

LEGAL NOTICE NO. 148

REPUBLIC OF TRINIDAD AND TOBAGO

THE TOBAGO HOUSE OF ASSEMBLY ACT, 1996

NOTICE

ISSUED BY THE MINISTER OF TOBAGO AFFAIRS ON BEHALF OF THE  
GOVERNMENT OF TRINIDAD AND TOBAGO IN ACCORDANCE WITH  
SECTION 75 OF THE TOBAGO HOUSE OF ASSEMBLY ACT

GUIDELINES FOR CONTRACT EMPLOYMENT IN THE  
TOBAGO HOUSE OF ASSEMBLY

NOTICE is given that, in accordance with section 75 of the Tobago House of Assembly Act, the Minister with responsibility for Tobago hereby prescribes on behalf of the Government, the following guidelines for contract employment in the Tobago House of Assembly which constitute the national policy for contract employment and are required to be adhered to by the Central Government:

A. INTRODUCTION

1. The employment of persons to serve on contract shall obtain principally in the following situations:

- (a) where there is a dearth of suitable candidates for permanent appointment to those pensionable offices on the establishment of the Tobago House of Assembly and there is urgent need for the services attaching to such offices;
- (b) where special projects or programmes of specified duration (often funded by International Agencies) are undertaken by the Tobago House of Assembly and need to be executed and monitored by personnel additional to those on the permanent establishment of the Assembly; and
- (c) where a need has been identified for the specialised services of an individual, e.g., an Adviser in a particular area of expertise and such need cannot be met by the filling of any existing position on the establishment.

2. The recruitment of persons on contract is governed by the following policy:

- (a) (i) the period of a contract shall not normally exceed three years;
  - (ii) every contract shall constitute a separate period of employment; any period of extension granted being part of the original contract;
  - (iii) the period of contract shall not be extended by reason only of the grant of periods of leave of absence without pay to the person engaged;
- (b) proposals for a contract position shall be submitted for the consideration of Cabinet by the Tobago House of Assembly.

The Assembly shall be required to:

- (i) justify the need for the contract appointment;
  - (ii) provide the relevant job specification in respect of the particular position;
  - (iii) identify the source of the funds for effecting the relevant contract appointment;
- (c) contract positions must not carry job titles of offices on the permanent pensionable establishment of the Tobago House of Assembly;
- (d) once Cabinet has given approval for a contract position, the Minister of Tobago Affairs may approve the selection of the person to fill the contract position, after ensuring where applicable, that a fair and transparent process was utilized in the selection process. The process should include advertisement of the position and the conduct of interviews by a Committee set up for the purpose;
- (e) the Chief Administrator shall, in requesting terms and conditions of employment to be applicable to the person being engaged, submit his recommendations to the Chief Personnel Officer;

- (f) the terms and conditions recommended, as advised by the Chief Personnel Officer, shall be offered to the person to be engaged and, following agreement, submitted for the approval of the Minister of Tobago Affairs. The Chief Personnel Officer is to be provided with a copy of the Minister's approval;
- (g) the parties to the agreement shall be the Chief Administrator and the person being engaged. The Permanent Secretary, Ministry of Tobago Affairs is to be provided with a copy of the relevant contract/agreement;
- (h) an extension of the period of a subsisting contract shall be subject to the approval of Cabinet which must be obtained prior to the expiry date of such contract;
- (i) where persons are to be employed on contract for a further period the dated approval of Cabinet must be sought for the retention of the contract position;
- (j) a person employed on contract shall not be an Accounting Officer within the meaning of the Exchequer and Audit Act, Chap. 69:01.

#### B. TERMS AND CONDITIONS OR EMPLOYMENT

##### *Vacation Leave*

1. With effect from June 1, 1998, the vacation leave eligibility of persons employed on contract is as follows:

- (a) Persons in receipt of a monthly salary of up to \$5000.00 ... fifteen working days;
- (b) Persons in receipt of a monthly salary in excess to \$5000.00 ... twenty working days;
- (c) Persons with more than six consecutive years of service ... with effect from the seventh year, five additional working days in each category referred to at (a) and (b) above.

2. The vacation leave provision of twenty-one calendar days per annum in any subsisting contracts remains unchanged.

3. The person engaged shall qualify for vacation leave after twelve months continuous service and thereafter on a pro rated basis.

4. Leave earned may be utilized at such time as may be mutually agreed between the parties to the contract. In this context, no specific provision is made for casual absences from duty. The Chief Administrator may, however in his discretion, approve of such absences, within limits, to be deducted from the vacation leave entitlement.

5. Where, in the exigencies of the Assembly, the person engaged is unable to utilize any or all of his leave, provision shall be made in the subsequent contract for the unutilized leave to be preserved, and taken during the life of, or at the expiration of the subsequent contract. Such leave shall attract salary and allowances at the rates payable under the previous contract(s).

6. Should the person engaged proceed on the leave preserved to him at the end of his subsequent contract, the salary earned during that period of leave would be included in the computation of gratuity under the terms of that contract.

7. Alternatively, the unutilized leave, may with the approval of Cabinet, be "bought out" at the rate of salary applicable at the time the previous contract expired: payment due being subject to deductions for tax purposes.

8. Where leave is "bought out", payment of allowances for which the person engaged would have been eligible had he proceeded on leave, e.g., travelling allowances, does not arise.

9. The value of leave bought out shall not be included in the computation of the gratuity payable under the contract.

*Sick Leave*

1. The sick leave entitlement shall be fourteen calendar days in respect of each twelve month period over which the contract period extends.
2. The person engaged shall be required to furnish a medical certificate from a registered medical practitioner for absences exceeding two calendar days.
3. Absences on account of illness in excess of fourteen days shall normally be granted as leave of absence without pay on grounds of illness.

*Maternity Leave*

Provision shall be made for all female appointees to be granted maternity leave as follows:

1. Person engaged shall be eligible for maternity leave comprising one month with full pay and two months with half pay on the following conditions:
  - (a) as of the date of commencement of such leave, she shall have served the government for a period of not less than twelve continuous months: service under a previous contract that immediately precedes her present period of engagement being reckonable for purposes of determining twelve continuous months;
  - (b) she shall proceed on maternity leave at least one month before the expected date of delivery of the child as certified by a registered medical practitioner;
  - (c) she shall furnish the certificate referred to at (b) above to the Chief Administrator six weeks before the expected date of delivery.
2. Where the half pay to which the person engaged is entitled during maternity leave together with the Maternity Benefits payable under the National Insurance Act amounts to less than her full pay, the difference shall be paid to the person engaged.

3. Where the person engaged has not completed twelve months continuous service she shall not qualify for the grant of maternity leave but shall be permitted to proceed on leave of absence without pay on grounds of pregnancy.

4. Where the person engaged proceeds on leave without pay on account of pregnancy before the completion of twelve months continuous service and the period of such leave extends beyond the date on which such qualifying period would be completed, she shall be paid for the leave commencing from the date immediately following that of the expiry of the qualifying period of twelve months service at the same rate of salary that she would have received for that period had she proceeded on maternity leave as at (1) above.

5. The taking of maternity leave shall not prejudice or affect the eligibility of the person engaged for vacation leave.

#### *Transport*

1. Persons on contract are not paid upkeep and kilometric allowance under the Travelling Allowances Regulations, Chap. 23:50.

2. A flat Transport Allowance as recommended by the Chief Personnel Officer may be paid to such persons where it is determined that they are required to travel in the performance of their official duties. This allowance is not to be included in the taxable income of the recipients.

3. The payment of a Transport Allowance is not dependent on the person engaged being in possession of a motor vehicle. This allowance is intended to assist the person employed in defraying all expenses related to his travelling on official duty by whatever means of transport he chooses.

The quantum of the Transport Allowance varies depending on the amount of official travel which the person engaged is required to undertake.

4. The Transport Allowance is paid during periods of approved leave of absence on full pay or partial pay as in the case of vacation or maternity leave.

5. Provision may be made on the recommendation of the Chief Personnel Officer, depending on the extent of travel required, and the duration of the contract for the following facilities to persons employed on contract:

- (a) a loan, to the maximum approved by the Minister of Finance, to purchase a new or used motor vehicle, a locally assembled motor vehicle using foreign parts or a completely built up foreign used motor vehicle with exemption from Motor Vehicle Tax/Value Added Tax (VAT)/Special Registration Fee or Special Motor Vehicle Tax to the limit approved by the Minister of Finance;
- (b) a loan to cover the cost of Motor Vehicle Insurance Premium, the loan to be repaid over the period of the contract;
- (c) a loan to the maximum approved by the Minister of Finance to effect repairs to the motor vehicle.

#### *Gratuity*

1. The person engaged or, where he dies, his legal personal representative, shall be eligible for gratuity equivalent to twenty percent of gross salary earned over the period of employment on the satisfactory completion of the term of his engagement: such gratuity to be subject to deduction for tax purposes.

2. The gratuity may be pro-rated in the following circumstances:

- (a) where the contract is terminated by the employer other than for cause of unsatisfactory performance of the person engaged; and
- (b) where the person engaged dies prior to the termination date of the contract, but his work and conduct had been satisfactory.

#### *Cost of Living Allowance*

Cost of Living Allowance is not payable to persons employed on contract.

*Computer Loan*

Only persons employed on contract who otherwise hold permanent appointments in the Public Service are allowed to access the computer loan facility.

*Injury on the Job*

Where a person employed on contract suffers injury in circumstances arising out of or in the course of employment arrangements no less favourable than those applicable to officers in the Civil Service would apply.

*Special Leave*

Provision may be made for the grant of Special Leave with pay if the person engaged may be required for duty as a member of a National Team or as a representative of the State.

*Training*

It is not normally the practice to select persons employed on contract for training awards—the known and limited period of their employment precluding their organizations from benefiting in the long term from the knowledge and skills acquired at considerable expense to the employer. Exceptional or special cases may be approved by Cabinet, with the person involved being required to enter into an agreement to serve a period of obligatory service to be determined in accordance with Cabinet Minute No. 2173 dated August 20, 1998.

#### C. STANDARD TERMS

The following clauses are standard in all contracts:

1. *Term of Engagement*

- (a) tenure (to be agreed upon) commencing from the date of assumption of duty;
- (b) the term of engagement shall be deemed to be completed on the day on which any leave granted to the person engaged in respect of such period of service expires.



*2. Duties*

The duties of the person engaged shall include the normal duties of the office in which he is engaged and any other related duties which the Assembly may call upon the person to perform.

*3. Ill-Health*

- (a) if the person engaged shall be compelled by reason of ill-health (not caused by his own misconduct) to resign his office or if at any time it shall be certified by a duly qualified medical officer employed by government that he is incapable by reason of any infirmity of mind and body of rendering further efficient service, the Tobago House of Assembly shall pay the person his salary up to the date of such resignation or certification;
- (b) a certificate signed by a duly qualified medical officer employed by Government shall be conclusive evidence on the question of whether or not the person engaged was compelled to resign his office by reason of ill-health within the meaning of this clause.

*4. Dismissal*

If the person engaged at any time after the signing of this Agreement shall neglect or refuse or from any cause (excepting ill-health not caused by his own misconduct as provided in the Ill-Health Clause) become unable to perform any of his duties or to comply with any order, including any order given by the Chief Administrator or by any other officer duly authorized by him, or shall disclose any information respecting the affairs of the Assembly to any unauthorized person, or shall in any manner misconduct himself, the Assembly may dismiss him and on such dismissal all rights and advantages reserved to him by this Agreement, shall cease.

*5. Termination of Contract*

The employment of the person engaged may be determined at any time after the expiration of three months from the date of the commencement of the Agreement by either party giving to the other one month's previous notice in writing or one month's salary in lieu thereof.

6. *Liability to make good damage*

In event of any pecuniary damage arising from the person engaged disregarding or failing to comply with any order or departmental instruction or from any neglect of duty whatsoever on his part he may be liable to a deduction in his salary to make good the damage or any part thereof the amount of which damage shall be fixed by Government.

7. *Further Employment*

- (a) three months prior to the completion of a term of service the person engaged shall give notice in writing to the Assembly whether he desires to remain in its employment and the Assembly shall decide whether it will re-engage him or offer him further employment;
- (b) if the Assembly offers him further employment, the re-engagement shall be on such terms and for such period as may be mutually agreed.

8. *Wrongful termination of contract*

In the event of the determination of the engagement by the person engaged at anytime prior to the expiration of three months from the commencement of the term of the engagement for any reason other than ill-health of the person engaged or of its determination by the person engaged after the said period of three months without his first giving one month's notice of such intended termination, the person engaged shall pay to the Assembly a sum equal to one month's salary as liquidated damages.

D. SPECIFIC TERMS

In addition to the Basic Terms set out in Section B for contract officers, there are specific terms which are applicable to persons employed as legal officers, and for Public Officers employed in non-established positions. These are as follows:

### 1. *Legal Officers:*

In addition to the general terms and conditions of service of persons employed on contract, an individual employed on contract as “legal officer” is eligible for the following specific benefits applicable to officers in the Judicial and Legal Service (who fall within the purview of the Salaries Review Commission) viz:

#### (a) *Travel Facilities*

- (i) Motor Vehicle/Insurance/Repair loan with exemption from taxes to specified limits; and
- (ii) Transport Allowance.

#### (b) *Subsistence Allowance*

An allowance at current rates when required to travel beyond a radius of 10 miles (16 km) from official headquarters in Tobago and when in Trinidad.

### 2. *Public Officers*

Where a public officer has been selected for employment, on contract, in a temporary, non-established position, the following principles are applicable:

- (a) the release of the officer from his substantive position in the Public Service shall be on leave of absence without pay granted on grounds of public policy: the period of which, under Regulation 9(i)(d) of the Pensions Regulations is for pension purposes;
- (b) in determining the officer’s remuneration/compensation package, due cognizance shall be given to the duties and responsibility of the job to be performed and the fact that persons employed on contract—
  - (i) are not paid cost of living allowance; and
  - (ii) are eligible for less vacation leave per annum than that for which they were eligible;

- (c) no contract gratuity is payable on completion of the period of engagement having regard to the effect of the grant of leave of absence without pay on grounds of public policy mentioned at (a) above;
- (d) where applicable, after Cabinet's approval has been obtained for the contract position, approval should be sought of the Minister in the Ministry to which the officer is attached, for the officer to be granted leave of absence without pay on grounds of public policy from his substantive office, for the period of the contract;
- (e) The Comptroller of Accounts, the Auditor General and the Director of Personnel Administration should be informed of the approval; and
- (f) the officer is required to utilize all annual vacation leave for which he is eligible prior to the commencement of the period of leave of absence without pay on grounds of public policy.

#### E. SALARIES APPLICABLE TO CONTRACT EMPLOYMENT

Generally, a combination of the following factors should be taken in account in recommending to the Chief Personnel Officer the salaries to be applicable to contracts of employment:

- (a) the duties and responsibilities of the contract position and its comparison with a similar of "best fit" existing office in the Public Service;
- (b) the experience in the field of work of the person being engaged and his/her qualifications;
- (c) the level of independence with which the person is to function and the position of the job within the organizational structure;
- (d) the supply of/demand for the particular skill/professional in the public service;

- (e) the duration of the contract period. Due regard must be taken of the fact that the contract salary remains fixed for the entire duration of the contract so that a one year contract, if renewed, may be renegotiated taking into account any relevant changes, whereas a three year contract would normally remain unaltered despite changed circumstances;
- (f) the other components of the compensation package being offered, i.e., benefits such as money value; and
- (g) in the case of public officers who are selected for employment on contract, *see* D2 (b) above.

Dated this 12th day of June, 2000.

M. JOB  
*Minister of Tobago Affairs*