purposes of making recommendations for promotion in the Teaching Service.

(6) The seniority of an officer who voluntarily resigns from the Public Service and is subsequently reappointed to it shall be reckoned from the date of reappointment.

(7) In the case of recruits for training from outside the service, the date of seniority shall be the date of appointment to the Teaching Service.

(8) In addition to the equivalent of the Teachers’ Provisional Certificate referred to in subregulations (2) and (3), the School Certificate Grade II or General Certificate of Education equivalent, or any other approved academic or professional qualification, shall be accepted for admission to the former Grade VB or the present Grade I.

Vacancies in  
Government  
schools.

**128.** (1) As soon as it is known that a vacancy will occur in the office of teacher in a Government school, the Permanent Secretary shall communicate the particulars of the vacancy to the



LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

**Chap. 1:01**

225

*Public Service Commission Regulations*

[Subsidiary]

Director in writing and shall, by circular memorandum, advertise such vacant office in all public schools.

(2) A notice published under subregulation (1) shall contain the particulars prescribed by regulation 131(2).

(3) Any teacher may make application for an appointment to any vacant office, notice of which is published under subregulation (1), but the failure to apply shall not prejudice the consideration of the claims of any eligible teacher.

(4) Any application under subregulation (3) shall be addressed to the Permanent Secretary.

(5) The Permanent Secretary shall forward all applications made in response to an advertisement under subregulation (1) to the Director with recommendations regarding the filling of the vacancy.

(6) If, within a month after the date fixed for the receipt of applications to any vacant office advertised under subregulation (1), the Permanent Secretary does not make a recommendation or give a satisfactory explanation for a lack thereof, the Director shall make a report to the Commission and the Commission shall request the Permanent Secretary to inform it of the reasons for failure to request the filling of the vacancy.

**129.** (1) As soon as it is known that a vacancy will occur in the office of teacher in an assisted school, the Board shall communicate the particulars of the vacancy to the Permanent Secretary in writing with a request that the vacancy be filled.

Vacancies in  
assisted  
schools.

(2) On receipt of the particulars of a vacant office of teacher under subregulation (1), the Permanent Secretary shall communicate particulars of the vacancy to the Director in writing and shall, by circular memorandum, advertise such vacant office in all public schools.

(3) A notice under subregulation (2) shall contain the particulars prescribed by regulation 131(2).

LAWS OF TRINIDAD AND TOBAGO

226

Chap. 1:01

*Constitution of the Republic  
of Trinidad and Tobago*

[Subsidiary]

*Public Service Commission Regulations*

(4) Any teacher may make application for an appointment to any vacant office, notice of which is published under subregulation (2), but the failure to apply shall not prejudice the consideration of the claims of any eligible teacher.

(5) The Permanent Secretary shall forward all applications made in response to an advertisement under subregulation (2) to the Board for the Board to make its recommendation regarding the filling of the vacancy.

(6) The Permanent Secretary shall forward to the Director any recommendation made by the Board for the filling of the vacancy with his comments thereon.

(7) If, within a month of the date fixed for the receipt of applications to any vacant office advertised under subregulation (2), the Board does not make any recommendation under subregulation (5) for filling the vacant office, the Director shall require the Permanent Secretary to obtain from the Board, for the information of the Commission, its reasons for the failure to make a recommendation.

Advertising of  
vacancy by  
Commission in  
certain  
circumstances.

**130.** Where the Commission, on receipt of the particulars of the vacant office submitted to it under regulation 128 or 129 and on consideration of any recommendation made by the Permanent Secretary under regulation 128 or by the Board under regulation 129 and of the teachers available in the Teaching Service, considers that there is no suitable teacher already in the Teaching Service available for the filling of the vacancy or that having regard to qualifications, experience and merit it would be advantageous and in the best interest of the Teaching Service that the services of a teacher not already in that service or the services of a person eligible to be registered as a teacher be secured, the Commission may authorise the advertisement of the vacancy.

Director to  
advertise  
vacancies.

**131.** (1) Where the Commission authorises the Director to advertise a vacancy in the Teaching Service, the advertisement shall be in such form as the Commission may determine from time to time.

LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

**Chap. 1:01**

227

*Public Service Commission Regulations*

[Subsidiary]

(2) Every advertisement shall contain the following particulars:

- (a) the offices that are vacant;
- (b) the public schools at which the offices are vacant and whether the schools are assisted schools or Government schools;
- (c) the grade of teacher required to fill the vacancies;
- (d) the rate of pay and any allowances;
- (e) the religious denomination of each assisted school at which there is a vacancy,

and such other particulars as the Commission may determine from time to time.

**132.** Every application made in response to an advertisement under regulation 131 shall be addressed to the Permanent Secretary who shall forward to the Director—

Duty of Permanent Secretary *re* applications in response to advertisements.

- (a) the applications of all eligible applicants for appointment to a Government school;
- (b) the applications of all eligible applicants for appointment to an assisted school after submitting such applications to the Board for recommendations to be made by it.

**133.** (1) The Board, in making any recommendation for the filling of a vacant office in accordance with regulation 129(5) or of regulation 132, shall apply the principles for selection prescribed by regulation 18 and the Commission shall, subject to subregulation (2), approve the recommendation and make the appointment.

Commission to make appointment to assisted schools.

(2) Where the Commission is of the view that the Board had not made a selection in accordance with such principles, the Commission may require the Permanent Secretary to call upon the Board to reconsider its recommendation and make a different recommendation and, in making such request, the Commission shall take into consideration the religious denomination of the school and the religious persuasion of the teacher.

LAWS OF TRINIDAD AND TOBAGO

228

Chap. 1:01

*Constitution of the Republic  
of Trinidad and Tobago*

[Subsidiary]

*Public Service Commission Regulations*

(3) Where the Board under subregulation (2) fails to make a different recommendation within twenty-one days of being requested to do so and gives no explanation of its failure to do so, the Commission may appoint to the vacancy—

- (a) a teacher of the religious persuasion of the assisted school, with the approval of the teacher and the Board; or
- (b) a teacher of a religious persuasion different from that of the assisted school, with the prior approval of the teacher and of the Board.

TRANSFERS

(GENERAL)

Application  
for transfer.

**134.** Every application for an appointment on transfer in the Teaching Service shall be addressed to the Director through the Permanent Secretary on the prescribed form and, in the case of an application from a teacher in an assisted school, through the Board to the Permanent Secretary.

Orders of  
transfer.  
Review of  
orders.

**135.** (1) Where the Commission proposes to transfer a teacher other than as a result of a request by a Board under regulation 137 the Commission shall, except where the exigencies of the Teaching Service do not permit, make an order of transfer in writing and shall give not less than three months' notice to the teacher who is to be transferred.

(2) Where a teacher has applied for a transfer to a particular public school and the Commission proposes to transfer the teacher, but not to the particular school, the Commission shall, except where the exigencies of the Teaching Service do not permit, make an order of transfer in writing and shall give not less than three months' notice to the teacher.

(3) A teacher who is aggrieved by an order made under subregulations (1) and (2) may make representation to the Commission for a review of the order in accordance with subregulation (4).

## LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

**Chap. 1:01**

229

*Public Service Commission Regulations*

[Subsidiary]

(4) Where a teacher desires to make representation to the Commission for a review of an order made under subregulation (1) or (2), such teacher, within fourteen days of the receipt of the order, shall give notice in writing to the Permanent Secretary or, in the case of an assisted school, to the Board, to be forwarded to the Permanent Secretary, and shall submit with the notice his representations in writing.

(5) The Permanent Secretary shall, within seven days of the receipt of any representation made to him in writing under subregulation (4), forward such representation together with his comments or the comments of the Board thereon to the Commission.

(6) The Commission shall consider the representations of the teacher and the Permanent Secretary or the Board, as the case may be, submitted to it under subregulations (4) and (5) and shall record its decision in writing.

**136.** Notwithstanding that a teacher in respect of whom an order has been made under regulation 29(1) or (2) has made representation under subregulations (3) and (4) of the said regulation the teacher shall assume his duties on transfer pending the review of the order by the Commission.

Officer to assume duties pending review of transfer order.

### TRANSFERS

#### (SPECIAL)

**137.** A Board may apply to the Commission to have a teacher transferred from an office in an assisted school if the religious persuasion of the teacher is not satisfactory to the Board, or on moral grounds.

Board of Management may request transfer of teacher.

**138.** An application by a Board under regulation 137 shall be forwarded in writing to the Permanent Secretary together with any statements on which the Board relies to support the application. The Permanent Secretary shall forward such application and the statements to the Commission together with any comments he may make thereon.

Application to be in writing.

LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

230

Chap. 1:01

[Subsidiary]

*Public Service Commission Regulations*

Board to give  
teacher notice  
of application.

**139.** Where a Board makes an application under regulation 137, the Board shall within fourteen days give notice to the teacher of the application and shall give the teacher such particulars as will leave him under no misapprehension as to the precise nature of the grounds for the application.

Teacher may  
make  
representation.

**140.** (1) A teacher who has been given notice under regulation 139 may within fourteen days after the receipt of the notice make such representation to the Commission as he may think fit.

(2) Any representation made by a teacher shall be submitted in writing to the Permanent Secretary who, within seven days, shall forward the same, with his comments thereon, to the Commission.

Decision of  
Commission.

**141.** The Commission on consideration of the application of the Board and of any representation made by the teacher shall—

- (a) if the application for transfer is on the grounds that the religious persuasion of the teacher is unsatisfactory to the Board, transfer the teacher on the occurrence of a suitable vacancy; or
- (b) if the application for transfer is on moral grounds, forthwith remove the teacher from the school.

Commission  
may institute  
disciplinary  
proceedings.

**142.** (1) Where the application of the Board under regulation 137 for the transfer of a teacher is on moral grounds, the Commission is of the view that the alleged acts or omissions complained of constitute misconduct as prescribed by these Regulations, or under the Act, or the Regulations made thereunder or any other Regulations relating to the Teaching Service, the Commission may institute disciplinary proceedings against the teacher.

(2) Where the Commission decides to institute disciplinary proceedings against a teacher under this regulation, the written statements made by persons to the Board and any investigation made by the Board under regulations 138 and 139,

LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

**Chap. 1:01**

231

*Public Service Commission Regulations*

[Subsidiary]

and any representations made by the teacher under regulation 140, shall be substituted for any written statement and explanation that would be otherwise required to be obtained by the Permanent Secretary and investigating officer under regulation 90.

**143.** Subject to regulation 142, a teacher who is transferred from an assisted school on any of the grounds set out in regulation 141, shall retain his status, suffer no reduction in his rate of pay, and allowances and shall retain his seniority in the Teaching Service.

Teacher not to suffer loss of service, etc., through transfers.

**144.** (1) Where a teacher who holds an office in an assisted school of a particular religious denomination applies for a transfer to an office of teacher in another assisted school of the same religious denomination or of another religious denomination, the Commission shall not transfer the teacher to the other school without the consent of the Board of the other school.

No transfer without consent of Board.

(2) Where the Board under subregulation (1) fails to give its consent to the transfer, within twenty-one days of being requested to do so by the Permanent Secretary and gives no explanation of its failure to do so, the Commission may transfer the teacher to the other assisted school—

- (a) if the teacher is of the religious persuasion of that assisted school, with the approval of the Board of that other assisted school, or
- (b) if the teacher is of a religious persuasion different from that of the other assisted school, with the prior approval of the Board of that other assisted school.

(3) Where a teacher is transferred under subregulation (2) from an assisted school of a particular religious denomination, the teacher shall retain his status, suffer no reduction in pay and allowances and shall retain his seniority in the Teaching Service.

**145.** In the application of these Regulations to the appointment of a person to be a member of the Teaching Service and to the transfer of teachers within that Service, these Regulations shall have effect as if this Chapter were substituted for regulations 11 to 15, and regulations 19, 29 and 30 of Chapter III.

Application of Regulations.

LAWS OF TRINIDAD AND TOBAGO

232

Chap. 1:01

*Constitution of the Republic  
of Trinidad and Tobago*

[Subsidiary]

*Public Service Commission Regulations*

CHAPTER XII

THE FIRE SERVICE

PART I

PRELIMINARY

Definitions.  
[282/1998].  
Ch. 35:50.

**146.** In this Chapter—

“Act” means the Fire Service Act;

“appropriate form” means the form determined by the Commission under regulation 147;

“candidate” means a person who satisfies the qualifications in respect of an office;

“Chief Fire Officer” means a person appointed to, or performing the duties of, the office of Chief Fire Officer as prescribed in the First Schedule to the Act;

First Schedule.

“Deputy Chief Fire Officer” means a person appointed to, or performing the duties of, the office of Deputy Chief Fire Officer as prescribed in the First Schedule to the Act;

“eligible officer” means a fire officer who satisfies the qualifications of an office;

Sub. Leg.

“Examinations Board” means the Examinations Board established under the Fire Service (Terms and Conditions of Employment) Regulations;

“fire officers” or “officer” means a person appointed to an office in the Fire Service;

“fire officer in the First Division” means an officer who holds an office in the First Division as prescribed;

“fire officer in the Second Division” means an officer who holds an office in the Second Division as prescribed;

“performance appraisal report” has the same meaning as in the Fire Service (Terms and Conditions of Employment) Regulations;

Ch. 35:50.

“Service” or “Fire Service” means the Fire Service established by section 3 of the Act;



“transfer” means the movement of an officer from one Division in the Service to another Division in the Service.

**PART II**

**APPOINTMENTS, PROMOTIONS AND TRANSFERS**

**147.** The Commission may determine—

- (a) forms to be used to expedite the procedures as prescribed in this Part;
- (b) the manner by which interviews for appointment to an office are to be conducted.

Commission to determine forms. [282/1998].

**148.** The date of appointment of a person or an officer to an office is the date the Commission specifies in writing.

Date of appointment. [282/1998].

**149.** (1) The Chief Fire Officer shall advise the Director of a vacancy in the office of Firefighter within fourteen (14) days of that vacancy occurring.

Application for appointment as Firefighter. [282/1998].

(2) The Commission may cause the vacancy to be advertised through the Press and electronic media inviting persons to apply.

(3) A person when applying in response to the advertisement shall do so on the appropriate form to the Director.

(4) The Director shall forward the applications to the Chief Fire Officer.

(5) The Chief Fire Officer shall examine the applications and verify that the applicants qualify as candidates in accordance with the qualifications prescribed in the Fire Service (Terms and Conditions of Employment) Regulations and for the purpose of the examination may make enquiries from the Police concerning the character of any applicant.

Sub. Leg.

**150.** (1) The Director shall notify all candidates for the office of Firefighter of the place, date and time at which they may present themselves for selection by the Commission.

Appointment to office of Firefighter. [282/1998].

**LAWS OF TRINIDAD AND TOBAGO**

234

**Chap. 1:01**

*Constitution of the Republic  
of Trinidad and Tobago*

[Subsidiary]

*Public Service Commission Regulations*

(2) A candidate who qualifies for appointment to the office of Firefighter is selected on merit by the Commission for appointment on the basis of a practical test devised by the Commission after consultation with the Chief Fire Officer and an interview.

(3) The relative merits of the candidates are determined by the results of performance in the practical test and interview.

(4) The Commission may establish a Selection Board consisting of the Deputy Chief Fire Officer, the officer in charge of the Fire Service School and the Director, or his representative to be not lower than an Executive Director, Human Resource Management, to interview candidates for the office of Firefighter and to make recommendations to the Commission on the candidates.

Application for appointment to an office in the Service (other than Firefighter). [282/1998].

**151.** (1) The Chief Fire Officer shall advise the Director of a vacancy in an office other than that of Firefighter within fourteen (14) days of that vacancy occurring.

(2) The Director shall, by circular memorandum and by publication in the *Gazette*, give notice of that vacancy and invite applications on the appropriate form from eligible officers in the Service.

Appointment generally to be by competition within the Service. [282/1998].

**152.** (1) Whenever in the opinion of the Commission it is in the best interest of the Service, and it is possible to do so, an appointment to an office shall be made from within the Service.

(2) A candidate for appointment to an office in the First Division may be chosen from the First or Second Division of the Service.

(3) Whenever the Commission considers either that there is no suitable candidate in the Service available for the filling of any vacancy in the Service or having regard to experience and merit it is advantageous and in the best interest of the Service that the services of a person not already in the

LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

**Chap. 1:01**

235

*Public Service Commission Regulations*

[Subsidiary]

Service be secured, the Commission may fill a vacancy by open competition and may determine the manner in which the vacancy is to be advertised.

**153.** The failure of an eligible officer to apply for an office shall not debar the Commission from considering him for the appointment to the office.

Commission may consider eligible officers who fail to apply.  
[282/1998].

**154.** (1) Subject to regulation 157, the Chief Fire Officer shall ensure that recommendations made in relation to an acting appointment are based on the criteria prescribed in regulation 158.

Criteria for acting appointment.  
[282/1998].

(2) Where, in the exigencies of the Service it is not practicable to apply the principles prescribed in regulation 158, the fire officer selected for an acting appointment shall not be given any preference over other eligible officers for a substantive appointment.

**155.** (1) Subject to regulation 157, where an acting appointment falls to be made by the Commission, the Chief Fire Officer shall notify all eligible fire officers.

Officers to be informed of acting appointment.  
[282/1998].

(2) For the purpose of subregulation (1), the notice may be in respect of an acting appointment which falls to be made within a period specified in the notice.

(3) The Chief Fire Officer shall allow a period of seven (7) days to elapse after the issue of the notice before forwarding any recommendations to the Director for the purpose of allowing the fire officers to make representations in respect of that acting appointment.

(4) Where representations are made to the Chief Fire Officer by or on behalf of a fire officer, the Chief Fire Officer shall forward the representations in their original form to the Director.

(5) When submitting recommendations to the Commission for an acting appointment to an office, the Chief Fire Officer shall advise the Commission of the reasons why an eligible fire officer who is more experienced than the recommended officer is being passed over.

LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

236

**Chap. 1:01**

[Subsidiary]

*Public Service Commission Regulations*

Chief Fire  
Officer to  
submit  
recommendations  
in advance.  
[282/1998].

**156.** Except in very special circumstances or in cases of sudden illness, the Chief Fire Officer shall submit his recommendation for an acting appointment to an office no later than twenty-eight (28) days preceding the date on which the acting appointment is intended to become effective.

Acting  
appointment in  
special  
circumstances.  
[282/1998].

**157.** (1) Where an acting appointment falls to be made as a result of sudden illness or other special circumstances for a period not exceeding twenty-eight (28) days, the Commission may appoint, as a general rule, the most experienced eligible officer from within the Division in which the acting appointment is to be made.

(2) In making an acting appointment under subregulation (1) the Commission shall—

- (a) examine whether the exigencies of the Service are best served by appointing an eligible fire officer from another Division to act when there is an eligible officer in the Division; and
- (b) take into account additional Government expenditure for travelling and subsistence allowances and other related expenses.

Criteria for  
promotion.  
[282/1998].

**158.** (1) In considering eligible fire officers for promotion, the Commission shall take into account the experience, educational qualifications, merit and ability, together with the relative efficiency of those fire officers.

(2) Where the Commission has to select an officer for promotion from officers who appear to be of equal merit, the Commission shall determine its selection on the basis of the relevant and relative experience of the officers.

(3) In the performance of its functions under subregulation (1), the Commission shall take into account as regards each fire officer—

- (a) his general fitness;
- (b) any special qualifications;

LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

**Chap. 1:01**

237

*Public Service Commission Regulations*

[Subsidiary]

- (c) any special courses of training that he may have undergone (whether at the expense of Government or otherwise);
- (d) the evaluation of the officer's performance as reflected in his performance appraisal report;
- (e) any letters of commendation or special report in respect of any special work done by the fire officer;
- (f) the duties to be performed in the office of which the fire officer has experience;
- (g) demonstrated skills and ability relevant to the office;
- (h) any specific recommendation of the Permanent Secretary or Chief Fire Officer for the filling of the particular office;
- (i) any previous, relevant employment of his in the Service, the public service, or elsewhere;
- (j) any special report for which the Commission may call;
- (k) his devotion to duty.

**159.** The Chief Fire Officer or Permanent Secretary shall submit to the Director, a performance appraisal report in respect of each officer not later than the anniversary of the date of appointment of that officer to his substantive office or at a date the Commission directs.

Performance appraisal report.  
[282/1998].

**160.** (1) Where a vacancy in an office occurs, the Chief Fire Officer shall, after taking into account the criteria specified in regulation 158, submit to the Commission—

Process of promotion in the Fire Service.  
[282/1998].

- (a) a list of the eligible officers he recommends for promotion to an office; and
- (b) a list of the eligible officers who are not being considered for promotion who have—
  - (i) served in the lower office for a longer period than that served by the recommended eligible officer;

LAWS OF TRINIDAD AND TOBAGO

238

Chap. 1:01

*Constitution of the Republic  
of Trinidad and Tobago*

[Subsidiary]

*Public Service Commission Regulations*

- (ii) more experience than that of the recommended eligible officer in performing the duties of the office; or
- (iii) performed the duties of the office for a period of six (6) months or more.

(2) The Chief Fire Officer shall advise in writing an officer referred to in paragraph (b) of subregulation (1) of his being omitted from the list for promotion together with reasons.

(3) An officer who is advised under subregulation (2) may make representations to the Commission within seven (7) days of the date of that advice.

(4) The Commission may invite that officer for an interview on the basis of his representations.

(5) The Commission shall advise an officer making representations under this regulation of the outcome of his representations.

Transfer.  
[282/1998].

**161.** (1) Where the Commission transfers an officer, the Commission shall, except where the exigencies of the Service do not permit, notify the officer in writing of the transfer not less than thirty (30) days of the date of proposed assumption of duties in the Division to which he is transferred.

(2) An officer who is aggrieved by the transfer under subregulation (1) may make representations to the Commission for a review of the transfer in accordance with subregulation (3).

(3) Where an officer desires to make representations to the Commission for a review of the transfer under subregulation (1), he shall submit his representations in writing to the Chief Fire Officer within seven (7) days of the receipt of the notice of the transfer.

(4) The Chief Fire Officer shall, within seven (7) days, forward to the Commission any representations made to him in writing under subregulation (3), together with his comments.

LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

**Chap. 1:01**

239

*Public Service Commission Regulations*

[Subsidiary]

(5) The Commission shall consider the representations of the officer and the comments of the Chief Fire Officer submitted to it under subregulations (3) and (4) respectively, and shall communicate its decision to both parties in writing.

(6) Subject to subregulation (7), notwithstanding that an officer in respect of whom a notice has been made under subregulation (1) has made representations under subregulations (2) and (3), the officer shall assume his duties on transfer pending the review of the transfer by the Commission.

(7) Where the transfer involves the exchange of officers in the same grade the officers affected by the transfer shall not assume their duties on transfer pending the review of the notice by the Commission.

**\*162.** (N.B.—*LN 282/1998 which amended the Regulations did not contain regulation 162*).

PART III

CONFIRMATION

**163.** (1) The Commission, when confirming or terminating the appointment of an officer on probation, shall take into account the probation reports and the performance appraisal reports submitted to it by the Chief Fire Officer in accordance with the Fire Service (Terms and Conditions of Employment) Regulations.

Confirmation or  
otherwise.  
[282/1998].

Sub. Leg.

(2) If, after considering the final probation report referred to in subregulation (1), the Commission is satisfied that the officer is a fit person to perform the duties of the office, the Commission shall confirm his appointment.

(3) Where a report referred to in subregulation (1) contains adverse comments on the performance of the officer, the Commission before terminating the appointment of the officer on probation shall consult with the officer who is the subject of the report.

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\*See Note on Page 3.

## LAWS OF TRINIDAD AND TOBAGO

240	<b>Chap. 1:01</b>	<i>Constitution of the Republic of Trinidad and Tobago</i>
[Subsidiary]		<i>Public Service Commission Regulations</i>

Sub. Leg. (4) The Commission may terminate an officer's first appointment on probation at any time during the probationary period referred to in the Fire Service (Terms and Conditions of Employment) Regulations, where it is satisfied that—

- (a) the person's performance of duty is not satisfactory for the purposes of confirmation; or
- (b) the person has not passed the medical examination in accordance with regulation 19(1) of the Fire Service (Terms and Conditions of Employment) Regulations.

(5) Where the Commission confirms the promotion of an officer in a higher office before he has completed the full period of probation in a lower office to which he has been appointed, the Commission shall confirm the officer in that lower office.

### \*PART IV

#### RESIGNATION, RETIREMENT

Resignation.  
[282/1998]. **163A.** (1) Subject to subregulation (2), where an officer gives notice of his intention to resign in writing, the Commission shall accept his resignation notwithstanding that it may not comply with a lawful requirement relating to the period of notice, without prejudice to any regulation regarding the forfeiting of leave and the benefits and privileges accruing to that officer in respect of leave.

(2) An officer is not entitled to withdraw his notice of resignation before that resignation becomes effective but the Commission may accept the withdrawal if tendered in writing before the effective date of the resignation.

Removal on  
abandonment.  
267/1998.  
[282/1998].  
Sub. Leg. **163B.** (1) Where the Permanent Secretary advises the Commission in accordance with regulation 45(3) of the Fire Service (Terms and Conditions of Employment) Regulations, that an officer has abandoned his office, the Commission before declaring the officer to have resigned from office shall afford the officer reasonable opportunity to make representations regarding the declaration.

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\*See Note on Page 3.



LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

**Chap. 1:01**

**241**

*Public Service Commission Regulations*

**[Subsidiary]**

(2) When the Commission declares an officer to have resigned his office under subregulation (1), that office shall immediately become vacant and the officer ceases to be an officer.

**163C.** The Commission shall retire an officer from the Service where that retirement conforms with any written law which permits or requires the officer to retire from the Service.

Retirement.  
[282/1998].

**163D.** In any matter not referred to in these Regulations in their application to a fire officer, the Commission may issue instructions as to how the matter shall be dealt with and the matter shall be dealt with accordingly.

Commission  
to issue  
instructions on  
matters not  
dealt with in  
Regulations *re*  
fire officer.  
[282/1998].

**CHAPTER XIII**

**THE PRISON SERVICE**

**PART I**

**PRELIMINARY**

**164.** In this Chapter—

“Act” means the Prison Service Act;

“Commissioner” means the Commissioner of Prisons;

“prison officer” means a member of the Prison Service;

“Prison Service” or “Service” means the Prison Service established under the Act.

Definitions.

Ch. 13:02.

**PART II**

**APPOINTMENTS, PROMOTIONS AND TRANSFERS**

**165.** The Commission shall prescribe from time to time the form and manner in which—

Commission to  
determine form  
of application.

(a) applications are to be made for appointment to the Prison Service;

(b) interviews are to be conducted for entry into the Prison Service.

LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

242

Chap. 1:01

[Subsidiary]

*Public Service Commission Regulations*

Application for  
appointment of  
Prison Officer I.  
[108/1991].

**166.** (1) Every application for appointment to the office of Prison Officer I shall be made in writing to the Director or by personal appearance in response to any advertisement issued by the Director through the press and radio, stating the place, date and time at which a candidate may present himself for selection.

(2) A Superintendent of Prisons shall make a preliminary selection of candidates who have the prescribed qualifications and may, for the purpose of making such selection, require enquiries to be made respecting the character of any candidate.

(3) A candidate selected under subregulation (2) shall be required to take such education test as may be prescribed, and if the candidate is successful he shall be required to pass a medical test.

(4) A candidate who qualifies for appointment to the office of Prison Officer I shall be interviewed by a Selection Board consisting of the Deputy Commissioner of Prisons, a Superintendent of Prisons other than the one referred to in subregulation (2) and the officer in charge of the Prison Service Training School.

(5) The candidates shall be placed in order of merit on the basis of the educational test and the interview.

Appointment of  
office in senior  
grade.

**167.** (1) Every application for appointment to an office of Prison Assistant Superintendent and offices in higher grades shall be made in writing to the Director on the prescribed form.

(2) A candidate who has the prescribed qualifications may be selected for appointment to the office of Prison Superintendent, either from an office in a lower grade or on an open competitive basis prescribed by the Commission.

Establishment  
of Promotions  
Advisory  
Board.  
[107/2000].

**168.** (1) (a) A prison officer may apply to the Commission to be allowed to take the Promotion Examination for Prison Officer II when he has been in the Service for at least two years.

(b) A prison officer in a grade lower than that of Prison Assistant Superintendent who has passed an Examination

for Promotion to Prison Officer II may apply to the Commission to be allowed to take any promotion examination.

(c) A prison officer who is successful in a promotion examination may be considered for promotion in accordance with this regulation.

(2) The Commissioner of Prisons shall, after taking into account the criteria (specified in regulation 172), submit to the Commission a list of the Officers in the Second Division—

- (a) whom he considers suitable for promotion to an office; and
- (b) who are not being considered for promotion yet but who have served in the Service for a longer period in an office, or who have more experience in performing the duties of that office than the officers being recommended.

(3) The Commissioner shall also advise those officers referred to in subregulation 2(b) of their omission from the list for promotion, together with the reasons for such omission.

(4) An officer who is advised under subregulation 2(b) may make representations on his own behalf to the Commission within fourteen days of being so advised and the Commission may invite him for interview on the basis of his representations.

(5) The Commission shall advise those officers making representations under this regulation of the outcome of their representations.

(6) The Commission may, after considering all the representations made, endorse or otherwise, the recommendations of the Commissioner when promoting an officer.

**169. (Revoked by LN 107/2000).**

**170.** Whenever in the opinion of the Commission it is possible to do so and it is in the best interests of the Service, appointments shall be made from within the Service in accordance with these Regulations.

Appointments  
to be by  
competition  
within the  
Prison Service.

**LAWS OF TRINIDAD AND TOBAGO**

244

**Chap. 1:01**

*Constitution of the Republic  
of Trinidad and Tobago*

[Subsidiary]

*Public Service Commission Regulations*

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Advertisement  
of vacancies.

**171.** Where the Commission considers either that there is no suitable candidate already in the Prison Service available for the filling of any vacancy or that having regard to qualifications, experience and merit it would be advantageous and in the best interest of the Service that the services of a person not already in the Service be secured, the Commission may authorise the advertisement of such vacancy.

Principles of  
selection for  
promotion.

**172.** (1) In considering the eligibility of prison officers for promotion, the Commission shall take into account the seniority, experience, educational qualifications, merit and ability, together with the relative efficiency of such prison officers and, in the event of an equality of efficiency of two or more prison officers, shall give consideration to the relative seniority of the prison officers available for promotion to the vacancy.

(2) In the performance of its functions under subregulation (1), the Commission shall take into account as regards each prison officer—

- (a) his general fitness;
- (b) his position on the seniority list and on the list of results of the promotion examinations;
- (c) any special qualifications;
- (d) any special courses of training that he may have undergone (whether at the expense of Government or otherwise);
- (e) an evaluation of the officer's overall performance as reflected in the annual staff reports;
- (f) any letters of commendation or special reports in respect of any special work done by the prison officer;
- (g) the duties of which he has had knowledge;
- (h) any specific recommendation of the Permanent Secretary for filling the particular office;
- (i) any previous employment of his in the Service or in the Public Service, or otherwise;

LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

**Chap. 1:01**

245

*Public Service Commission Regulations*

[Subsidiary]

- (j) any special reports for which the Commission may call;
- (k) his devotion to duty.

**173.** (1) The Director shall keep up to date seniority lists of all prison officers.

Director and  
Commissioner  
to keep  
seniority lists.

(2) The Commissioner shall ensure for purposes of making recommendations for promotion and acting appointments that up to date seniority lists are kept of all prison officers showing in respect of each officer the date of appointment to his present office, date of appointment to his previous office, and date of first appointment in the Service.

(3) The seniority of a prison officer shall be determined by the date of his appointment to the particular office in which he is serving. The seniority of prison officers promoted to the same office from the same date shall be in accordance with their seniority in their previous office.

(4) Where prison officers have entered the Service by competitive examination and are appointed to the same office with effect from the same date, their relative seniority shall be determined according to the order of merit in which they were placed in the examination and interview.

(5) Where any doubts arise with respect to the seniority of a prison officer, the Commission shall determine the seniority of such prison officer.

174. }  
to } *(Revoked by LN 28/1991).*  
176. }

**177.** Except in very special circumstances or in cases of sudden illness, the Commissioner shall submit, well in advance, recommendations for acting appointments to permit of their consideration by the Commission before the date on which the acting appointment is intended to become effective.

Commissioner  
to submit  
recommendations  
in advance.

LAWS OF TRINIDAD AND TOBAGO

246                      **Chap. 1:01**                      *Constitution of the Republic  
of Trinidad and Tobago*

**[Subsidiary]**                      *Public Service Commission Regulations*

Commissioner  
to state reasons  
for passing over  
officers.

**178.** In submitting recommendations for acting appointments in any office, the Commissioner shall state the reasons why prison officers, if any, are being passed over.

Rule where  
power to  
appoint  
delegated.

**179.** Where the Commission delegates its power to the Commissioner to appoint a prison officer to act in an office and such acting appointment falls to be made as a result of sudden illness or other very special circumstances for a period not likely to exceed twenty-eight days, the provisions of \*regulation 176 shall not apply.

**PART III**

**DISCIPLINE**

**180.** }  
**181.** } *(Revoked by LN 28/1991).*

Regulation  
3(1).

**FIRST SCHEDULE**

**FORM I**

**OATH OR AFFIRMATION OF OFFICE**

I, ..... do  
swear/solemnly declare and affirm, that I will without fear, favour, affection or  
ill-will, well and truly perform my duties in the office of Chairman/member of  
the Public Service Commission in the exercise of the powers vested in the  
Public Service Commission under the Constitution, and that I will not directly  
or indirectly reveal any information to any unauthorised person or otherwise  
than in the course of duty.

So help me God.

Sworn/Declared before me this ..... day of ....., 20.....

.....  
*Judge of High Court*

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\*Regulation 176 was Revoked by LN 28/1991.

LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

**Chap. 1:01**

247

*Public Service Commission Regulations*

[Subsidiary]

**FORM II**

Regulation 3(2).

**OATH OR AFFIRMATION OF OFFICER OF  
THE COMMISSION**

I, ..... do  
swear/solemnly declare and affirm that I will not directly or indirectly reveal to  
any unauthorised person or persons or otherwise than in the course of duty any  
information in connection with the business of the Commission which may  
come to my knowledge in the course of my duties as  
Secretary/...../..... to the said Commission.

So help me God.

Sworn/Declared before me this ..... day of ....., 20.....

.....  
*Judge of High Court*

**NOTE ON SECOND SCHEDULE**

**Regulation 73 which dealt with the incurring of debts by an officer has been  
revoked by LN 28/1991.**

**LAWS OF TRINIDAD AND TOBAGO**

*Constitution of the Republic  
of Trinidad and Tobago*

248

**Chap. 1:01**

[Subsidiary]

*Public Service Commission Regulations*

Regulation 73(2).

**\*SECOND SCHEDULE**

**FORM 1**

**RETURN OF INDEBTEDNESS**

As at ..... 20.....

Name: ..... Married/Single .....

Office held: ..... Number of dependants .....

Ministry/Department.....

Salary: .....

Salary after deductions .....

TO WHOM INDEBTED		Reason for which debt was incurred	How secured	Terms of repayment	Amount now outstanding
Name	Date incurred				
.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....

Date ..... 20 ..... Signature .....

\*(N.B.—See Note on Second Schedule at page 129).



**POLICE SERVICE COMMISSION REGULATIONS**

ARRANGEMENT OF REGULATIONS

**CHAPTER I  
PRELIMINARY**

**REGULATION**

1. Citation.
2. Interpretation.

**CHAPTER II  
THE POLICE SERVICE COMMISSION**

3. Oath of office.
4. Meetings.
5. Procedure, quorum and voting.
6. Decisions other than at meetings.
7. Record of meetings and decisions.  
Dissents.
8. Consultation with other persons.
9. Non-compliance.
10. Instrument of delegation to be published.
11. Commission may sign by impression of signature.

**CHAPTER III  
APPOINTMENTS, PROMOTIONS AND TRANSFERS**

12. Commission to determine form of application.
13. Application for appointment of constable.
14. Appointment to an office in the First Division.
- 14A. Appointment to an office in the Second Division.
15. Promotion to an office in the Second Division.
16. Resitting of examination.
17. Appointments to be by competition within the Police Service.
18. Advertisement of vacancies.
19. Examination Boards.
20. Principles of selection for promotion.
21. } **(Revoked by LN 79/1995).**
22. }
23. Principles of selection for acting appointment.

## LAWS OF TRINIDAD AND TOBAGO

250

### Chap. 1:01

#### *Constitution of the Republic of Trinidad and Tobago*

[Subsidiary]

*Police Service Commission Regulations*

#### ARRANGEMENT OF REGULATIONS—*Continued*

##### REGULATION

24. Principles of selection for acting appointment not as prelude to appointment.
25. Commissioner to notify eligible police officers of vacancy.
26. Commissioner to submit recommendations to Commission in advance.
27. Commissioner to state reasons for passing over officers.
28. Transfers.
29. Date of appointment.
30. Medical examination.

#### CHAPTER IV

##### STAFF REPORTS

31. Staff reports.
32. Officer to be informed of adverse report.
33. Annual increments.

#### CHAPTER V

##### PROBATIONARY APPOINTMENTS

34. Period of probation on first appointment.
35. Probation not required or may be offset in certain cases.
36. Probation on promotion.
37. Waiver of portion of period of probation.
38. Principles to be observed while officer on probation.
39. Confidential reports.
40. Extension of probation.
41. Confirmation of appointment.
42. Incremental date where period of probation extended.
43. Commissioner to keep record.

#### CHAPTER VI

##### RESIGNATIONS, RETIREMENTS AND TERMINATION OF APPOINTMENTS

44. Resignation.
45. Abandonment.

## LAWS OF TRINIDAD AND TOBAGO

### *Constitution of the Republic of Trinidad and Tobago*

**Chap. 1:01**

251

#### *Police Service Commission Regulations*

[Subsidiary]

#### **REGULATION**

- 46. Reasons for termination of appointment.
- 47. Compulsory and voluntary retirement.
- 48. Commissioner to notify Director of officers to retire compulsorily.
- 49. Premature retirement.
- 50. Retirement in the public interest.
- 51. Termination of appointment on grounds of inefficiency.
- 52. Married female officers.
- 53. Medical Boards.
- 54. Unfit officers.

#### **CHAPTER VII**

##### **CONDUCT**

- 55. )
- to ) *(Revoked by LN 214/1990).*
- 74. )

#### **CHAPTER VIII**

##### **DISCIPLINARY PROCEDURE**

- 75. Officer liable to disciplinary proceedings.
- 76. *(Revoked by LN 214/1990).*
- 77. Commissioner to report officer.
- 78. Commission to issue instructions on how certain cases to be dealt with.
- 79. Suspension by Commission.
- 80. Interdiction.
- 81. Procedure on alleged commission of offence.
- 82. Powers of disciplinary tribunal.
- 83. Certain penalties to be imposed by Commissioner.
- 84. Warning and Investigation.  
Personal explanation.
- 85. Documents to be supplied to accused.
- 86. Officer to admit or deny charge in writing and may include explanation.
- 87. Hearing on failure to admit or deny charge.
- 88. Witnesses.

## LAWS OF TRINIDAD AND TOBAGO

252

### Chap. 1:01

#### *Constitution of the Republic of Trinidad and Tobago*

[Subsidiary]

*Police Service Commission Regulations*

#### ARRANGEMENT OF REGULATIONS—*Continued*

##### REGULATION

- 89. Appointment of disciplinary tribunal.
- 90. Duty of officers appointed to disciplinary tribunal.
- 91. Officer on charge not to be permitted leave.
- 92. Procedure at hearing.
- 93. Adjournment of hearing.
- 94. Hearing in absence of accused officer.
- 95. Standard of proof.
- 96. Tribunal to report.  
Report confidential.
- 97. Disciplinary tribunal may adjourn and report to Commission.
- 98. Disciplinary tribunal to report where evidence insufficient.
- 99. Disciplinary tribunal to report further grounds disclosed at hearing.
- 100. Commission to exercise disciplinary control on Commissioners.
- 101. Commission to inform officer of penalty imposed and of his right  
of review.
- 102. Commission may remove officer in public interest.
- 103. Proceedings in private.
- 104. Penalties.
- 105. )  
to } (*Revoked by LN 214/1990*).
- 107. )
- 108. Non-payment of remuneration on conviction on a criminal charge.

#### CHAPTER IX

##### REVIEWS

- 109. )  
to } (*Revoked by LN 214/1990*).
- 116. )

#### CHAPTER X

##### APPLICATION OF REGULATIONS

- 117. Application of Regulations to all officers.

**FIRST SCHEDULE.**

**SECOND SCHEDULE.**

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**POLICE SERVICE COMMISSION REGULATIONS**

\*131/1966.

†*deemed to be made under section 129 of the Constitution*

**CHAPTER I**

**PRELIMINARY**

1. These Regulations may be cited as the Police Service Commission Regulations. Citation.

2. In these Regulations—

Interpretation.

“Act” means the Police Service Act;

Ch. 15:01.

“acting appointment” means the temporary appointment of a police officer whether on promotion to a higher office or otherwise whether that office is vacant or not;

“appointment” means the appointment of a person in an office in the Police Service;

“the Chairman” means the Chairman of the Commission;

“the Commission” means the Police Service Commission constituted under section 122 of the Constitution;

“the Commissioner” means the Commissioner of Police;

“the Constitution” means the Constitution of the Republic of Trinidad and Tobago;

“Director” means the Director of Personnel Administration;

“police officer or officer” means a member of the Police Service;

“police officer in the First Division” means a police officer who holds an office specified in the First Schedule of the Police Service Act;

“police officer in the Second Division” means a police officer who holds an office specified in the Second Schedule of the Police Service Act;

\*These Regulations are amended by LNs 106/1968; 7/1969; 80/1969; 47 of 1980; 99/1987; 214/1990; 25/1993; 175/1993; 41/1995; 79/1995; 43/2001; 58, 80, 91, 92 and 144/2006.

†These Regulations were made under section 102 of the former Constitution, and continue in force by virtue of section 29(3) of the Interpretation Act (Ch. 3:01).

## LAWS OF TRINIDAD AND TOBAGO

254	<b>Chap. 1:01</b>	<i>Constitution of the Republic of Trinidad and Tobago</i>
[Subsidiary]		<i>Police Service Commission Regulations</i>

“promotion” means the appointment of a police officer to an office in the Police Service in a range carrying a higher remuneration;

Ch. 15:01. “Police Service” or “Service” means the Police Service established under the Police Service Act;

“public service” means the public service as defined in section 3 of the Constitution.

### CHAPTER II

#### THE POLICE SERVICE COMMISSION

Oath of office. **3.** (1) The Chairman and other members of the Commission shall, as soon as practicable after appointment, take the oath or make the affirmation in the form set out as Form 1 of the First Schedule.

Form 1.  
First Schedule.

(2) Every person appointed a member of the staff of the Commission shall, as soon as possible after appointment, take the oath or make the affirmation set out as Form 2 of the First Schedule.

Form 2.  
First Schedule.

Meetings. **4.** (1) The Commission shall meet as often as may be necessary for the purpose of performing its functions and such meetings shall be held on such days and at such times and place as the Chairman shall determine.

(2) Where a member fails to attend at least one meeting in any one month over a period of three months without reasonable excuse, the Commission shall make a report to the President.

Procedure, quorum and voting. **5.** (1) The Chairman shall preside at meetings of the Commission, and in the absence of the Chairman from any meeting, the members present shall elect one of their number to preside at that meeting.

(2) At any meeting of the Commission three members shall constitute a quorum.

(3) All questions for discussion at a meeting of the Commission shall be decided by a majority of the votes of the members present and voting.

LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

**Chap. 1:01**

255

*Police Service Commission Regulations*

[Subsidiary]

(4) The Chairman or other member presiding at a meeting shall have an original vote, and in the event of an equality of votes, he shall have as well a second or casting vote.

6. (1) Notwithstanding regulation 5 but subject to subregulation (2), questions may also be decided by the Commission without a meeting by circulation of the relevant papers among the members and the expression of their views in writing and in such case the decision shall be the view of the majority of members expressing a view.

Decisions other than at meetings.

(2) If any member requires that a matter or question being dealt with by circulation of the relevant papers shall be reserved for consideration at the next following meeting of the Commission, no decision shall be made on that matter or question except at a meeting of the Commission.

7. (1) The Director shall ensure that Minutes of all meetings of the Commission and of all decisions arrived at under regulation 6 shall be duly recorded and kept and that the same be presented for confirmation by the Commission as soon as practicable at a subsequent meeting or by individual members on circulation thereof.

Record of meetings and decisions.

(2) Any member of the Commission who dissents from a decision may require that his dissent and reasons for dissenting be recorded in the Minutes.

Dissents.

8. (1) The Commission in considering any matter or question may consult with any police officer or public officer or other person as the Commission may consider proper and desirable and may require any police officer to attend for the purpose of assisting the Commission in its deliberations and producing any official documents relating to such matter or question.

Consultation with other persons.

(2) Where a public officer other than a police officer fails to comply with the provisions of this regulation, the Commission shall report the public officer to the appropriate Service Commission for consideration by that Service Commission.

## LAWS OF TRINIDAD AND TOBAGO

256	<b>Chap. 1:01</b>	<i>Constitution of the Republic of Trinidad and Tobago</i>
<b>[Subsidiary]</b>		<i>Police Service Commission Regulations</i>
Non-compliance.	<p><b>9.</b> (1) A police officer who, without reasonable cause or excuse, fails to appear before the Commission when required to do so, or fails to comply with any request made by the Commission, or with any requirement of these Regulations, is guilty of an offence.</p> <p>(2) A police officer who is guilty of an offence under this regulation shall be liable to be dismissed from the Service.</p>	
Instrument of delegation to be published.	<p><b>10.</b> (1) Whenever the Commission delegates any of its powers in accordance with section 127(1) of the Constitution, the Director shall publish such delegation by notice in the <i>Gazette</i>.</p> <p>(2) A notice published under subregulation (1) shall contain the following information:</p> <ul style="list-style-type: none"><li>(a) the powers delegated;</li><li>(b) the person or persons to whom such delegation is made;</li><li>(c) the extent of such delegation;</li><li>(d) the terms and conditions of such delegation and the manner in which matters dealt with under such delegated authority may reach the Commission.</li></ul> <p>(3) Any power so delegated shall be exercised in such manner as the Commission shall direct.</p> <p>(4) Every delegation under this regulation shall be revocable.</p>	
Commission may sign by impression of signature.	<p><b>11.</b> Where in the performance of his duties the Chairman or a member of the Commission is required to sign any document, the Chairman or a member of the Commission, as the case may be, may sign such document by impressing thereon a facsimile of his signature.</p>	

### CHAPTER III

#### APPOINTMENTS, PROMOTIONS AND TRANSFERS

Commission to determine form of application.	<p><b>12.</b> The Commission may prescribe from time to time the form and manner in which—</p> <ul style="list-style-type: none"><li>(a) applications are to be made for appointment to the Police Service;</li></ul>	
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LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

**Chap. 1:01**

**257**

*Police Service Commission Regulations*

**[Subsidiary]**

(b) examinations and interviews are to be conducted for entry into the Police Service.

**13.** (1) Every application for appointment to the office of constable shall be made in writing to the Director or by personal appearance in response to any advertisement issued by the Director through the press and radio, stating the place, date and time at which a candidate may present himself for selection.

Application for  
appointment of  
constable.  
[25/1993].

(2) The Superintendent in charge of a Division shall make a preliminary selection of candidates who have the qualifications prescribed in regulation 4(1)(a) to (d) of the Police Service Regulations.

Ch. 15:01.  
Sub. Leg.

(3) A candidate selected shall be required to take an education test prescribed by regulation 4(1)(e) of the Police Service Regulations, and if the candidate is successful he shall be required to pass a medical test.

Ch. 15:01.  
Sub. Leg.

(4) A candidate who qualifies for appointment to the office of constable shall be interviewed by a Selection Board consisting of the Deputy Commissioner, an Assistant Commissioner, the Superintendent in charge of the Police Training School and the Director of Personnel Administration or a public officer representing the Director of Personnel Administration.

(5) The candidates shall be placed in order of merit on the basis of the education test and the interview.

**14.** Every application for appointment to an office in the First Division shall be made in writing to the Director on the prescribed form.

Appointment to  
an office in the  
First Division.  
[99/1987].

**14A.** (1) An officer in the Second Division may apply to the Commission to be allowed to take the Corporal examination when he has been in the Service for at least three years except where the period is waived by virtue of the officer's possessing educational qualifications that are equivalent, or superior, to those prescribed in regulation 8(3) of the Police Service Regulations.

Appointment  
to an office in  
the Second  
Division.  
[144/2006].

Ch. 15:01.  
Sub. Leg.

**LAWS OF TRINIDAD AND TOBAGO**

*Constitution of the Republic  
of Trinidad and Tobago*

258

**Chap. 1:01**

[Subsidiary]

*Police Service Commission Regulations*

(2) An Officer in the Second Division who has successfully passed the Corporal examination may apply to the Commission to be allowed to take the Sergeant's Examination.

(3) A Police Officer who is successful in a promotion examination may be considered for promotion in accordance with regulation 15.

Promotion to an  
office in the  
Second  
Division.  
[79/1995].

**15.** (1) The Commissioner shall, after taking into account the criteria specified in regulation 20, submit to the Commission a list of the officers in the Second Division—

- (a) whom he considers suitable for promotion to an office; and
- (b) who are not being considered for promotion yet but who have served in the Service for a longer period in an office, or who have more experience in performing the duties of that office, than the officers being recommended.

(2) The Commissioner shall also advise those officers referred to in subregulation (1)(b) of their omission from the list for promotion, together with the reasons for such omission.

(3) An officer who is advised under subregulation (2) may make representations on his own behalf to the Commission within fourteen days of being so advised and the Commission may invite him for interview on the basis of his representations.

(4) The Commission shall advise those officers making representations under this regulation of the outcome of their representations.

(5) The Commission may, after considering the representations made, endorse, or otherwise, the recommendations of the Commissioner when promoting an officer.

Resitting of  
examination.  
[7/1969].

**16.** (1) If a police officer has been successful in a promotion examination held after the coming into operation of these Regulations and that police officer is not appointed on promotion within three years of his passing of that examination, he shall in order to qualify for promotion resit and pass such an examination.

LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

**Chap. 1:01**

**259**

*Police Service Commission Regulations*

**[Subsidiary]**

(2) A police officer who has passed an examination for promotion to a particular office prior to the coming into operation of these Regulations shall not be required to resit such an examination in order to qualify for promotion to that office.

**17.** Whenever in the opinion of the Commission it is possible to do so and it is in the best interest of the Police Service, appointments shall be made within the Police Service by competition, subject to any regulations limiting the number of appointments that may be made to any specified office within the Police Service.

Appointments to be by competition within the Police Service. [58/2006].

**18.** Where the Commission considers either that there is no suitable candidate already in the Police Service available for the filling of any vacancy or that having regard to qualifications, experience and merit it would be advantageous and in the best interests of the Service that the services of a person not already in the Service be secured, the Commission may authorise the advertisement of such vacancy.

Advertisement of vacancies.

**19.** (1) All examinations in the Police Service shall be set and the papers marked by such Examination Board as may be appointed for the purpose.

Examination Boards.

(2) The Director shall be responsible for the conduct of examinations set under subregulation (1).

**20.** (1) When considering officers for promotion, the Commission shall take into account the experience, the merit and ability, the educational qualifications and the relative efficiency of such officers.

Principles of selection for promotion. [79/1995 58/2006].

(2) In the performance of its functions under subregulation (1), the Commission shall in respect of each police officer take into account—

- (a) his general fitness;
- (b) any special qualification that he possesses;
- (c) any special courses of training that he may have undergone, whether at the expense of Government or otherwise;

**LAWS OF TRINIDAD AND TOBAGO**

260

**Chap. 1:01**

*Constitution of the Republic  
of Trinidad and Tobago*

[Subsidiary]

*Police Service Commission Regulations*

- (d) the evaluation of his overall performance as reflected in his performance appraisal reports;
- (e) any letters of commendation or special reports in respect of any special work done by him;
- (f) the duties of which he has had knowledge;
- (g) any specific recommendation of the Commissioner for filling the particular office;
- (h) any previous employment of his in the Service or otherwise;
- (i) any special reports for which the Commission may call;
- (j) his devotion to duty;
- (k) the date of his entry into the Service;
- (l) the date of his appointment in his present office.

(3) In addition to the requirements prescribed in subregulations (1) and (2) the Commission shall take into account any specifications that may be required from time to time for appointment to the particular office.

21. }  
22. } **(Revoked by LN 79/1995).**

Principles of  
selection for  
acting  
appointment.

**23.** (1) The Commissioner shall ensure that any recommendation made in relation to an acting appointment as a prelude to a substantive appointment shall be based on the principles prescribed in regulation 20.

(2) Where in the exigencies of the Service, it has not been practicable to apply the principles prescribed in regulation 20, a police officer selected for an acting appointment in consequence of a recommendation made under subregulation (1) shall not thereby have any special claim to the substantive appointment.

(3) In considering the claims of eligible candidates for a substantive appointment, the Commission shall take into account the claims of all eligible officers.

**LAWS OF TRINIDAD AND TOBAGO**

*Constitution of the Republic  
of Trinidad and Tobago*

**Chap. 1:01**

**261**

*Police Service Commission Regulations*

**[Subsidiary]**

**24.** (1) Where an acting appointment falls to be made otherwise than as a prelude to a substantive appointment, the police officer appointed shall—

Principles of selection for acting appointment not as prelude to appointment.

- (a) as a general rule be the senior police officer eligible for such acting appointment;
- (b) assume and discharge the duties and responsibilities of the office to which he is appointed to act.

(2) In making an acting appointment under subregulation (1), the Commission shall examine whether the exigencies of the Service would best be served by appointing a police officer next in line of seniority from another division to act when there is a police officer in the same division who is capable of performing the duties of the higher grade, and in such examination the question of additional Government expenditure for travelling and subsistence allowances and any other expenditure shall be borne in mind.

**25.** (1) Where an acting appointment falls to be made whether as a prelude to a substantive appointment or not the Commissioner shall notify the police officers who are eligible for consideration.

Commissioner to notify eligible police officers of vacancy.

(2) The Commissioner shall, after notification as required by subregulation (1), allow a period of seven days to elapse before forwarding any recommendations for the filling of such vacancy, for the purpose of allowing the police officers to make representations on the filling of such vacancy.

(3) Where representations have been made by or on behalf of any police officer, the Commissioner shall forward such representations in their original form to the Director.

**26.** The Commissioner shall submit, well in advance, recommendations for acting appointments to permit of their consideration by the Commission before the date on which the acting appointment is intended to become effective, but the Commission may waive the provisions of this regulation where the necessity to submit recommendations has been occasioned by sudden illness or very special circumstances or in any other circumstances which the Commission may consider appropriate.

Commissioner to submit recommendations to Commission in advance.

**LAWS OF TRINIDAD AND TOBAGO**

*Constitution of the Republic  
of Trinidad and Tobago*

262

**Chap. 1:01**

[Subsidiary]

*Police Service Commission Regulations*

Commissioner  
to state reasons  
for passing over  
officers.

**27.** In submitting recommendations for acting appointments in any office, the Commissioner shall state the reasons why police officers, if any, are being passed over.

Transfers.  
[79/1995].

**28.** (1) Where the Commission proposes to transfer a police officer, the Commission shall, except where the exigencies of the Service do not permit, make an order of transfer in writing and shall give not less than fourteen days notice to the officer who is to be transferred.

(2) In considering the transfer of a police officer, the Commission shall take into account any hardship that such transfer may occasion to the officer.

(3) *(Deleted by LN 79/1995).*

Date of  
appointment.

**29.** (1) A police officer's date of appointment shall normally be the date on which he assumes the duties of the office to which he has been appointed.

(2) If a police officer is selected for appointment from outside Trinidad and Tobago, the date of appointment shall be the date specified in the letter of appointment.

Medical  
examination.

**30.** (1) A candidate selected for first appointment to the Police Service shall undergo a medical examination by a Government Medical Officer and shall not be confirmed in his appointment unless and until he has been passed as medically fit.

(2) The Commissioner shall make appropriate arrangements for the new appointee to be medically examined as soon as practicable after his selection for first appointment.

(3) The Medical Officer who examines the new appointee shall submit his medical report on the prescribed form to the Director as soon as practicable after the examination.

(4) The Director shall inform the new appointee whether the medical report is favourable or unfavourable.

(5) All communications relating to the medical report on a new appointee shall be strictly confidential and any officer who communicates the details of any such medical report to any other

person, except for the purpose of, and as provided for, in this regulation, is guilty of an offence and liable to dismissal from the Police Service.

(6) Where the officer who commits a breach of subregulation (5) is not a police officer, the Commission shall report the officer to the appropriate Service Commission for consideration by that Service Commission.

#### CHAPTER IV

#### STAFF REPORTS

**31.** (1) The Commissioner shall forward to the Director in Staff reports.  
each year—

- (a) in respect of all police officers who are within the scale of pay, a staff report not later than sixty days before an increment is due to an officer; and
- (b) in respect of all police officers who are at the maximum in the scale of pay or who receive a fixed pay, a staff report not later than the anniversary of the date of appointment of an officer to the office.

(2) A staff report shall relate to the period of service during the immediately preceding twelve months.

(3) In the preparation of a staff report, the Commissioner shall be guided by his own deliberate judgment and shall in such report—

- (a) make an unbiased assessment of the police officer's performance and conduct over the past twelve months; and
- (b) give an indication of the future prospects of the police officer.

(4) A staff report shall be in such form as may from time to time be prescribed by the Commission and shall be made in respect of every police officer whether he holds an acting appointment, a temporary appointment or is employed for a specified period.

LAWS OF TRINIDAD AND TOBAGO

264

Chap. 1:01

*Constitution of the Republic  
of Trinidad and Tobago*

[Subsidiary]

*Police Service Commission Regulations*

Officer to be  
informed of  
adverse report.

**32.** In order that a police officer may be given every opportunity to correct any shortcomings which he might evince during the course of the twelve months' period of service to be reported on, the Commissioner shall—

- (a) as and when such shortcomings are noticed, cause the police officer to be informed in writing thereof;
- (b) when adverse markings are included in the staff report, cause the police officer to be informed in writing thereof before he submits the report to the Director.

Annual  
increments.

**33.** (1) A staff report made in respect of an officer under regulation 31 shall be the basis for determining the eligibility of an officer for—

- (a) an increment; and
- (b) promotion.

(2) Where the Commissioner, in a report made under regulation 31, recommends that an increment ought not to be granted, he shall notify the police officer in writing, not later than sixty days before the increment is due, of the reasons for which he considers that the increment ought not to be granted, and the police officer may, within seven days of the receipt of such notification, make representations in writing through the Commissioner to the Commission.

(3) An annual increment shall not be suspended except on the authority of the Commission.

(4) Where the Commission, after considering any representation by a police officer made under subregulation (2), supports the recommendation of the Commissioner referred to in subregulation (2), or where in the opinion of the Commission a report made under regulation 31 does not justify the payment of an increment to the police officer, the Commission shall notify the police officer in writing of its decision to suspend the payment of the increment.

(5) The Commission may suspend under subregulation (4) the payment of an increment subject to subregulation (6) for a period not exceeding six months.



(6) Where the Commission suspends an increment under subregulation (4) for a specified period, the Commissioner shall, not less than thirty days before the expiration of the specified period, make a report on such police officer and if in the opinion of the Commission—

- (a) the report justifies the payment of the increment, the Commission shall grant the increment which shall be payable from the date from which it is granted;
- (b) the report does not justify the payment of the increment, the Commission may suspend the payment of the increment for a further period not exceeding six months.

(7) Where the Commission suspends the payment of an increment to a police officer under this regulation, the suspension shall not affect the police officer's incremental date.

## CHAPTER V

### PROBATIONARY APPOINTMENTS

**34.** Except as otherwise provided in this Chapter, a police officer on first appointment to the Police Service shall be required to serve on probation for a period of two years.

Period of probation on first appointment.

**35.** (1) Where a police officer is to be appointed to an office in which he has performed the duties, whether in an acting or temporary capacity, for periods of equal or longer duration than the period of probation prescribed in regulation 34, the police officer shall not be required to serve on probation.

Probation not required or may be offset in certain cases.

(2) Where a police officer is appointed on promotion to an office in which he has acted satisfactorily for periods of less duration than the period of probation prescribed in regulation 36, not more than one year and not less than six months acting service may be offset against the period of probation.

**36.** (1) Subject to regulation 35, a police officer who is appointed on promotion to an office may be required to serve on probation for one year in the office to which he is promoted.

Probation on promotion.

## LAWS OF TRINIDAD AND TOBAGO

266

### Chap. 1:01

*Constitution of the Republic  
of Trinidad and Tobago*

[Subsidiary]

*Police Service Commission Regulations*

(2) Subject to subregulation (3), where within two years immediately preceding his promotion a police officer has served in an acting appointment in the office to which he is promoted, the period of probation shall be abated by the extent of the aggregate of service in such acting appointment unless the Commission otherwise directs.

(3) In calculating the aggregate of service in an acting appointment for the purpose of subregulation (2), only continuous service of three months or more shall count.

Waiver of  
portion of  
period of  
probation.

**37.** Where a police officer is promoted before he has completed the full period of probation in his former office, the unserved portion of that period of probation shall be deemed to be waived and the police officer deemed to be confirmed in that appointment.

Principles to be  
observed while  
officer on  
probation.

**38.** The following principles shall be observed for the treatment of a police officer during his period of probation:

- (a) the police officer on probation shall be given an opportunity to learn his work and be tested as to his suitability for it;
- (b) he shall be accorded all possible facilities for acquiring experience in his duties;
- (c) he shall be subject to continual and sympathetic supervision;
- (d) so far as the exigencies of the Service permit, he shall be assigned to duty only where such observation is possible; and
- (e) if at any time during his period of probation he shall exhibit tendencies which render it in any way doubtful that he is likely to become fit for confirmation in his appointment, these shall at once be drawn to his attention in writing by the Commissioner and he shall be given such assistance as may be possible to enable him to correct his faults.

LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

**Chap. 1:01**

267

*Police Service Commission Regulations*

[Subsidiary]

**39.** (1) In the case of a police officer serving a two-year period of probation, the Commissioner shall furnish to the Director three confidential reports as follows: Confidential reports.

- (a) a first report after the police officer has completed one year's service;
- (b) an interim report six months before the period of probation expires; and
- (c) a final report one month before the period of probation expires.

(2) In the case of a police officer serving a one-year period of probation, the Commissioner shall furnish to the Director two confidential reports as follows:

- (a) a first report six months before the period of probation expires;
- (b) a final report one month before the period of probation expires.

(3) The Director shall report to the Commission whenever the Commissioner fails to submit a confidential report on an officer on probation within the terms specified in this regulation.

(4) In submitting the final report, the Commissioner shall make a firm recommendation—

- (a) that the police officer be confirmed in the appointment; or
- (b) that the period of probation be extended; or
- (c) that the police officer's appointment on probation be terminated; or
- (d) that the police officer return to his former office.

(5) The report of the Commissioner under this regulation shall not be seen by the police officer on probation, but any adverse comments on his work shall be in specific terms; the officer shall be notified in writing in duplicate as early as possible, so that he should have sufficient time in which to make an effort to correct his shortcomings before his period of probation expires. The police officer shall retain the original notification and shall sign the duplicate and return it to the Commissioner for the record.

**LAWS OF TRINIDAD AND TOBAGO**

*Constitution of the Republic  
of Trinidad and Tobago*

268

**Chap. 1:01**

[Subsidiary]

*Police Service Commission Regulations*

Extension of  
probation.

**40.** (1) Before any recommendation is made to the Commission for the extension of a police officer's period of probation or for the termination of his appointment, the Commissioner shall inform the police officer of this recommendation and of the specific reasons therefor and he shall invite the police officer to submit any representations he may wish to make.

(2) Subject to the provisions of these Regulations, the first appointment on probation of a police officer may, at any time during the period of probation, be terminated by the Commission.

Confirmation of  
appointment.

**41.** (1) If, after consideration of the final report of the Commissioner, the Commission is satisfied that the police officer's probationary service has been satisfactory, he shall be confirmed in his appointment with effect from the date of appointment.

(2) If the Commission is not satisfied that the police officer's probationary service has been satisfactory, the period of probation may be extended for a further period.

Incremental date  
where period of  
probation  
extended.

**42.** Where a police officer's period of probation has been extended and he is subsequently confirmed in his appointment, the Commission may direct that the police officer's increment be paid—

- (a) with effect from the date following that on which the extended period of probation expired without change in the incremental date; or
- (b) with effect from the date following that on which the extended period of probation expired which would then become his incremental date.

Commissioner  
to keep record.

**43.** The Commissioner shall keep a record of every police officer who has been appointed on probation in the Service.

**CHAPTER VI**

**RESIGNATIONS, RETIREMENTS AND  
TERMINATION OF APPOINTMENTS**

Resignation.

**44.** (1) A police officer who wishes to resign shall give to the Commission notice in writing of his intention at least one month

before the date on which he wishes to relinquish his appointment, but the Commission may waive the requirement of notice in whole or in part if it thinks fit.

(2) Notwithstanding any regulation respecting the non-forfeiture of leave, a police officer who fails without reasonable cause to comply with subregulation (1) may forfeit all leave and the benefits and privileges accruing to him in respect of leave.

(3) An officer is not entitled to withdraw his notice of resignation before such resignation becomes effective, but the Commission may accept such withdrawal if tendered in writing at any time before the effective date of the resignation.

**45.** A police officer who is absent from duty without leave for a period of one month may be declared by the Commission to have resigned his office and thereupon the office becomes vacant and the police officer ceases to be a police officer. Abandonment.

**46.** The services of a police officer may be terminated only for the reasons stated below: Reasons for termination of appointment.

(a) Where the police officer holds a permanent appointment—

- (i) on dismissal or removal in consequence of disciplinary proceedings;
- (ii) on compulsory retirement;
- (iii) on voluntary retirement;
- (iv) on retirement for medical reasons;
- (v) on being retired in the public interest;
- (vi) on resignation without benefits payable under any written law providing for the grant of pensions, gratuities or compensation;
- (vii) on the abolition of office.

(b) Where the police officer holds a temporary appointment—

- (i) on the expiry or other termination of an appointment for a specified period;

**LAWS OF TRINIDAD AND TOBAGO**

270	<b>Chap. 1:01</b>	<i>Constitution of the Republic of Trinidad and Tobago</i>
[Subsidiary]		<i>Police Service Commission Regulations</i>
		<ul style="list-style-type: none"><li>(ii) where the office itself is of a temporary nature and is no longer necessary;</li><li>(iii) on the termination of appointment in the case of a police officer on probation;</li><li>(iv) on the termination of appointment in the case of an officer holding a non-pensionable office with no service in a pensionable office;</li><li>(v) on dismissal or removal in consequence of disciplinary proceedings;</li><li>(vi) ill health.</li></ul> <p>(c) Where the police officer is on contract, his services shall be terminated in accordance with the terms of the contract.</p>
Compulsory and voluntary retirement.	<b>47.</b>	<p>(1) A police officer in the First Division—</p> <ul style="list-style-type: none"><li>(i) shall be required to retire on attaining the age of sixty years;</li><li>(ii) may, with the approval of the Commission, retire on attaining the age of fifty-five years;</li><li>(iii) may, with the permission of the President, retire on attaining the age of fifty years, if he has had not less than thirty years continuous service.</li></ul> <p>(2) A police officer in the Second Division—</p> <ul style="list-style-type: none"><li>(i) shall be required to retire on attaining the age of fifty-five years;</li><li>(ii) may, with the approval of the Commission, retire on attaining the age of fifty years.</li></ul>
Commissioner to notify Director of officers to retire compulsorily.	<b>48.</b>	<p>The Commissioner shall inform the Director of all officers in the Service who are within one year of the compulsory retirement age.</p>

LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

**Chap. 1:01**

271

*Police Service Commission Regulations*

[Subsidiary]

**49.** (1) If it appears to the Commission that a police officer in the First Division who has attained the age of fifty years ought to be called upon to retire from the Service, the Commission shall advise the police officer accordingly.

Premature  
retirement.  
[175/1993].

(2) Any such police officer shall be afforded an opportunity of submitting to the Commission any representations he may wish to make regarding his proposed retirement.

(3) If the Commission, after considering the representations, if any, made by the police officer, is of the opinion that, having regard to all the circumstances of the case, the police officer should be retired in the public interest, the Commission shall require the police officer to retire on such date as the Commission shall determine, and the police officer shall be retired accordingly.

**50.** (1) Where it is represented to the Commission or the Commission considers it desirable in the public interest that any police officer should be required to retire from the Police Service, it shall call for a full report on the police officer from the Commissioner and may take into account the police officer's previous record during the last preceding five years or where the police officer has less than five years service, the police officer's record during his period of service.

Retirement in  
the public  
interest.  
[80/2006].

(2) Where the police officer is the Commissioner, the Commission shall call for a full report and such record from the Permanent Secretary, Ministry of National Security.

(3) If, after considering such report and such record and giving the police officer an opportunity to submit a reply to the grounds on which his retirement is contemplated and, having regard to the condition of the Police Service, the usefulness of the police officer thereto, and all the other circumstances of the case, the Commission is satisfied that it is desirable in the public interest to do so, it shall require the police officer to retire on such date as the Commission shall determine, and he shall be retired accordingly.

**LAWS OF TRINIDAD AND TOBAGO**

272

**Chap. 1:01**

*Constitution of the Republic  
of Trinidad and Tobago*

**[Subsidiary]**

*Police Service Commission Regulations*

Termination of  
appointment on  
grounds of  
inefficiency.

**51.** (1) The Commission may terminate the appointment of a police officer on grounds of inefficiency as a result of a number of adverse reports.

(2) Where the Commissioner makes a recommendation in writing that the appointment of a police officer should be terminated on grounds of inefficiency, the police officer shall be informed in writing of such recommendation and shall be given an opportunity to make representations thereon.

(3) Where a police officer makes representations under subregulation (2), the representations shall be forwarded in their original form to the Commission by the Commissioner together with such comments as the Commissioner thinks fit.

(4) The Commission may, upon application of the police officer or on its own motion, cause an investigation to be made before making a final decision.

Married female  
officers.

**52.** The Commission may terminate the appointment of a female police officer who is married on the grounds that her family obligations are affecting the efficient performance of her duties and the procedure for the termination of such appointment shall be in accordance with regulation 51(2), (3) and (4).

Medical Boards.

**53.** (1) A Medical Board shall be held whenever it is necessary for a police officer to be examined with a view to ascertaining whether or not the officer should be retired on grounds of ill health, or in any case or class of case in which the Commission directs.

(2) A police officer may be required by the Commission to undergo a medical examination at any time.

(3) A police officer who is required to undergo a medical examination shall submit himself to be examined by a Medical Board at such time and place as the Commissioner may direct on behalf of the Board.

(4) Where a police officer, through refusal or neglect to obtain specialist advice or to obtain treatment when so recommended by the Medical Board, falls sick and in consequence



## LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

**Chap. 1:01**

273

*Police Service Commission Regulations*

[Subsidiary]

is unable to perform his duties, the Commission may direct that the period during which he is unable to perform his duties shall be counted as leave without pay.

(5) Whenever it is considered necessary for a police officer to be examined with a view to ascertaining whether or not he should be retired on grounds of ill health, the Commissioner shall make a recommendation to this effect to the Commission and where there is a medical record of the police officer, the record shall be made available to the Medical Board.

(6) Where a deterioration in the work of the police officer is the reason or one of the reasons for requesting that the police officer undergo a medical examination, the Commissioner shall submit, with his recommendation under subregulation (5), a detailed report on any change in the quality of the officer's work in order to assist the Medical Board in carrying out the medical examination of the police officer concerned.

**54.** A police officer who is medically boarded and found unfit for further service shall not be allowed to remain on duty after receipt of the Medical Board's report, and shall be granted such annual leave and accumulated annual leave for which he is eligible or two months' leave, whichever is the greater, as from the date on which he is notified of his unfitness for further duty. Unfit officers.

### CHAPTER VII

#### CONDUCT

55. }  
to } *(Revoked by LN 214/1990).*  
74. }

### CHAPTER VIII

#### DISCIPLINARY PROCEDURE

**75.** A police officer who fails to comply with any regulation, order or directive for the time being in force in the Police Service or with any of these Regulations, or commits an offence under Officer liable to disciplinary proceedings.  
[214/1990].

LAWS OF TRINIDAD AND TOBAGO

274

Chap. 1:01

*Constitution of the Republic  
of Trinidad and Tobago*

[Subsidiary]

*Police Service Commission Regulations*

these Regulations or the Police Service Regulations, shall be liable to disciplinary proceedings in accordance with the procedure prescribed in these Regulations.

**76. (Revoked by LN 214/1990).**

Commissioner  
to report officer.  
[214/1990].

**77. (1)** Where a report or allegation is received from which it appears that a police officer may have committed an offence other than an offence referred to in regulation 81, the Commissioner shall forthwith report the matter to the Director for the information of the Commission.

(2) The Commission, after considering the report made under subregulation (1), may institute disciplinary proceedings against the police officer.

(3) }  
(4) } **(Deleted by LN 214/1990).**

Commission to  
issue  
instructions on  
how certain  
cases to be dealt  
with.

**78.** The Commissioner shall report any case not covered by these Regulations to the Director and the Commission may issue instructions as to how the case shall be dealt with, and the case shall be dealt with accordingly.

Suspension by  
Commission.

**79. (1)** When the Commission becomes aware of any offence and the Commission is of the opinion that the public interest or the repute of the Service requires it, the Commission may direct the police officer in writing to cease to report for duty until further notice from the Commission, and a police officer so directed shall cease to perform the functions of his office forthwith.

(2) A police officer directed to cease to perform the duties of his office in accordance with subregulation (1) shall continue to draw full pay until such date as shall be specified in an order made by the Commission under regulation 80.

Interdiction.  
[214/1990].

**80. (1)** Where there have been or are about to be instituted against any police officer—

- (a) disciplinary proceedings for his dismissal; or
- (b) criminal proceedings,

and where the Commission is of opinion that the public interest requires that that police officer should forthwith cease to perform the functions of his office, the Commission shall interdict him from such performance.

(2) The effective date of interdiction shall be—

- (a) where a police officer has continued to perform the duties of his office, the date of receipt by him of the notification of his interdiction;
- (b) where, in accordance with regulation 79, a police officer has ceased to perform the duties of his office, such date as the Commission may direct.

(3) A police officer so interdicted shall, subject to the provisions of regulation 108, be permitted to receive such proportion of the pay of his office, not being less than one-half, as the Commission may determine after taking into consideration the amounts being deducted per month from the pay of the police officer.

(4) If disciplinary proceedings against any such police officer result in his exoneration, he shall be entitled to the full amount of the remuneration which he would have received if he had not been interdicted, but if the proceedings result in any punishment other than dismissal the police officer shall be allowed such pay as the Commission may in the circumstances determine.

(5) *(Deleted by LN 214/1990).*

**81.** (1) Where a report or allegation that a police officer has committed an offence to which this regulation applies has been made, the officer making the report or allegation shall warn the police officer concerned in writing of the report or allegation.

Procedure on  
alleged  
commission of  
offence.  
[80/1969  
214/1990].

(1A) The report or allegation referred to in subregulation (1) shall be referred to an officer senior to the officer against whom the report or allegation has been made including a Head of Division, other than a Head of Division who may be the disciplinary tribunal in respect of such report or allegation.

LAWS OF TRINIDAD AND TOBAGO

276

Chap. 1:01

*Constitution of the Republic  
of Trinidad and Tobago*

[Subsidiary]

*Police Service Commission Regulations*

(1B) Such officer may charge the officer and refer the matter to a Head of Division to hear the matter in his capacity as a disciplinary tribunal pursuant to regulation 82.

(2) The officer making the report or allegation shall hold an office higher than that of the officer against whom the report or allegation has been made, but may do so on the information of any other person.

(3) Nothing in regulations 84 to 87 shall apply to proceedings on a report or allegation of an offence to which this regulation applies, but, subject to these Regulations, so much of the other provisions of this Chapter (other than regulations 89 and 96 to 102) as are applicable shall apply, with such adaptations and modifications as are necessary, to a disciplinary tribunal constituted in accordance with regulation 82.

(4) This regulation applies to offences that are the subject of a delegation by the Commission to the Head of Division, and a reference to the Head of Division in this regulation or in regulation 82 shall be read as a reference to the Senior Police Officer (being an officer of the First Division of the Police Service set out in the First Schedule to the Police Service Act, other than an Assistant Superintendent of Police) who is in charge of the Division or Branch to which the officer, against whom the report or allegation is made, is attached, and the Commissioner of Police and the Deputy Commissioner of Police.

Ch. 15:01.

Powers of  
disciplinary  
tribunal.  
[214/1990].

**82.** (1) The Head of Division may be appointed by the Commission by notice in writing to be a standing or special disciplinary tribunal in respect of a matter referred to in regulation 81, and determine such charge and impose any one of the penalties prescribed in regulation 104(1)(f), (g), or (h).

(2) A fine imposed by the Head of Division pursuant to subregulation (1), shall not exceed—

(a) where the Head of Division imposing the fine is a Superintendent, an amount calculated on four days pay to be deducted from the salary of the officer in no more than two instalments;

LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

**Chap. 1:01**

277

*Police Service Commission Regulations*

[Subsidiary]

(b) where the Head of Division imposing the fine is an officer in the First Division other than a Superintendent, an amount calculated on four days pay per month to a maximum of three months to be deducted from the salary of the officer in no more than four instalments.

(3) A Head of Division appointed as a tribunal under this regulation shall not exercise any power as such in a matter where he is the person making the report or allegation.

**83.** (1) Where a disciplinary tribunal upon the determination of a charge against a police officer under regulation 82 finds that officer guilty and is of opinion that, owing to the special circumstances of the case (including the previous record of the offender), the penalty that could be imposed by it is inadequate, it may so certify and refer the matter to the Commissioner.

Certain penalties to be imposed by Commissioner. [80/1969 214/1990].

(2) The Commissioner may, on receipt of a certificate made under subregulation (1), impose a penalty prescribed in regulation 104(1)(c), (f), (g) or (h).

(3) Where a disciplinary tribunal during the course of hearing a charge against a police officer under regulation 82 is of the opinion that the matter is such that the officer has been inadequately charged with an offence to which regulation 82 applies, it may so certify and refer the matter to the Commissioner.

(4) The Commissioner shall on receipt of a certificate made under subregulation (3) refer the matter forthwith to an investigating officer to deal with under regulation 84 as if it were an allegation or an offence to which regulation 77 applies.

**84.** (1) Where the Commissioner receives a report or an allegation is received from which it appears that a police officer may have committed an offence to which regulation 77 applies, the Commissioner shall, in addition to making a report as required by regulation 77, concurrently warn the police officer in writing of the allegation.

Warning and Investigation. [91/2006].

(2) An Investigating Officer from the Public Service Investigations Unit shall be appointed by the Director of Personnel Administration to investigate the allegation.

**LAWS OF TRINIDAD AND TOBAGO**

278

**Chap. 1:01**

*Constitution of the Republic  
of Trinidad and Tobago*

[Subsidiary]

*Police Service Commission Regulations*

(2A) An Investigating Officer may also be appointed from within the Police Service on the instruction of the Commission and shall hold an office in a grade higher than that of the officer against whom the allegation has been made.

Personal  
explanation.

(3) The investigating officer shall, within three days of his appointment, give the police officer a written notice specifying the time, not exceeding seven days, within which he may, in writing, give an explanation concerning the report or allegation to the investigating officer.

(4) The investigating officer shall request those persons who have direct knowledge of the alleged offence to make written statements within seven days of the receipt of the request for the information of the Commission.

(5) The investigating officer shall, with all possible dispatch, but not later than thirty days from the date of his appointment, forward to the Commission, for the information of the Commission, the original statements and all relevant documents, together with his own report on the particular act.

(5A) Where the Commission considers that the circumstances before it warrant an extension of time, the period referred to in subregulation (5) may be extended by a period not exceeding thirty days.

(6) The Commission, after considering the report of the investigating officer and any explanation given under subregulation (3), shall decide whether the police officer should be charged with an offence, and if the Commission decides that the police officer should be so charged, the Commission shall, as soon as possible, cause the police officer to be informed in writing of the offence with which such police officer is charged, together with such particulars as will leave the police officer under no misapprehension as to the precise nature of the alleged offence.

(7) Where, in the explanation given under regulation 86(2), the police officer makes an admission of guilt, the Commission may determine the penalty to be awarded without further enquiry.

(8) Where the Commission, under section 127 of the Constitution, has delegated to a police officer its duty of deciding

LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

**Chap. 1:01**

279

*Police Service Commission Regulations*

[Subsidiary]

under subregulation (6) whether a police officer shall be charged and of charging such police officer with an offence, the reference in subregulations (4), (5), (6) and (7) to the Commission shall be construed as a reference to that police officer.

**85.** Where a police officer is charged with an offence, he shall as soon as possible be given a copy of any written explanation he may have made under regulation 84(3). Documents to be supplied to accused.

**86.** (1) Where a police officer is charged with an offence, the police officer shall be requested to state in writing within a specified period whether he admits or denies the charge and shall be allowed to give to the disciplinary tribunal or the Commission any explanation he may wish. Officer to admit or deny charge in writing and may include explanation.

(2) Where a police officer admits the charge under subregulation (1), he shall be allowed to include in his explanation any extenuating circumstances in mitigation.

**87.** Where a police officer—

- (a) fails to give an explanation under regulation 84(3);
- (b) fails to admit or deny the charge under regulation 86(1); or
- (c) gives an explanation under regulation 84(3) or under regulation 86(1), that—
  - (i) places the facts in dispute; or
  - (ii) does not exculpate him,

Hearing on failure to admit or deny charge.

the hearing shall proceed as though the police officer denied the charge.

**88.** (1) The police officer shall be allowed to state the names and addresses of any witnesses to relevant facts whom he may desire to give evidence at the hearing of the case. Witnesses.

(2) Any such witness who is a police officer shall be ordered to attend at the hearing of the case and any other witness

LAWS OF TRINIDAD AND TOBAGO

280

Chap. 1:01

*Constitution of the Republic  
of Trinidad and Tobago*

[Subsidiary]

*Police Service Commission Regulations*

shall be given due notice that his attendance is desired and of the time and place of the hearing.

Appointment of  
disciplinary  
tribunal.  
[43/2001].

**89.** (1) Where the Commission under regulation 84(6) charges a police officer with an offence, it may appoint a disciplinary tribunal to hear the evidence and find the facts.

(2) A disciplinary tribunal which the Commission appoints under subregulation (1) may be constituted of—

- (a) one officer or person;
- (b) an uneven number of officers or persons not being less than three.

(3) An officer selected under subregulation (2) shall be, or in the case of a retired officer shall have been, of a grade higher than that of the officer charged.

Duty of officers  
appointed to  
disciplinary  
tribunal.  
[43/2001].

**90.** (1) It shall be the duty of every person or officer appointed under regulation 89 to hear the evidence, find the facts and make a report to the Commission in accordance with regulations 92 and 96 as soon as possible, and in the case of an officer, such officer may not be permitted any leave, other than sick leave or maternity leave, until the report is made to the Commission.

(2) Where an officer is absent for whatever reason, including the grant of sick leave, the disciplinary tribunal of which he is a member may, notwithstanding regulation 89(2)(b), continue to hear the case and make a report in the absence of that officer, but such a tribunal shall not be constituted of less than two members.

Officer on  
charge not to be  
permitted leave.

**91.** A police officer who is charged with an offence shall not be permitted to take leave, other than sick leave or maternity leave, until the determination of the case.

Procedure at  
hearing.  
[214/1990].

**92.** (1) The following procedure shall apply to the hearing by a disciplinary tribunal of a case against a police officer charged with an offence:

- (a) The police officer shall be summoned to appear at the hearing of the case and shall be given full opportunity to defend himself.



- (b) The case against the police officer may be presented by a police officer, but such police officer shall be the holder of an office higher than that of the police officer charged.
- (c) Before the case against the police officer is presented, the police officer may submit that the facts alleged in the charge are not such as to constitute the offence with which he is charged, and the disciplinary tribunal shall make a report of the submission to the Commission for its decision.
- (d) At the hearing before a disciplinary tribunal, the police officer may conduct his defence either in person or may be represented by a police officer of his choice or by his staff association or by an Attorney-at-law, but where the hearing is before a disciplinary tribunal constituted of one officer, the police officer charged shall not be represented by an Attorney-at-law; where the police officer is represented by such police officer or by his staff association or by an Attorney-at-law, the police officer or his representative may cross-examine the witnesses called in support of the case against him.
- (e) A true record of the proceedings at the hearing of the case shall be taken and a copy of the record shall be made available to the police officer if he desires to make application for an appeal to the Public Service Appeal Board.

(2) Nothing in this regulation shall be construed so as to deprive the police officer from making a submission at any time that the facts disclosed in the evidence do not support the charge.

**93.** The hearing of any case may be adjourned from time to time as may appear necessary for due hearing of the case.

Adjournment of  
hearing.

LAWS OF TRINIDAD AND TOBAGO

282

Chap. 1:01

*Constitution of the Republic  
of Trinidad and Tobago*

[Subsidiary]

*Police Service Commission Regulations*

Hearing in  
absence of  
accused officer.

**94.** (1) If the police officer does not attend the hearing of the charge without good reason, the hearing may be proceeded with and concluded in his absence, but if good reason is given to the disciplinary tribunal by or on behalf of the police officer why the police officer is unable to attend the hearing, the hearing shall be postponed or adjourned, as the case may be.

(2) Where, owing to the absence of the police officer, it is impossible to comply with the procedure prescribed in regulation 84(3), regulations 85, 86 and 87 and subregulation (1) of this regulation, that procedure shall be dispensed with.

Standard of  
proof.  
[214/1990  
92/2006].

**95.** (1) The standard of proof in any proceedings under this Chapter shall be on the balance of probabilities.

Ch. 7:02.

(2) In the hearing of any matter before it, the Tribunal may act without regard to technicalities and legal form and shall not be bound to follow the rules of evidence stipulated in the Evidence Act but the tribunal may inform itself on any matter in such manner as it thinks just and may take into account opinion evidence and such facts as it considers relevant and material but in any such case the parties to the proceedings shall be given the opportunity if they so desire of adducing evidence in regard thereto.

(3) No documentary evidence shall be used against the officer unless he has previously been supplied with a copy thereof or given access thereto.

(4) Any explanation in respect of an allegation or charge given by a police officer under regulation 84 shall be admissible at any hearing.

Tribunal to  
report.  
[214/1990].

**96.** (1) The disciplinary tribunal shall make a report to the Commission and the report shall contain its findings of fact and an expression of its opinion as to the meaning and nature of the facts found, together with the record of the proceedings required by regulation 92(1)(e).

Report  
confidential.

(2) The disciplinary tribunal shall not disclose the contents of the report made under subregulation (1) to the police officer charged or to any other officer not authorised to receive such report.

**(3) (Revoked by LN 214/1990).**

**97.** (1) Where, during the course of the hearing of a case and before the hearing is concluded, it appears to the disciplinary tribunal that there are grounds disclosed which could form the basis of a charge for which the penalty that could be imposed could be any one of the penalties specified in regulation 104(1), the disciplinary tribunal shall adjourn the hearing for a period not exceeding fourteen days and shall forthwith report its findings of fact with a report of the proceedings up to date to the Commission.

Disciplinary  
tribunal may  
adjourn and  
report to  
Commission.  
[106/1968  
80/1969  
214/1990].

**(2) Where in the opinion of the Commission—**

- (a)** the police officer should be charged with other offences, the Commission shall cause the officer to be so charged and the proceedings before such disciplinary tribunal shall cease; or
- (b)** the police officer, on the findings of fact submitted, may be liable to any one of the penalties specified in regulation 104(1), the Commission may direct such disciplinary tribunal to continue the hearing of the evidence, find the facts and make a report to the Commission.

**(3)** On consideration of the report of the disciplinary tribunal under subregulation (2)(b), the Commission may impose any one of the penalties specified in regulation 104(1).

**98.** (1) Where the disciplinary tribunal on hearing the evidence finds that the evidence is insufficient to support the charge or charges, the disciplinary tribunal shall submit to the Commission its findings of fact, together with the record of the proceedings as required in regulation 92(1)(e) without calling on the officer for his defence.

Disciplinary  
tribunal to  
report where  
evidence  
insufficient.  
[106/1968].

**(2)** If on receipt of the report and record of the proceedings under subregulation (1) the Commission is of the opinion that the report should be amplified in any respect or that further inquiry is desirable, it may refer the case back to the disciplinary tribunal for further enquiry or report accordingly.

LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

284

**Chap. 1:01**

[Subsidiary]

*Police Service Commission Regulations*

Disciplinary  
tribunal to  
report further  
grounds  
disclosed at  
hearing.  
[106/1968  
80/1969].

**99.** Where the disciplinary tribunal on hearing the evidence is of the opinion that such evidence discloses other offences, the disciplinary tribunal shall report the matter to the Commission and if the Commission thinks fit to proceed against the police officer in support of such offences, it shall cause the police officer to be informed in writing of any further charges made and the procedure prescribed in these Regulations in respect of the original charge shall apply in respect of such charges.

Commission to  
exercise  
disciplinary  
control on  
Commissioners.  
[214/1990].

**100.** The Commission may, on its own initiative, hear, determine and impose a penalty in respect of an allegation of an act of misconduct by the Commissioner or Deputy Commissioner.

Commission to  
inform officer of  
penalty imposed  
and of his right  
of review.  
[214/1990].

**101.** (1) Where on consideration or the report of the findings of fact by a disciplinary tribunal under regulation 96 the Commission is of the opinion that—

- (a) the police officer should be exonerated, the Commission shall exonerate the police officer;
- (b) the police officer should be dismissed, the Commission shall dismiss the police officer; or
- (c) a penalty should be imposed, the Commission may impose any of the penalties specified in regulation 104.

(1A) The penalty of dismissal from office as a consequence of disciplinary proceedings shall be imposed only by the Commission.

(2) The Commission shall, as soon as possible after the hearing of the charge, inform the police officer in writing of its findings, the penalty imposed on him and of his right to appeal to the Public Service Appeal Board.

(3) Where the police officer—

- (a) makes an application for an appeal in accordance with the Public Service Appeal Board Regulations, the penalty shall not take effect

Sub. Leg.

LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

**Chap. 1:01**

285

*Police Service Commission Regulations*

[Subsidiary]

pending the determination of the matter by the Public Service Appeal Board; or

- (b) does not make an application for an appeal to the Public Service Appeal Board, the penalty shall take effect at the expiration of the said time.

(4) Where the Commission under subregulation (1) informs the police officer that the penalty imposed on him is dismissal, the police officer, notwithstanding that he makes application for an appeal to the Public Service Appeal Board in accordance with the Public Service Appeal Board Regulations, shall not receive any pay or allowances from the date specified by the Commission. Sub. Leg.

(5) The failure to inform a police officer of his right to make application for an appeal and of the specified time for making such application shall not invalidate the decision of the Commission.

**102.** Where on a consideration of the report of the disciplinary tribunal, the Commission is of the opinion that the police officer does not deserve to be dismissed by reason of the charges alleged, but that the proceedings disclose other grounds for removing him from the Police Service in the public interest, the Commission may make an order for the removal of such police officer without recourse to the procedure prescribed by regulation 49. Commission may remove officer in public interest.

**103.** The proceedings before a disciplinary tribunal shall be held in private. Proceedings in private.

**104.** (1) The following are the penalties that may be imposed by the Commission by disciplinary proceedings brought against a police officer in respect of an offence: Penalties.

- (a) dismissal, that is, termination of appointment;
- (b) reduction in an office, that is, removal to another grade with an immediate reduction in pay;
- (c) reduction of remuneration, that is, an immediate adjustment of remuneration to a lower point on

# LAWS OF TRINIDAD AND TOBAGO

286

Chap. 1:01

*Constitution of the Republic  
of Trinidad and Tobago*

[Subsidiary]

*Police Service Commission Regulations*

the scale of remuneration attached to the particular office;

- (d) deferment of increment, that is, a postponement of the date on which the next increment is due, with corresponding postponements in subsequent years;
- (e) stoppage of increment, that is, no payment for a specified period of an increment otherwise due;
- (f) transfer;
- (g) fine;
- (h) reprimand.

(2) Where a fine is imposed, the amount of such fine shall be deducted from the pay of the police officer in such manner as may be specified at the time the penalty is imposed.

105. }  
to } (Revoked by L N 214/1990).  
107. }

Non-payment of remuneration on conviction on a criminal charge.

**108.** (1) A police officer convicted of a criminal charge and sentenced to imprisonment without the option of a fine or convicted of a criminal charge involving—

- (a) dishonesty;
- (b) fraud; or
- (c) moral turpitude,

shall not receive any pay or allowance after the date of conviction pending consideration of his case by the Commission.

(2) The Commission may direct that a police officer convicted of a charge described in subregulation (1) shall cease to perform the duties of his office forthwith.

(3) Notwithstanding that a police officer convicted of a charge described in subregulation (1) has appealed against the conviction, such police officer shall not receive any pay or allowance after the date of conviction.

LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

**Chap. 1:01**

287

*Police Service Commission Regulations*

[Subsidiary]

**CHAPTER IX**

**REVIEWS**

109. }  
to } *(Revoked by LN 214/1990).*  
116. }

**CHAPTER X**

**APPLICATION OF REGULATIONS**

117. These Regulations apply to every police officer whether the police officer is appointed to an office in the Service for an indeterminate period or on probation.

Application of  
Regulations to  
all officers.

**FIRST SCHEDULE**

Regulation 3(1).

**FORM 1**

**OATH (OR AFFIRMATION) OF OFFICE**

I, ..... do  
swear/solemnly declare and affirm, that I will without fear, favour, affection or  
ill-will, well and truly perform my duties in the office of Chairman/ Member of  
the Police Service Commission in the exercise of the powers vested in the Police  
Service Commission under the Constitution and that I will not directly or  
indirectly reveal any information to any unauthorised person or otherwise than  
in the course of duty.

So help me God.

Sworn/Declared before me this ..... day of ....., 20 .....

.....  
*Judge of the High Court*

**LAWS OF TRINIDAD AND TOBAGO**

288

**Chap. 1:01**

*Constitution of the Republic  
of Trinidad and Tobago*

[Subsidiary]

*Police Service Commission Regulations*

Regulation 3(2).

**FORM 2**

**OATH (OR AFFIRMATION) OF OFFICER  
OF THE COMMISSION**

I, ..... do  
swear/solemnly declare and affirm, that I will not directly or indirectly reveal  
to any unauthorised person or persons or otherwise than in the course of duty  
any information in connection with the business of the Commission which  
may come to my knowledge in the course of my duties as  
Secretary/...../...../.....) to the said  
Commission.

So help me God.

Sworn/Declared before me this ..... day of ....., 20.....

.....  
*Judge of the High Court*

**NOTE ON SECOND SCHEDULE**

**Regulation 65 which dealt with the incurring of debts by a Police Officer has been revoked  
by LN 214/1990.**



*Constitution of the Republic  
of Trinidad and Tobago*

289

**[Subsidiary]**

## Regulation 65(2).

As at ..... 20.....

Office head: .....

Married/Single.....

Ministry/Department: .....

Number of dependants .....

Salary: .....

Salary after deductions: .....

[illegible]

Date .....20.....

Signature: \_\_\_\_\_

**\*(N.B.—See Note on Second Schedule at page 170).**

**LAWS OF TRINIDAD AND TOBAGO**

*Constitution of the Republic  
of Trinidad and Tobago*

290

**Chap. 1:01**

[Subsidiary]

165/2007.

**APPOINTMENT OF THE COMMISSIONER OF POLICE  
AND DEPUTY COMMISSIONER OF POLICE  
(QUALIFICATION AND SELECTION CRITERIA) ORDER**

*made under section 123(2) of the Constitution*

Citation.

**1.** This Order may be cited as the Appointment of the Commissioner of Police and Deputy Commissioner of Police (Qualification and Selection Criteria) Order.

Qualification  
and experience.

**2.** A candidate for the office of Commissioner of Police or Deputy Commissioner of Police shall have—

- (a) a degree from a university recognised by the Ministry responsible for higher education in any of the following:
  - (i) law;
  - (ii) criminal justice;
  - (iii) criminology;
  - (iv) police service management; or
  - (v) any other relevant degree; and
- (b) no less than fifteen years experience of increasing responsibility in law enforcement.

Core criteria for  
appointment.

**3.** A candidate for the office of Commissioner of Police or Deputy Commissioner of Police shall meet the following core criteria:

- (a) leadership skills, which enable him to motivate, inspire and engender trust and confidence in the members of the Police Service;
- (b) management skills, which include the ability to—
  - (i) plan and organise operations;
  - (ii) monitor and implement such plans; and
  - (iii) identify and rectify problems;
- (c) communications skills, both written and oral, which enable him to deal effectively with the media and community groups;

LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

**Chap. 1:01**

291

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*Appointment of the Commissioner of Police and Deputy  
Commissioner of Police (Qualification and Selection Criteria) Order*

[Subsidiary]

- (d) commitment to the cause of the organisation;
- (e) the requisite vision, which will enable him to guide the Police Service in the specific direction that will serve the best interest of the organisation and the nation; and
- (f) integrity, having the courage of his convictions and known among his peers for doing the right thing regardless of consequence to self and others.

4. Where an officer does not hold the qualifications stipulated under paragraph 2(a) but meets the core criteria listed in paragraph 3 and has twenty years experience or more in the Police Service, he shall nonetheless be considered as a candidate for appointment.

Serving  
officers.

5. A candidate for the post of Commissioner of Police or Deputy Commissioner of Police shall not be a bankrupt and shall not have a conviction for a criminal offence.

Candidate not  
to be a  
bankrupt or  
convicted of  
criminal  
offence.

166/2007.

**COMMISSIONER OF POLICE AND DEPUTY  
COMMISSIONER OF POLICE (SELECTION  
PROCESS) ORDER**

*made under section 123(2) of the Constitution*

Citation.

**1.** This Order may be cited as the Commissioner of Police and Deputy Commissioner of Police (Selection Process) Order.

Interpretation.

**2.** In this Order, “Commission” means the Police Service Commission established under section 122 of the Constitution.

Selection  
process.

**3.** The selection process for appointment to the offices of Commissioner of Police and Deputy Commissioner of Police shall be conducted in the following manner:

(a) the Commission shall advertise each vacancy twice each—

- (i) on the Internet;
- (ii) in at least two daily newspapers in circulation—

- (A) locally;
- (B) regionally; and
- (C) internationally; and

(iii) in at least two professional journals in circulation—

- (A) locally;
- (B) regionally; and
- (C) internationally,

at least four months before the appointment is to be made;

(b) every applicant shall be required to apply on the designated form and also submit his personal biography, two references with current contact information, and any other relevant information which he considers will advance his candidacy;

LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

**Chap. 1:01**

293

*Commissioner of Police and Deputy Commissioner of Police (Selection Process) Order*

[Subsidiary]

- (c) the services of a firm, experienced in conducting assessments of top police managers, shall be contracted by the Commission to conduct an assessment process;
- (d) applications shall be made to the Commission and the Commission shall forward them to the firm;
- (e) the firm shall—
  - (i) establish guidelines for the assessment process and such guidelines, in writing;
  - (ii) procure a copy of the Appointment of the Commissioner of Police and Deputy Commissioner of Police (Qualification and Selection Criteria) Order and the Order; and
  - (iii) in co-operation with the Commission, compile a description of the Police Service and such compilation, in writing, shall be sent to each candidate at least one month before the conduct of the assessment process;
- (f) the firm, taking into account only the applications received, shall determine an appropriate number of suitable candidates for the assessment process;
- (g) where a candidate is a senior police officer, at least one of the persons serving on the assessment panel shall be of an equivalent or higher rank or position than the rank or position of the candidate;
- (h) the firm shall submit the results of its assessment process to the Commission in the form of an Order of Merit List and only thereafter the Commission may consult or discuss with the firm those results;

LAWS OF TRINIDAD AND TOBAGO

294

**Chap. 1:01**

*Constitution of the Republic  
of Trinidad and Tobago*

[Subsidiary]

*Commissioner of Police and Deputy Commissioner of Police (Selection Process) Order*

- (i) the Commission shall review the assessment of not more than the top five candidates from the Order of Merit List and subsequently conduct its own interviews with those candidates;
- (j) the Commission may gather such other information on each applicant as it considers necessary and appropriate to determine the merits of his application and suitability for the office for which he is being considered;
- (k) where enquiries by the Commission result in an adverse report of a criminal, legal or ethical nature, the candidate concerned shall be given an opportunity to be heard, and may be disqualified on the basis of such adverse report; and
- (l) the Commission shall then take into account all information on the candidates and select the top candidate, and submit that candidate's name to the President in accordance with section 123(3) of the Constitution.

Verification of  
reports.

**4.** The Commission has the right to determine the veracity of any statement or adverse report made to the Commission in relation to any candidate for the offices of Commissioner of Police and Deputy Commissioner of Police.

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**PUBLIC SERVICE APPEAL BOARD  
REGULATIONS**

ARRANGEMENT OF REGULATIONS

**REGULATION**

1. Citation.
2. Interpretation.
3. Meetings and procedure of Board.
4. Secretary.
5. Notice of appeal.
6. Time for appeal.
7. Service of notice of appeal.
8. Copy of record and affidavit of service to be filed with Secretary.
- 8A. Record of disciplinary proceedings to be filed by respondent.
9. Procedure on withdrawing appeal.
10. Entitlement to be represented by an Attorney-at-law.
11. Appeal Board may require production of exhibit.
12. Power of Appeal Board to dismiss an appeal.
13. Procedure where respondent fails to appear at hearing.
14. Fees.

**FIRST SCHEDULE.**

**SECOND SCHEDULE.**

LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

296

Chap. 1:01

[Subsidiary]

74/1978.  
[172/1978  
68/1981  
85/1981  
179/1985].

**PUBLIC SERVICE APPEAL BOARD  
REGULATIONS**

*made under section 132(5) of the Constitution*

Citation.

**1.** These Regulations may be cited as the Public Service Appeal Board Regulations.

Interpretation.

**2.** In these Regulations—

“appellant” means the public officer in respect of whom a Service Commission makes a decision as a result of disciplinary proceedings brought against such officer;

Ch. 1:01.

“the Constitution” means the Constitution set out in the Schedule to the Constitution of the Republic of Trinidad and Tobago Act;

“exhibits” includes all papers, reports, records and other documents, matters and things used or prepared in connection with disciplinary proceedings;

“the Public Service Appeal Board” or “the Appeal Board” means the Public Service Appeal Board constituted under section 130(1) of the Constitution;

“respondent” means the Director of Personnel Administration;

“Secretary” means the Secretary to the Public Service Appeal Board;

“Service Commission” means—

(a) the Judicial and Legal Service Commission established under section 110(1) of the Constitution;

(b) the Public Service Commission established under section 120(1) of the Constitution;

(c) the Police Service Commission established under section 122(1) of the Constitution;

(d) the Teaching Service Commission established under section 124(1) of the Constitution,

and includes any person to whom the powers of a Service Commission have been delegated.



LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

**Chap. 1:01**

**297**

*Public Service Appeal Board Regulations*

**[Subsidiary]**

**3.** (1) The Appeal Board shall meet at such times as may be necessary for the purpose of performing its functions.

Meetings and  
procedure of  
Board.  
[172/1978].

(2) Meetings shall be held on such days and at such times and place as the Chairman may determine.

(3) The Chairman shall preside at all meetings of the Appeal Board.

(4) In this regulation “meetings” includes the hearing of an appeal.

**4.** (1) The Appeal Board shall have a Secretary who shall be a public officer.

Secretary.  
[172/1978  
179/1985].

(2) The Secretary shall keep proper records of all proceedings before the Appeal Board.

(3) The Secretary shall, not less than seven days before the date fixed for the hearing of an appeal, notify both the appellant and the appropriate Service Commission of such date in the form set out as Form 2 in the First Schedule.

Form 2.  
First Schedule.

**5.** (1) Every appeal to the Appeal Board shall be by way of rehearing and shall be brought by a notice in the form set out as Form 1 in the First Schedule.

Notice of  
appeal.  
[179/1985].  
Form 1.  
First Schedule.

(2) A notice under subregulation (1) shall—

- (a) set forth the grounds of appeal;
- (b) state whether the appeal is against the whole or part only of the decision of the appropriate Service Commission and where it is against part only, specify which part;
- (c) state the nature of the relief sought; and
- (d) be signed by the appellant or his legal representative.

(3) Where the grounds of appeal allege misdirection or error in law, particulars of the misdirection or error shall be clearly stated.

LAWS OF TRINIDAD AND TOBAGO

298

Chap. 1:01

*Constitution of the Republic  
of Trinidad and Tobago*

[Subsidiary]

*Public Service Appeal Board Regulations*

(4) The grounds of appeal upon which the appellant intends to rely at the hearing of the appeal shall be set out concisely and under distinct heads, without any argument or narrative and shall be numbered consecutively.

(5) No ground which is vague or general in terms or which discloses no reasonable grounds of appeal shall be permitted, save the general ground that the judgment is against the weight of the evidence, and any ground of appeal or any part thereof which is not permitted under this regulation may be struck out by the Appeal Board of its own motion or on application by the respondent.

(6) No appellant may, without leave of the Appeal Board, urge or be heard in support of any ground of objection not mentioned in the notice of appeal, but the Appeal Board may in its discretion and upon such conditions as it considers just, allow an appellant to amend the grounds of appeal specified in the notice.

(7) Notwithstanding the provisions of this regulation, the Appeal Board in deciding the appeal—

- (a) shall not be confined to the grounds set forth by the appellant;
- (b) shall not rest its decision on any ground not set forth by the appellant unless the respondent has had sufficient opportunity of contesting the matter on that ground.

Time for appeal.  
[172/1978  
68/1981  
85/1981  
179/1985].

6. (1) A notice of appeal shall be filed with the Secretary within fourteen days of the date of the receipt by the appellant of the decision, in writing, of the appropriate Service Commission.

(2) The Secretary shall keep a record of and assign a number to each notice of appeal which is filed.

(3) Notwithstanding subregulation (1), the Appeal Board may extend the period specified in that subregulation if an application for an extension of time is made within one month of the expiration of that period.

LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

**Chap. 1:01**

**299**

*Public Service Appeal Board Regulations*

**[Subsidiary]**

(4) An application under subregulation (3) shall be made in the form set out as Form 2 in the First Schedule and shall be supported by an affidavit as to the facts contained in the application.

Form 2.  
First Schedule.

7. A true copy of the notice of appeal shall be served upon the respondent within seven days after the original notice has been filed.

Service of  
notice of appeal.

8. An appellant shall, within three weeks of the filing of his notice of appeal or within such extended time as may be granted by the Appeal Board under subregulation (3) of regulation 6, file with the Secretary an affidavit of service of the notice of appeal in the form set out as Form 3 in the First Schedule.

Copy of record  
and affidavit of  
service to be  
filed with  
Secretary.  
[68/1981  
85/1981  
179/1985].  
Form 3  
First Schedule.

**8A.** (1) Where an appeal against the decision of a Service Commission has been filed, the respondent shall, within three weeks of the service of notice of appeal or within such extended time as may be granted by the Appeal Board, file with the Secretary five copies (or such greater number as the Secretary may require) of the record of the disciplinary proceedings upon which the decision of the Commission was based.

Record of  
disciplinary  
proceedings to  
be filed by  
respondent.  
[68/1981  
85/1981].

(2) When the provisions of subregulation (1) have been complied with, the Secretary shall—

- (a) give to the appellant notice of the filing of the record in the form set out as Form 4 in the First Schedule together with a copy of that record; and
- (b) keep for the use of the Appeal Board three copies (or such greater number as may be required) of the record and of any notice or other document received by him after the record has been filed.

Form 4.  
First Schedule.

9. An appellant who desires to withdraw his appeal shall—

- (a) file with the Secretary a notice in the form set out as Form 6 in the First Schedule;
- (b) serve on the respondent a copy of the notice of withdrawal.

Procedure on  
withdrawing  
appeal.  
[179/1985].  
Form 6.  
First Schedule.

LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

300

Chap. 1:01

[Subsidiary]

*Public Service Appeal Board Regulations*

Entitlement to  
be represented  
by an Attorney-  
at-law.

**10.** (1) A public officer is entitled on an appeal to be represented—

- (a) by an Attorney-at-law or an officer of the service of which he is a member, selected by him; or
- (b) by a member of his staff association.

(2) On an appeal the respondent may appear in person or may be represented by a legal or other representative.

Appeal Board  
may require  
production of  
exhibit.

**11.** On an appeal the Appeal Board may at any time require the production of any exhibit which in its opinion is relevant to the proceedings before it.

Power of  
Appeal Board to  
dismiss an  
appeal.  
[68/1981  
85/1981].

**12.** (1) Where after filing a notice of appeal, an appellant—

- (a) fails to comply further with any other requirement of these Regulations; or
- (b) fails to appear on the date of the hearing,

the Appeal Board may dismiss the appeal.

(2) An appellant whose appeal has been dismissed under subregulation (1) may apply for the restoration of his appeal in the form set out as Form 7 in the First Schedule, supporting such application by an affidavit as to the facts contained therein.

Form 7.  
First Schedule.

(3) Where an application is made pursuant to subregulation (2), the Appeal Board may, if it is satisfied that the justice of the case so demands, order that the appeal should be restored on such terms as it thinks fit.

(4) No application may be made under this regulation after the expiration of twenty-one days from the date of the dismissal of the appeal.

Procedure  
where  
respondent fails  
to appear at  
hearing.  
[179/1985].

**13.** (1) Where the respondent fails to appear on the date of the hearing of an appeal, the Appeal Board may proceed to hear the matter *ex parte*.

(2) The respondent may, where an appeal is heard *ex parte*, apply by notice in the form set out as Form 8 in the First Schedule to the Appeal Board to set aside its decision.

Form 8.  
First Schedule.

LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

**Chap. 1:01**

301

*Public Service Appeal Board Regulations*

[Subsidiary]

(3) The Appeal Board may, where an application is made pursuant to subregulation (2), and if it is satisfied that the justice of the case so demands, order a rehearing of the appeal.

(4) No application may be made under this regulation after the expiration of twenty-one days from the date when the appeal was heard *ex parte*.

**14.** (1) Every person whether or not a party to an appeal before the Appeal Board shall, upon payment of the prescribed fee, be entitled to a copy of any judgment, order or other document set out in the Second Schedule.

Fees.  
[179/1985].

Second  
Schedule.

(2) The fees referred to in this regulation shall be taken by adhesive stamps, which stamps shall be defaced and cancelled in indelible ink by an officer duly authorised by the Appeal Board.

**LAWS OF TRINIDAD AND TOBAGO**

302

**Chap. 1:01**

*Constitution of the Republic  
of Trinidad and Tobago*

[Subsidiary]

*Public Service Appeal Board Regulations*

[172/1978  
68/1981  
85/1981  
179/1985].

Regulation  
5(1).

**FIRST SCHEDULE**

**FORM 1**

**BEFORE THE PUBLIC SERVICE APPEAL BOARD**

**NOTICE OF APPEAL**

Appeal No ..... of 20.....

**Between**

..... *Appellant*

**And**

..... *Respondent*

**TAKE NOTICE** that the Appellant being dissatisfied with the decision or part thereof of the ..... Service Commission given on the ..... day of ....., 20..... and more particularly stated in paragraph 2 hereby appeals against such decision or part thereof to the Public Service Appeal Board on the grounds set forth in paragraph 3 and will at the hearing of the appeal seek the relief set out in paragraph 4.

2. ....

.....

.....  
(Insert here the decision or the part thereof against which the notice of appeal is filed)

3. State grounds of appeal and particulars of the misdirection or error in law on which the decision was based:

(a) .....

(b) .....

(c) .....

(d) .....

4. ....

.....

.....  
(Insert here the relief sought from the Public Service Appeal Board)

Dated this ..... day of ....., 20 .....

.....  
*Appellant or his Legal Representative*

\_\_\_\_\_

**LAWS OF TRINIDAD AND TOBAGO**

*Constitution of the Republic  
of Trinidad and Tobago*

**Chap. 1:01**

**303**

*Public Service Appeal Board Regulations*

**[Subsidiary]**

**FORM 2**

Regulations 4(3)  
& 6(4).

**BEFORE THE PUBLIC SERVICE APPEAL BOARD**

**NOTICE OF HEARING OF APPEAL**

Appeal No ..... of 20.....

**Between**

..... *Appellant*

**And**

..... *Respondent*

**TAKE NOTICE** that the above-mentioned Appeal will come on for hearing before the

Public Service Appeal Board at .....  
(Address)

on the ..... day of ....., 20 ..... at ..... a.m./p.m. and continuing thereafter  
as the Board may direct.

Dated this ..... day of ....., 20 .....

.....  
*Secretary, Public Service Appeal Board*

To: .....  
.....  
.....  
.....

LAWS OF TRINIDAD AND TOBAGO

304

Chap. 1:01

*Constitution of the Republic  
of Trinidad and Tobago*

[Subsidiary]

*Public Service Appeal Board Regulations*

Regulation 8.

FORM 3

BEFORE THE PUBLIC SERVICE APPEAL BOARD

APPLICATION FOR EXTENSION OF TIME TO  
FILE APPEAL

In the Matter of .....  
*Name of Applicant*

**And**

the ..... Service Commission

**And**

In the Matter of an Application for an Extension of Time to File an Appeal

I, ..... of .....

occupation ..... hereby apply for an extension of

time to file an appeal against the decision of the .....

Service Commission given on the ..... day of ....., 20 ..... I was unable to  
file the appeal within the period specified by the Public Service Appeal Board  
Regulations because .....

.....

.....  
*(State reason why appeal was not filed within the specified period)*

Dated this .....day of ....., 20 .....

.....  
*Applicant*

\_\_\_\_\_



LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

**Chap. 1:01**

305

*Public Service Appeal Board Regulations*

[Subsidiary]

**FORM 4**

Regulation  
8A(2)(a).

**BEFORE THE PUBLIC SERVICE APPEAL BOARD**

**NOTICE THAT RECORD HAS BEEN FILED**

Appeal No ..... of 20.....

**Between**

..... *Appellant*

**And**

..... *Respondent*

**TAKE NOTICE** that the Respondent has filed the record of the Proceedings (a copy of which is enclosed) pursuant to Regulation 8A(1) of the Public Service Appeal Board Regulations.

Dated this ..... day of ....., 20 .....

.....  
*Secretary, Public Service Appeal Board*

To the Appellant

.....  
.....  
.....

**FORM 5**

**BEFORE THE PUBLIC SERVICE APPEAL BOARD**

**NOTICE THAT RECORD HAS BEEN FILED**

Appeal No ..... of 20.....

**Between**

..... *Appellant*

**And**

..... *Respondent*

**TAKE NOTICE** that the Appellant has filed the record and documents required to be filed pursuant to regulation 8A(2)(a) of the Public Service Appeal Board Regulations.

.....  
*Secretary, Public Service Appeal Board*

To the Respondent.

.....  
.....  
.....

**LAWS OF TRINIDAD AND TOBAGO**

306                      **Chap. 1:01**

*Constitution of the Republic  
of Trinidad and Tobago*

[Subsidiary]

*Public Service Appeal Board Regulations*

Regulation 9(a).

**FORM 6**

**BEFORE THE PUBLIC SERVICE APPEAL BOARD**

**NOTICE OF WITHDRAWAL OF APPEAL**

Appeal No ..... of 20.....

**Between**

..... *Appellant*

**And**

..... *Respondent*

**TAKE NOTICE** that the Appellant hereby withdraws his appeal against the Respondent in the above-named appeal.

Dated this ..... day of ....., 20 .....

.....  
*Appellant*

\_\_\_\_\_

Regulation  
12(2).

**FORM 7**

**BEFORE THE PUBLIC SERVICE APPEAL BOARD**

**NOTICE OF APPLICATION FOR RESTORATION  
OF APPEAL**

Appeal No ..... of 20.....

**Between**

..... *Appellant*

**And**

..... *Respondent*

**TAKE NOTICE** that I ..... the Appellant in the above-named appeal which was dismissed on the ..... day of ....., 20 ..... hereby apply for the restoration of the said appeal on the grounds that—

(a) .....

(b) .....

(c) .....

LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

**Chap. 1:01**

**307**

*Public Service Appeal Board Regulations*

**[Subsidiary]**

(d) .....

(e) .....  
(State grounds on which application is based)

Dated this ..... day of ....., 20.....

.....  
*Applicant/Appellant*

**FORM 8**

Regulation  
13(2).

**BEFORE THE PUBLIC SERVICE APPEAL BOARD**

**NOTICE OF APPLICATION FOR SETTING ASIDE  
DECISION IN APPEAL TAKEN *EX PARTE***

Appeal No ..... of 20.....

**Between**

..... *Appellant*

**And**

..... *Respondent*

**TAKE NOTICE** that the ..... Service Commission,

the Respondent in the above-named appeal which was decided *ex parte* on the  
..... day of ....., 20..... hereby applies for a setting aside  
of that decision on the grounds that—

(a) .....

(b) .....

(c) .....

(d) .....

(e) .....

(State grounds on which application is based)

Dated this ..... day of ....., 20.....

.....  
*Applicant/Respondent*

# LAWS OF TRINIDAD AND TOBAGO

308

**Chap. 1:01**

*Constitution of the Republic  
of Trinidad and Tobago*

[Subsidiary]

*Public Service Appeal Board Regulations*

Regulation  
14(1).  
[179/1985].

## SECOND SCHEDULE

*Fees*

### *Documents*

\$    ¢

- |                                                                                                                                      |       |
|--------------------------------------------------------------------------------------------------------------------------------------|-------|
| 1. For a copy of judgment after trial...      ...      ...      ...                                                                  | 2.50  |
| 2. For a copy of a judgment by default of appearance or defence                                                                      | 1.50  |
| 3. For a copy of reasons for judgment of a Court per each<br>page or part thereof      ...      ...      ...      ...                | 1.00  |
| but not to exceed...      ...      ...      ...      ...                                                                             | 25.00 |
| 4. For a photographic copy of all or any part of any document<br>whether or not issued as an office copy—for each photographic sheet | 1.25  |
| 5. For a typewritten copy of any document per folio of 100<br>words or part thereof      ...      ...      ...      ...              | .25   |
| 6. For each folio of 100 words or part thereof of any additional<br>carbon copy, be spoken      ...      ...      ...      ...       | .15   |

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**POLICE SERVICE COMMISSION (APPEAL)  
REGULATIONS**

ARRANGEMENT OF REGULATIONS

**REGULATION**

1. Citation.
2. Interpretation.
3. Meetings of Commission.
4. Composition of the Commission for hearing of appeals.
5. Procedure for notice of appeal.
6. Time for filing appeal.
7. Service of notice of appeal.
8. Procedure on notice of appeal.
9. Procedure on withdrawal of appeal.
10. Entitlement to representation by Attorney-at-law.
11. Production of exhibits Commission may require.
12. Power of Commission to dismiss appeals.
13. Non-appearance of respondent at hearing.
14. Powers of Commission.
15. Presentation of evidence.
16. Commission not bound by rules of evidence.
17. Functions of Commission.
18. Powers of Commission on appeal.
19. Copies of appeal documents.

**FIRST SCHEDULE.**

**SECOND SCHEDULE.**

270/2009.

**POLICE SERVICE COMMISSION (APPEAL)  
REGULATIONS**

*made with the consent of the Prime Minister under section 129 of  
the Constitution*

Citation.

**1.** These Regulations may be cited as the Police Service Commission (Appeal) Regulations.

Interpretation.

**2.** In these Regulations—

“appellant” means a police officer in respect of whom the Commissioner of Police or any person to whom the powers of the Commissioner of Police have been delegated makes a decision as a result of disciplinary proceedings brought against such officer or on promotion who files an appeal;

Ch. 1:01.

“the Constitution” means the Constitution set out in the Schedule to the Constitution of the Republic of Trinidad and Tobago Act;

“exhibits” includes all papers, reports, records and other documents, matters and things used or prepared in connection with disciplinary proceedings or promotion;

“police officer” means a member of the Police Service;

Ch. 15:01.

“Police Service” means the Police Service established by section 4 of the Police Service Act;

“respondent” means the Commissioner of Police;

“the Commission” means the Police Service Commission as established by section 122(1) of the Constitution.

Meetings of  
Commission.

**3.** (1) The Commission shall meet at such times as may be necessary for the purpose of performing its functions stipulated in section 123(1)(f) of the Constitution.

(2) Hearings shall be held on such days and at such times and place as the Commission may determine.

(3) The Chairman or in his absence any member of the Commission with the consent of the Commission shall preside at any meeting of the Commission.

4. In hearing and determining an appeal the Commission shall be comprised of no less than three members.

Composition of the Commission for hearing of appeals.

5. (1) Every disciplinary appeal to the Commission shall be by way of rehearing and shall be brought by a notice in the form set out as Form 1 in the First Schedule.

Procedure for notice of appeal.  
First Schedule.

(2) Every promotion appeal shall be brought by notice in the form set out as Form 1 in the First Schedule.

(3) A notice under subregulation (1) or (2) shall—

- (a) set forth the grounds of appeal;
- (b) state whether the appeal is against the whole or part only of the decision of the respondent and where it is against part only, specify which part;
- (c) state the nature of the relief sought; and
- (d) be signed by the appellant or his legal representative.

(4) Where the grounds of appeal allege misdirection or error in law, particulars of the misdirection or error shall be clearly stated.

(5) The grounds of appeal upon which the appellant intends to rely at the hearing of the appeal shall be set out concisely and under distinct heads, without any argument or narrative and shall be numbered consecutively.

(6) No ground which is vague or general in terms or which discloses no reasonable grounds of appeal shall be permitted, save the general ground that the judgment is against the weight of the evidence, and any ground of appeal or any part thereof which is not permitted under this regulation may be struck out by the Commission of its own motion or on application by the respondent.

(7) No appellant may, without leave of the Commission, urge or be heard in support of any ground of objection not mentioned in the notice of appeal, but the Commission may in its discretion and upon conditions as it considers just, allow an appellant to amend the grounds of appeal specified in the notice.

**LAWS OF TRINIDAD AND TOBAGO**

*Constitution of the Republic  
of Trinidad and Tobago*

312

**Chap. 1:01**

[Subsidiary]

*Police Service Commission (Appeal) Regulations*

(8) Notwithstanding the provisions of this regulation, the Commission in deciding the appeal—

- (a) shall not be confined to the grounds set forth by the appellant;
- (b) shall not rest its decision on any ground not set forth by the appellant unless the respondent has had sufficient opportunity of contesting the matter on that ground.

Form 2.  
First Schedule.

(9) Parties to an appeal shall be given notice of the date fixed for the hearing of an appeal in the form set out as Form 2 of the First Schedule not less than seven days before the date fixed for hearing of an appeal.

Time for filing  
appeal.

**6.** (1) A notice of appeal shall be filed with the Commission within fourteen days of the date of the receipt by the appellant of the decision of the respondent.

(2) The Commission shall keep a record of and assign a number to each notice of appeal which is filed.

(3) Notwithstanding subregulation (1), the Commission may extend the period specified in that subregulation, in particular, in relation to matters decided prior to the coming into effect of these Regulations.

Form 3.  
First Schedule.

(4) An application under subregulation (3) shall be made in the form set out as Form 3 in the First Schedule and shall be supported by an affidavit as to the facts contained in the application.

Service of  
notice of  
appeal.

**7.** A true copy of the notice of appeal shall be served upon the respondent by the Commission within seven days after the original notice has been filed.

Procedure on  
notice of  
appeal.

**8.** (1) Where an appeal against the decision of the respondent in a disciplinary matter has been filed, the respondent shall, within three weeks of the service of notice of appeal or within such extended time as may be granted by the Commission, file with the Commission ten copies (or such



greater number as the Commission may require) of the record of the disciplinary proceedings upon which the decision of the respondent was based.

(2) After receiving the notice of appeal in a promotion matter the respondent shall within three weeks of the service of notice of appeal or within such extended time as may be granted by the Commission forward to the Commission ten copies of all documents relevant to the decision appealed.

(3) When the provisions of subregulations (1) and (2) have been complied with, the Commission shall—

- (a) give to the appellant notice of the filing of the record in the form set out as Form 4 in the First Schedule together with a copy of that record; and
- (b) keep for the use of the Commission six copies (or such greater number as may be required) of the record and of any notice or other document received by it after the record has been filed.

Form 4.  
First Schedule.

9. An appellant who desires to withdraw his appeal shall—

- (a) file with the Commission a notice in the form set out as Form 5 in the First Schedule; and
- (b) serve on the respondent a copy of the notice of withdrawal.

Procedure on  
withdrawal of  
appeal.

Form 5.  
First Schedule.

10. (1) A police officer is entitled on an appeal to be represented—

- (a) by an Attorney-at-law or an officer of the Police Service selected by him; or
- (b) by a member of his staff association.

Entitlement to  
representation  
by Attorney-at-  
law.

(2) On an appeal the respondent may appear in person or may be represented by a legal or other representative.

11. On an appeal the Commission may at any time require the production of any exhibit which in its opinion is relevant to the proceedings before it.

Production of  
exhibits  
Commission  
may require.

LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

314

Chap. 1:01

[Subsidiary]

*Police Service Commission (Appeal) Regulations*

Power of  
Commission to  
dismiss appeals.

- 12.** (1) Where after filing a notice of appeal, an appellant—
- (a) fails to comply further with any other requirement of these Regulations; or
  - (b) fails to appear on the date of the hearing, the Commission may dismiss the appeal.

Form 6.  
First Schedule.

(2) An appellant whose appeal has been dismissed under subregulation (1) may apply for the restoration of his appeal in the form set out as Form 6 in the First Schedule, supporting such application by an affidavit as to the facts contained therein.

(3) Where an application is made pursuant to subregulation (2), the Commission may, if it is satisfied that the justice of the case so demands, order that the appeal should be restored on such terms as it thinks fit.

(4) No application may be made under this regulation after the expiration of twenty-one days from the date of the dismissal of the appeal.

Non-  
appearance of  
respondent at  
hearing.

**13.** (1) Where the respondent fails to appear on the date of the hearing of an appeal, the Commission may proceed to hear the matter *ex parte*.

Form 7.  
First Schedule.

(2) The respondent may, where an appeal is heard *ex parte*, apply by notice in the form set out as Form 7 in the First Schedule to set aside the decision.

(3) The Commission may, where an application is made pursuant to subregulation (2), and if it is satisfied that the justice of the case so demands, order a rehearing of the appeal.

(4) No application may be made under this regulation after the expiration of twenty-one days from the date when the appeal was heard *ex parte*.

Powers of  
Commission.

**14.** (1) Where in any proceedings before the Commission a vacancy occurs in the membership in relation to such proceedings by reason of the inability from any cause of any member to continue to function, the remaining members shall continue to hear and determine those proceedings

LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

**Chap. 1:01**

315

*Police Service Commission (Appeal) Regulations*

[Subsidiary]

notwithstanding such vacancy and no act, proceedings or determination of the Commission shall be called in question or invalidated by reason of such.

**15.** The Commission may require evidence or argument to be presented in writing and may decide the matters upon which it will hear oral evidence or argument.

Presentation of evidence.

**16.** In the hearing and determination of any matter before it, the Commission may act without regard to technicalities and legal form and shall not be bound to follow the rules of evidence stipulated in the Evidence Act, but the Commission may inform itself on any matter in such manner as it thinks just and may take into account opinion, evidence and such facts as it considers relevant and material, but in any such case the parties to the proceedings shall be given the opportunity, if they so desire, of adducing evidence in regard thereto.

Commission not bound by rules of evidence.

Ch. 7:02.

**17.** The Commission may generally give such directions and do such things as are necessary or expedient for the expeditious and just hearing and determination of the appeal before it.

Functions of Commission.

**18.** (1) Upon the conclusion of the hearing of an appeal in a disciplinary matter the Commission may dismiss, affirm or modify the decision appealed against.

Powers of Commission on appeal.

(2) Upon the conclusion of the hearing of an appeal in a promotion matter, the Commission may dismiss the appeal or set aside the decision taken and refer the matter back to the respondent for further consideration.

**19.** Every person whether or not a party to an appeal before the Commission shall upon payment of the prescribed fee be entitled to a copy of any judgment order or other document in accordance with the Second Schedule.

Copies of appeal documents.

Second Schedule.

LAWS OF TRINIDAD AND TOBAGO

316

Chap. 1:01

*Constitution of the Republic  
of Trinidad and Tobago*

[Subsidiary]

*Police Service Commission (Appeal) Regulations*

Regulations 1  
and 2.

**FIRST SCHEDULE**

**FORM 1**

**BEFORE THE POLICE SERVICE COMMISSION**

**NOTICE OF APPEAL**

Appeal No. .... of 20.....

**Between**

..... *Appellant*

**And**

..... *Respondent*

**TAKE NOTICE** that the Appellant being dissatisfied with the decision or part thereof of the  
..... Commissioner of Police given on the  
..... day of ....., 20..... and more particularly  
stated in paragraph 2 hereby appeals against such decision or part thereof to the Police  
Service Commission on the grounds set forth in paragraph 3 and will at the hearing of  
the appeal seek the relief set out in paragraph 4.

2. ....

.....

*(Insert here the decision or the part thereof against which the notice of appeal is filed)*

3. State grounds of appeal and particulars of the misdirection or error in law on  
which the decision was based:

(a) .....

(b) .....

(c) .....

(d) .....

4. ....

.....

*(Insert here the relief sought from the Police Service Commission)*

Dated this ..... day of ....., 20 .....

.....  
*Appellant or his Legal Representative*

LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

**Chap. 1:01**

317

*Police Service Commission (Appeal) Regulations*

[Subsidiary]

**FORM 2**

Regulation 5(9).

**BEFORE THE POLICE SERVICE COMMISSION**

**NOTICE OF HEARING OF APPEAL**

Appeal No. .... of 20.....

**Between**

.....*Appellant*

**And**

.....*Respondent*

**TAKE NOTICE** that the above-mentioned Appeal will come on for hearing before the  
Police Service Commission at ..... on .....  
day of ....., 20 ..... at ..... a.m./p.m. and continuing thereafter as the  
Commission may direct .....

.....  
.....*(Address)*

Dated this ..... day of ....., 20 .....

.....  
*Police Service Commission*

To: .....

.....

.....

.....

LAWS OF TRINIDAD AND TOBAGO

318

Chap. 1:01

*Constitution of the Republic  
of Trinidad and Tobago*

[Subsidiary]

*Police Service Commission (Appeal) Regulations*

Regulation  
6(4).

**FORM 3**

**BEFORE THE POLICE SERVICE COMMISSION**

**APPLICATION FOR EXTENSION OF TIME TO  
FILE APPEAL**

In the Matter of .....  
(Name of Applicant)

**And**

The Respondent (Commissioner of Police)

In the Matter of an Application for an Extension of Time to File an Appeal

I, ..... of .....

occupation ..... hereby apply for an extension of

time to file an appeal against the decision of the .....

Commissioner of Police given on the ..... day of ....., 20 ..... I was unable  
to file the appeal within the period specified by the Police Service Commission Appeal  
Regulations because .....

.....

.....  
(State reason why appeal was not filed within the specified period)

Dated this .....day of ....., 20 .....

.....  
Applicant

\_\_\_\_\_

LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

**Chap. 1:01**

319

*Police Service Commission (Appeal) Regulations*

[Subsidiary]

**FORM 4**

Regulation  
8(3)(a).

**BEFORE THE POLICE SERVICE COMMISSION**

**NOTICE THAT RECORD HAS BEEN FILED**

Appeal No. .... of 20.....

**Between**

..... *Appellant*

**And**

Commissioner of Police

*Respondent*

**TAKE NOTICE** that the Respondent has filed the record of the Proceedings (a copy of which is enclosed) pursuant to Regulation 8 of the Police Service Commission (Appeal) Regulations.

Dated this ..... day of ....., 20.....

.....

*Police Service Commission*

To the Appellant

.....  
.....  
.....

**FORM 5**

**BEFORE THE POLICE SERVICE COMMISSION**

Regulation 9(a).

**NOTICE OF WITHDRAWAL OF APPEAL**

Appeal No. .... of 20.....

**Between**

..... *Appellant*

**And**

Commissioner of Police

*Respondent*

**TAKE NOTICE** that the Appellant hereby withdraws his appeal against the Respondent in the above-named appeal.

Dated this ..... day of ....., 20 .....

.....

*Appellant*

LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

320

**Chap. 1:01**

[Subsidiary]

*Police Service Commission (Appeal) Regulations*

Regulation  
12(2).

**FORM 6**

**BEFORE THE POLICE SERVICE COMMISSION**

**NOTICE OF APPLICATION FOR RESTORATION  
OF APPEAL**

Appeal No. .... of 20.....

**Between**

..... *Appellant*

**And**

Commissioner of Police

*Respondent*

**TAKE NOTICE** that I ..... the Appellant in the above-named  
appeal which was dismissed on the ..... day of ....., 20 ..... hereby  
apply for the restoration of the said appeal on the grounds that—

(a) .....

(b) .....

(c) .....

(d) .....

(e) .....  
(State grounds on which application is based)

Dated this ..... day of ....., 20.....

.....  
*Applicant/Appellant*

\_\_\_\_\_



LAWS OF TRINIDAD AND TOBAGO

*Constitution of the Republic  
of Trinidad and Tobago*

**Chap. 1:01**

321

*Police Service Commission (Appeal) Regulations*

[Subsidiary]

**FORM 7**

Regulation  
13(2).

**BEFORE THE POLICE SERVICE COMMISSION**

**NOTICE OF APPLICATION FOR SETTING ASIDE  
DECISION IN APPEAL TAKEN *EX PARTE***

Appeal No ..... of 20.....

**Between**

..... *Appellant*

**And**

Commissioner of Police

*Respondent*

**TAKE NOTICE** that the Commissioner of Police the Respondent in the above-named appeal which was decided *ex parte* on the ..... day of ....., 20..... hereby applies for a setting aside of that decision on the grounds that—

- (a) .....
- (b) .....
- (c) .....
- (d) .....
- (e) .....  
(State grounds on which application is based)

Dated this ..... day of ....., 20 .....

.....  
*Applicant/Respondent*

\_\_\_\_\_

# LAWS OF TRINIDAD AND TOBAGO

322                      **Chap. 1:01**                      *Constitution of the Republic  
of Trinidad and Tobago*

**[Subsidiary]**                      *Police Service Commission (Appeal) Regulations*

Regulation 19.

## SECOND SCHEDULE

<i>Documents</i>					<i>Fees</i>
					\$    ¢
1.	For a copy of judgment after trial...	...	...	...	25.00
2.	For a copy of a judgment by default of appearance or defence				25.00
3.	For a copy of reasons for judgment of a Court per each page or part thereof	...	...	...	5.00
	but not to exceed...	...	...	...	75.00
4.	For a photographic copy of all or any part of any document whether or not issued as an office copy—for each photographic sheet				5.00
5.	For a typewritten copy of any document per folio of 100 words or part thereof	...	...	...	5.00
6.	For each folio of 100 words or part thereof of any additional carbon copy, be spoken	...	...	...	5.00