

THE POLICE SERVICE (AMENDMENT) ACT, 2007

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*Legal Supplement Part A to the "Trinidad and Tobago Gazette", Vol. 46,
No. 103, 21st June, 2007*

Fifth Session Eighth Parliament Republic of
Trinidad and Tobago



REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 13 of 2007

[L.S.]

AN ACT to amend the Police Service Act, 2006

[Assented to 20th June, 2007]

WHEREAS it is enacted, *inter alia*, by subsection (1) of ^{Preamble} section 13 of the Constitution that an Act to which that section applies may expressly declare that it shall have effect even though inconsistent with sections 4 and 5 of the Constitution and, if any such Act so declare, it shall have effect accordingly:

And whereas it is provided by subsection (2) of the said section 13 of the Constitution that an Act to which that 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:

And whereas it is necessary and expedient that the provisions of this Act shall have effect though inconsistent with sections 4 and 5 of the Constitution:

Enactment

ENACTED by the Parliament of Trinidad and Tobago as follows:—

Short title

1. This Act may be cited as the Police Service (Amendment) Act, 2007.

Act inconsistent with Constitution

1A. This Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution.

Interpretation Act No. 7 of 2006

2. In this Act, “the Act” means the Police Service Act, 2006.

Section 4 amended

3. Section 4 of the Act is amended by repealing subsection (1) and substituting the following subsection:

“(1) The Trinidad and Tobago Police Service is hereby established and is constituted of the public offices set out in the Third Schedule, together with the offices of the Commissioner and Deputy Commissioner of Police mentioned in section 123(1) of the Constitution.”.

Section 16 amended

4. Section 16 of the Act is amended—

(a) in subsection (1), by deleting paragraph (a) and substituting the following paragraph:

“(a) in the case of promotion to and within the First Division, the results of the promotional assessment process;”; and

(b) by inserting after subsection (1) the following subsections:

“(2) A police officer shall not be considered for promotion to and within the First Division unless he has attained the prescribed points.

(3) The Commissioner shall ensure that the points attained by the officer are sent to the person mentioned in section 17A(1) prior to the commencement of the promotional assessment process.”.

5. Sections 17, 18, 19 and 20 of the Act are repealed and the following sections are substituted:

Sections 17, 18, 19 and 20 repealed and substituted

“Promotions to and within the First Division

17. Subject to section 16(2), promotions to and within the First Division shall be made by the Commissioner only on the basis of the results of a promotional assessment process.

Promotional assessment process

17A. (1) Where there is a vacancy in the First Division, the Commissioner shall, in accordance with the procedure prescribed, cause to be contracted from time to time a person to design and implement a promotional assessment process in accordance with internationally accepted promotional assessment standards to determine the suitability for promotion of a police officer to and within the First Division.

(2) The person shall conduct the promotional assessment process to determine the suitability for promotion to and within the First Division to the next higher rank of a police officer from the

rank of Inspector through to Senior Superintendent and shall submit its results, taking into account the points attained by the officer under section 16(2), in the form of an Order of Merit List to the Commissioner in relation to his functions under section 123A(2)(a) of the Constitution.

(3) A police officer shall not be appointed to an office in the First Division if the Commissioner objects to the appointment of that officer to that office.

(4) Subject to section 16(2), to be eligible for promotion to the rank of Assistant Superintendent through to Assistant Commissioner, a police officer from the rank of Inspector through to Senior Superintendent shall be subject to the promotional assessment process by the person.

(5) For the purpose of assessing the suitability for promotion of a police officer to the rank of Assistant Superintendent through to Assistant Commissioner, the person shall take into account the criteria and procedure prescribed.

(6) For the purpose of this section, “person” includes a corporation whether aggregate or sole, and an unincorporated body of persons contracted by the Commissioner in furtherance of this section, but does not include an individual.

Promotion
Advisory
Board

18. (1) For the purpose of conducting promotion in the Second Division, there is established a Promotion Advisory Board which shall comprise five members as follows:

- (a) a Deputy Commissioner of Police, who shall be the chairman;
- (b) an Assistant Commissioner of Police;
- (c) the Director Human Resources of the Police Service;
- (d) a senior officer, who is not a police officer, from the Ministry of National Security, selected by the Minister; and
- (e) an independent management consultant, appointed by the Commissioner.

(2) The Commissioner shall engage a person who is not a police officer as Secretary to the Board.

(3) The appropriate recognized association may nominate a representative to be present as an observer at sittings of the Board.

(4) The Secretary to the Board shall keep a record of the ratings given to every police officer who appears before the Board.

Functions of
the Board

19. (1) The Board shall sit as often as it thinks necessary, but at least once every three months, to consider promotions and notice of each sitting shall be given in a timely manner to the representative referred to in section 18(3).

(2) The Board shall make recommendations to the Commissioner in relation to his functions under section 123A(2)(a) of the Constitution.

(3) At the conclusion of each sitting of the Board, the Chairman shall submit to the Commissioner the Board's recommendations in the form of an Order of Merit List.

(4) The Commissioner may discuss with the Board any recommendation made under subsection (3).

(5) A police officer is entitled to apply to the Board to be informed in writing of his ratings.

(6) A sitting of the Board shall not be limited to one day.

Promotion in
Second
Division

20. (1) To be eligible for promotion to the rank of Corporal through to Inspector, a police officer from the rank of Constable through to Sergeant is required to pass a qualifying examination.

(2) In considering the suitability for promotion of a police officer from the rank of Constable through to Sergeant, the Board shall conduct an interview and take into account the criteria prescribed.

(3) In considering the suitability for promotion of a police officer from the rank of Constable through to Sergeant, the Commissioner shall take into account the criteria prescribed.”.

Section 21 amended

6. Section 21 of the Act is amended in subsection (2), by deleting the words “may summarily dismiss him” and substituting the words “may dismiss him in accordance with the procedure prescribed”.

7. Section 22 of the Act is amended in subsection (1), Section 22 amended by inserting after the words “any specified period” the words “in accordance with the procedure prescribed under section 123(2) to (5) of the Constitution.”

8. The Act is amended by— Section 50 amended

- (a) renumbering section 50 as section 50(1);
- (b) deleting in section 50(1) as renumbered, the words “on request be handed over to such person, or, where no such request is made within four months, be destroyed” and substituting the words “be kept by the Commissioner”; and
- (c) inserting after section 50(1) as renumbered the following subsections:

“(2) A person who refuses to submit to the taking and recording of his measurement, photograph or fingerprint impression shall be taken before a Magistrate who, on being satisfied that such person is in lawful custody, shall make an order as he thinks fit authorising the officer to take the measurement, photograph or fingerprint impression of such person.

(3) The data derived from the analysis of the fingerprint impression taken from the person under subsections (1) and (2) shall not be destroyed, and the Commissioner shall cause that data to be transferred to a national data base created by written law.”

8A. The Act is amended— Section 51 amended

- (a) by renumbering section 51 as section 51(1);
- (b) in section 51(1) as renumbered by inserting after the words “is made” the words “and give a fingerprint impression”; and

- (c) by inserting after section 51(1) as renumbered the following subsection:

“(2) The data derived from the analysis of the fingerprint impression given by the person under subsection (1) shall not be destroyed, and the Commissioner shall cause that data to be transferred to a national data base created by written law.”.

Section 52 amended

9. The Act is amended by—

- (a) renumbering section 52 as section 52(1);
and
(b) inserting after section 52(1) as renumbered the following subsections:

“(2) The Police Service shall destroy the certificate of analysis of the fingerprint impression where the person, who made the application for the analysis under subsection (1), fails to collect the certificate after six months from the date of the analysis and a record of the destruction shall be kept in a separate register maintained by the Commissioner for that purpose.

(3) Notwithstanding any law to the contrary and without prejudice to subsection (2), the data derived from the analysis of the fingerprint impression mentioned in subsection (1) shall not be destroyed, and the Commissioner shall cause that data to be transferred to a national data base created by written law.”.

9A. Section 64 of the Act is amended by inserting after the words “rank of sergeant” the words “or who has obtained a Bachelor of Laws degree from an institution recognized by the Accreditation Council of Trinidad and Tobago”. Section 64 amended

10. The Act is amended by inserting after section 72 the following section: Section 72A inserted

“Fingerprint data base 72A. The Commissioner shall cause the fingerprint impression of every member of the Police Service to be taken and analyzed, and the data derived from that analysis shall be kept in a data base established and maintained by the Commissioner who shall cause that data to be transferred to a national data base created by written law.”.

11. The Act is amended— Section 78 amended

- (a) by renumbering section 78 as section 78(1); and
- (b) by inserting after section 78(1) as renumbered the following subsection:

“(2) The President may make regulations for the exemption of a constable appointed under the Special Reserve Police Act from the qualification requirement for appointment as an officer in the Second Division.”. Chap. 15:03

Passed in the House of Representatives this 16th day of May, 2007.

N. JAGGASSAR
Acting Clerk of the House

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the House of Representatives and at the final vote thereon in the House has been supported by the votes of not less than three-fifths of all the members of the House, that is to say, by the votes of 26 members of the House.

N. JAGGASSAR
Acting Clerk of the House

Passed in the Senate this 5th day of June, 2007.

J. SANDY
Acting Clerk of the Senate

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the Senate and at the final vote thereon in the Senate has been supported by the votes of not less than three-fifths of all the members of the Senate, that is to say, by the votes of 26 members of the Senate.

J. SANDY
Acting Clerk of the Senate