

**Second Session Fourth Parliament Republic of Trinidad
and Tobago**



REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 17 of 1993

[L.S.]

**AN ACT to establish the Police Complaints Authority
and for matters incidental thereto**

[Assented to 13th July, 1993]

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

PART I

PRELIMINARY

- Short title 1. This Act may be cited as the Police Complaints Authority Act, 1993.
- Commencement 2. This Act comes into operation on a date to be fixed by the President by Proclamation.
- Interpretation 3. In this Act—
- “Authority” means the Police Complaints Authority established under section 4;
- “Chairman” means the Chairman of the Authority;
- “Commissioner” means the Commissioner of Police;
- “complaint” means a complaint about the conduct of a police officer which is submitted under section 21;
- “Division” means the unit of the Police Service established in accordance with section 20;
- Act. No. 21 of 1990 “local authority” means a Municipal Council established under the Municipal Corporations Act, 1990 or the Tobago House of Assembly established under the Tobago House of Assembly Act;
- Chap. 25:03 “Minister” means the Minister to whom responsibility for national security is assigned;
- Chap. 15:01 “police officer” means a member of the Police Service established under the Police Service Act.

PART II

THE AUTHORITY

4. There is established a body to be known as the Establishment of the Authority Police Complaints Authority hereafter referred to as “the Authority” which shall undertake such functions as are prescribed by this Act.

5. The functions of the Authority are to—

Functions of the Authority

- (a) receive complaints on the conduct of any police officer;
- (b) monitor the investigation of a complaint by the Division, so as to ensure that the investigation is conducted impartially;
- (c) report to the Minister from time to time, or at his request; and
- (d) review reports from the Division in accordance with Part IV.

6. (1) For the purpose of the discharge of its Powers of the Authority functions the Authority has power—

- (a) to request any information, documents or things with respect to a complaint from—
 - (i) the Commissioner;
 - (ii) the Division;
 - (iii) any person making a complaint;
 - (iv) the police officer against whom the complaint was made; or
 - (v) any other person who in the opinion of the Authority may be able to assist;
- (b) in the case of a review of a complaint to—
 - (i) request all or any of the parties concerned as well as witnesses to appear before the Authority;

- (ii) request such information, documents or things as it deems necessary to review the complaint.

(2) The Authority may also give such guidance to the Division as may be necessary to ensure thoroughness and impartiality.

Membership of the Authority

7. (1) The Authority shall consist of five members appointed by the President on such terms and conditions as are contained in this Act, and in their instruments of appointment.

(2) The President may also appoint one member of the Authority to be its Chairman and another person to be its Secretary.

Qualification and disqualification for appointment to Authority

8. (1) Persons appointed to the Authority shall possess the qualifications which the President deems necessary for the performance of the functions assigned to the Authority by this Act, save however, that the Chairman shall have at least ten years standing as an attorney-at-law, or be a person who has retired from the police service at a rank of Senior Superintendent or above.

(2) No person is qualified to be appointed a member of the Authority who—

(a) is a member of—

- (i) the Senate;
- (ii) the House of Representatives;
- (iii) a local authority;

(b) was at any time during the five years preceding appointment—

- (i) a member of the Senate;
- (ii) a member of the House of Representatives;
- (iii) a member of a local authority;

- (iv) a candidate for election to membership of a House of Representatives; or
- (v) a candidate for election to membership of a local authority;
- (c) is a police officer, or was, at any time during the five years preceding appointment, a police officer;
- (d) is an undischarged bankrupt;
- (e) has at any time been convicted of an offence involving dishonesty or moral turpitude.

9. (1) Members of the Authority shall be paid such remuneration as is fixed by the President acting on the advice of the Minister. Remuneration

(2) Remuneration paid to members under subsection (1), shall be a charge on the Consolidated Fund.

10. The appointment of a person as a member of the Authority shall, subject to the provisions of this Act, be for a period not exceeding three years, but members are eligible for re-appointment. Tenure of office

11. Where the Chairman or any other member of the Authority is absent or unable to perform his duties, the President may appoint another person to act in the place of the Chairman or such other member. Acting appointments

12. (1) The Chairman may at any time resign his office as Chairman or as a member of the Authority or both, by instrument in writing addressed to the President. Resignation

(2) A member of the Authority other than the Chairman may at any time resign his office as member by instrument in writing, addressed to the President and transmitted through the Chairman.

(3) A resignation under this section takes effect from the date of receipt of the instrument of resignation by the President.

Revocation of
appointment

13. The President may, at any time revoke the appointment of a person as Chairman, or as a member of the Authority if satisfied that the person—

- (a) has, without reasonable excuse, failed to carry out his duties for a continuous period of three months;
- (b) is incapacitated physically or mentally, to such an extent as to impair his ability to perform his duties, or is otherwise unable or unfit to perform his duties;
- (c) has become a person who would be disqualified for appointment pursuant to section 8.

Gazetting of
membership

14. The appointment of members of the Authority as first constituted and every subsequent appointment to the Authority or change in membership shall be published in the *Gazette*.

Location and
meetings

15. (1) The Authority shall be located in such a place as is assigned to it by the Government, and its address shall be published in the *Gazette* and in one daily newspaper.

(2) The Authority shall meet at least once per month and the quorum shall consist of three members, of whom one shall be the Chairman.

(3) Subject to the provisions of this Act, the Authority may regulate its own proceedings.

Staff for the
Authority

16. The Authority shall employ such members of staff, as are required for the performance of its functions on such terms and conditions as are agreed upon, between the employee and the Authority.

Funds

17. The funds of the Authority shall consist of such sums as are appropriated to it by Parliament from time to time.

18. Subject to the provisions of the Constitution relating to the powers of the Director of Public Prosecutions and the Police Service Commission, the Authority is not subject to the directions or control of any other person in the exercise of its powers.

Independence of the
Authority

19. Subject to the provisions of this Act, the Authority may make rules respecting the manner in which reviews are conducted before it, and for any other matters pertinent to its operations.

Rules

PART III

THE COMPLAINTS DIVISION

20. (1) The Commissioner shall with the approval of the Minister, establish and maintain for the purposes of this Act, a unit of the Police Service to be known as the Complaints Division, in this Act referred to as "the Division".

The Complaints
Division

(2) The Division shall be charged with the responsibility for—

- (a) investigating complaints made by members of the public against police officers and referred to it by the Authority;
- (b) resolving the said complaints in accordance with this Part;
- (c) submitting to the Authority and to the Commissioner—
 - (i) at the end of every month, a progress report on the work undertaken by the Division;
 - (ii) a final report on all investigations; and

(d) such other duties as the Minister may assign to it from time to time.

(3) The Division shall be headed by a police officer of the rank no lower than that of Assistant Superintendent save that where a complaint is made

against an officer of a higher rank than that held by the Head of the Division, the Commissioner shall appoint an officer of a rank senior to that of the officer against whom the complaint is made to investigate the complaint.

(4) The Commissioner shall ensure that the Division is supplied with sufficient staff and facilities to receive, record and investigate complaints.

Submission of
complaints

21. (1) A person wishing to make a complaint, shall do so in writing to the police officer in charge of a police station, or to the Authority, in the form contained in the Schedule.

Schedule

(2) The police officer who receives a complaint under subsection (1), shall forthwith—

(a) give a certified copy to the person making the complaint; and

(b) send a copy of the complaint to the Authority.

(3) Where, however, the complaint relates to a fatality or alleged criminal conduct a copy shall be sent also to the Director of Public Prosecutions.

(4) In this section “certified copy” means a copy of the complaint which is signed by the person receiving the same and on which an official stamp marked “Certified” is imposed.

Authority to send
complaints to
Division

22. The Authority shall record all complaints received, and shall submit them to the Division through the Commissioner for investigation and resolution in the manner provided in this Act.

Frivolous
complaints

23. (1) The Division shall investigate all complaints in a thorough and impartial manner, except that where the Head of the Division is of the view that the complaint is of a frivolous nature, the person making the complaint shall be informed that no investigation shall be undertaken in the matter, or that investigations have been discontinued.

(2) Where a decision is taken not to investigate or to discontinue investigations under subsection (1), the Head of the Division shall as soon as possible so inform the Commissioner, the Authority, the police officer against whom the complaint was made, and the complainant.

(3) Notwithstanding subsections (1) and (2), where the Authority is of the opinion that the disposal of a complaint under subsection (1) was obtained as a result of a misunderstanding, threat or other improper pressure, the Authority may order that the complaint continue to be dealt with under section 25, giving written reasons for its decision to the Commissioner, the Division, the complainant and the police officer concerned.

24. (1) Where a complaint is not disposed of under section 23 the Division shall cause a full investigation to be made into the complaint and on completion of an investigation, shall prepare a full report of the investigations together with its findings and recommendations.

Formal resolution of complaints

(2) The report shall be forwarded to the Commissioner and the Authority.

25. The Head of the Division shall—

Reports to the Authority

- (a) not later than thirty days after the receipt of a complaint, furnish to the Authority a report in the prescribed form providing a summary of the investigation to date; and
- (b) furnish further reports on a monthly basis to the Authority during the course of the investigation.

26. When a complaint is made, the police officer in charge of a police station, or of the Division shall take any steps which appear to him to be desirable for the purpose of obtaining or preserving such evidence as relates to a complaint.

Preservation of evidence

Review by
Commissioner

27. (1) The Commissioner shall review all reports submitted by the Division under this Part, and unless notice of an application for a review of the findings is served on the Authority in accordance with section 30, the Commissioner may immediately—

(a) refer the matter to the Director of Public Prosecutions where the report recommends this course of action;

(b) take such action as he thinks fit, in accordance with the Police Service Commission Regulations, or the Police Service Regulations as the case may be.

Chap. 1:01

Chap. 15:01

(2) The Commissioner shall also give notice in writing to the Authority, the complainant and the police officer concerned of the action taken under subsection (1), giving the reasons for such action.

Delegation of
functions of
Commissioner

28. The Commissioner may delegate to a police officer, not below the rank of Senior Superintendent, the right to exercise any of his functions under this Act, and such functions shall be specified in the instrument of delegation.

Rules by
Commissioner

29. The Commissioner may make rules governing the procedures to be followed by officers of the Complaints Division in receiving, recording, investigating, disposing of or otherwise dealing with complaints, and may require that all complaints be notified to such officers of the Police Service as the Commissioner may specify.

PART IV

REVIEW OF COMPLAINTS BY AUTHORITY

Application for
review

30. A person who is aggrieved with the disposition of his complaint by the Division under section 23 or with the finding and recommendation under section 24(1), may apply in writing to the Authority for a review of the matter by the Authority, within one month of receipt of the results of the investigation.

31. (1) On receipt of an application under section 30, the Authority shall notify the Commissioner in writing and request of the Commissioner all material relevant to the particular complaint.

Commissioner to
furnish relevant
material

(2) The Commissioner shall, upon receiving the request under subsection (1), furnish the Authority with all material relevant to the complaint.

32. (1) Where, on review, the Authority is satisfied with the manner of the disposition of a complaint, it shall prepare and send a report in writing to that effect to the Minister, the Commissioner, the complainant and the police officer concerned.

Review by
Authority

(2) Where, however, the Authority is not satisfied with the manner of disposition of a complaint, it—

- (a) shall submit a report in writing to the Minister and the Commissioner setting out its findings and recommendations with respect to the disposition of the complaint;
- (b) may request the Commissioner to conduct further investigation into the complaint;
- (c) may institute a hearing to inquire into the complaint.

33. (1) The Authority shall institute a hearing under section 32(2)(c) by sending a notice of the hearing to the Minister, the Commissioner, the complainant and the police officer concerned.

Hearing instituted
by Authority

(2) The notice of hearing shall—

- (a) specify the purpose of the hearing;
- (b) specify the place and time of the hearing;
and
- (c) be in such form as may be prescribed by rules made by the Authority,

and the complainant and the police officer shall attend the hearing.

34. (1) Where the complainant does not attend the hearing, having had due notice of the time and place of the hearing, the Authority may dismiss the complaint,

Non-attendance of
complainant/non-
appearance of police
officer or witnesses

unless having received a reasonable excuse for the nonappearance of the complainant the Authority thinks it fit to adjourn the matter.

(2) Any other person who—

(a) refuses or neglects without reasonable cause, to attend a hearing in compliance with the requirements of a notice issued under section 33; or

(b) departs from a hearing without the authority of the person holding the hearing, is guilty of an offence and liable on summary conviction to a fine of one thousand dollars and to imprisonment for two years.

Completion of
hearing

35. (1) On completion of a hearing, the Authority shall prepare and send to the persons referred to in section 33(1), a report setting out its findings and recommendations with respect to the complaint.

(2) Where the Commissioner receives a report under subsection (1), he shall after considering the recommendations contained therein, exercise his discretion in accordance with section 27(1).

PART V

MISCELLANEOUS

Immunity of
members

36. (1) No member of the Authority or of a committee appointed by the Authority shall be personally liable for any act or default of the Authority or a committee, done or omitted to be done in good faith in the course of performing any function under this Act.

(2) Where a member of the Authority or of a committee is exempt from liability by reason only of this section, the Authority or the committee as the case may be shall be liable to the extent that it would be, if the member were its employee or agent.

Delegation of
functions of
Authority

37. (1) The Authority may delegate any of its functions to a committee of its members.

(2) Nothing in subsection (1) shall be construed as affecting the responsibility of the Authority for any function performed on its behalf pursuant to subsection (1).

38. (1) No person shall, without the consent in writing given by or on behalf of the Minister, publish or disclose to any person, otherwise than is necessary in the course of his duties, the contents of any documents, communication or information whatsoever, which relate to, and have come to his knowledge in the course of his duties under this Act. Prohibition and
privilege

(2) Anything said or information supplied or any document produced by any person for the purpose of, or in the course of an investigation or proceedings before the Authority under this Act, is privileged in the same manner as if the investigations or proceedings were proceedings in a court of law.

39. The Authority and every person concerned with the administration of this act, shall regard as secret and confidential all documents, information or matters disclosed in the administration of this Act except that disclosures— Secrecy

(a) made by the Authority or any other person in proceedings for an offence under section 40; or

(b) which the Authority considers necessary in the discharge of its functions,

shall not be deemed inconsistent with any duty imposed under this section.

40. A person who— Offences

(a) wilfully makes a false statement to mislead or misleads or attempts to mislead the Authority or any other person in the discharge of functions under this Act; or

(b) without lawful justification or excuse—

(i) obstructs, hinders or resists the Authority or any other person in the discharge of functions under this Act; or

(ii) fails to comply with any lawful requirement of the Authority or any other person under this Act; or

(c) deals with documents, communication or information mentioned in section 38 in a manner inconsistent with his duty under that section,

is guilty of an offence and is liable on summary conviction to a fine of five thousand dollars and to imprisonment for a term of twelve months.

Annual Report

41. (1) The Minister shall cause an annual report to be prepared by the Authority in accordance with section 5(c) and shall as soon as possible after he receives such report lay it in Parliament.

(2) The Report should contain details of the complaints received by the Authority and the results of the investigations carried out by the Division, save however that the Authority shall omit any particulars that may lead to the identification of the parties to the complaint.

Regulations

42. (1) The Minister may make regulations for the carrying out of the objects of this Act and, without limiting the generality of the foregoing may make regulations prescribing—

- (a) the practice and procedure to be adopted in relation to the formal investigation of complaints;
- (b) the practice and procedure to be adopted at any hearing by the Authority under this Act;
- (c) such other matters as may be required by this Act to be prescribed.

(2) Regulations made under this section shall be subject to negative resolution of Parliament.

SCHEDULE

(Section 21)

FORM OF COMPLAINT

Name of Complainant

Address of Complainant

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Name, Rank and Number
of the Officer against
whom the complaint was
made.

Particulars of the complaint

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Signature of Complainant

Passed in the Senate this 9th day of February, 1993.

J. SAMPSON
Acting Clerk of the Senate

Passed in the House of Representatives this 18th day
of June, 1993.

N. COX
Acting Clerk of the House