

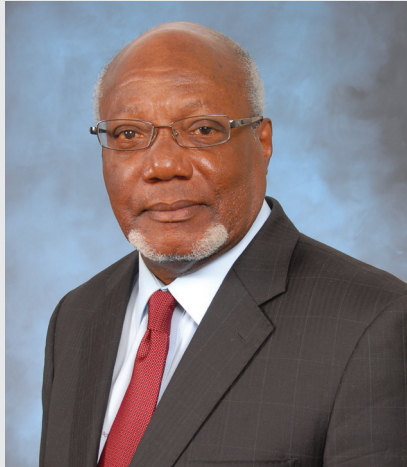


# PUBLIC SERVICE COMMISSION

ANNUAL REPORT 2010



## Foreword



**Christopher R. Thomas**  
Chairman


I am pleased to present the Annual Report of the Public Service Commission for the year 2010.

As in the case of 2009, the report informs of the achievements of the Commission and outlines a number of issues that cannot be managed without the collaboration of other bodies with whom the human resource management function is shared. The Commission once again expresses the hope and its determination to work conjointly with those related bodies in 2011 towards practical arrangements for the enhancement of its work in the interest of the Public Service.

During 2010, the Commission faced a number of challenges. The overarching factor was the unsanitary and unhealthy conditions which continue to affect the work of the Service Commissions Department. This in itself had a negative impact on the Commission's productivity. I look forward to a resolution to this dilemma in 2011.

I take this opportunity to thank the Deputy Chairman of the Commission and other members of the Commission for their support throughout 2010. I also thank the Director of Personnel Administration and her staff for their invaluable contribution and cooperation during the year. I make special mention of Ms Pamella Benson, who served as member of the Public Service Commission from 2004 to October 2010. Ms Benson brought a wealth of knowledge to the Commission and continues to service the Commission in a consultative capacity.

I would also like to convey the Commission's gratitude to all stakeholders who rendered support to the Commission in carrying out its constitutional mandate.

  
**Christopher R. Thomas**  
Chairman

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## 1.0 Introduction

The Annual Report of the Public Service Commission for the year 2010 is submitted pursuant to Section 66B of the Constitution of the Republic of Trinidad and Tobago (as amended by Act No. 29 of 1999) which requires the Commission to report each year on its administration, the manner of the exercise of its powers, its method of functioning and any criteria adopted by it in the exercise of its powers and functions.

### 1.1 Role and Function of the Public Service Commission

The role and function of the Public Service Commission are prescribed in Section 121 of the Constitution of the Republic of Trinidad and Tobago. The Commission, subject to the provisions of the Constitution, is empowered to appoint persons to hold or act in offices to which that 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.

### 1.2 Regulatory Framework

The Commission in the conduct of its business is guided by the values and principles as laid down in the Constitution of the Republic of Trinidad and Tobago and other relevant legislation, policies and precedents which have been established over the years as indicated:

Public Service Commission Regulations (1966)
Civil Service Act (1965) Chapter 23:01
Fire Service Act (1965) Chapter 35:50
formerly Act 31 of 19 (5)
Prison Service Act (1965) Chapter 13:01
Codes of Conduct (1996) Chapter 23:01
Judicial Review Act (2000)
Freedom of Information Act (1999)



# Public Service Commission



## 2.0 Membership

The Commission is an independent body established under Sections 120 and 121 of the Constitution of the Republic of Trinidad and Tobago. It comprises a Chairman, Deputy Chairman and no less than two (2) and no more than four (4) members, appointed by the President after consultation with the Prime Minister and the Leader of the Opposition.

### During the year 2010, the membership of the Commission comprised:-

Mr. Christopher R. Thomas, C.M.T, LLD - Chairman

Mrs. Zaida Rajnauth, C.M.T. - Deputy Chairman

Mr. Neil Rolingson - Member

Mrs. Pamella Benson M.O.M - Member (up to 24/10/10)

Ms. Susheila Maharaj - Member

Ms. Jeanne Roseman - Member

Professor Kenneth Ramchand, C.M.T. - Member (with effect from 26/10/10)

## 2.1 Secretariat/Service Commissions Department

The Public Service Commission is serviced by a Secretariat headed by the Director of Personnel Administration who is the principal adviser to the Commission. The Secretariat provides support services to enable the Public Service

Commission to discharge its constitutional responsibilities in relation to those aspects of the human resource management function which fall under its mandate with respect to public officers.



## 3.0 Method of Functioning and Exercise of Powers

### 3.1 Delegation of Powers

In the exercise of its mandate, the Commission in 2006, pursuant to Section 127 of the Constitution, delegated some of its functions to Permanent Secretaries/Heads of Departments, Chief Fire Officer, Commissioner of Prisons, Chief Administrator, Tobago House of Assembly and other senior officials in the Public Service. These delegated functions are outlined in Appendix I.

In addition, the Commission has delegated to the Chief Fire Officer and the Commissioner of Prisons the promotion of offices in the Second Division of the Fire and the Prison Services as shown hereunder:

(i) Chief Fire Officer	Fire Sub-Station Officer Fire Sub Officer
(ii) Commissioner of Prisons	Prison Officer II

Up to the present time the Public Service Commission has retained all other functions of its mandate as follows:

- **First Permanent Appointment**
- **Promotion**
- **First appointment on a temporary basis**
- **Acting appointment in offices that require consultation with the Prime Minister**
- **First Temporary/Acting appointment where an Order of Merit List exists**
- **Disciplinary control over matters that can attract the penalty of dismissal**
- **Transfer between Ministries/Departments**

### 3.2 Monitoring, Auditing and Oversight Unit

In order to ensure that the functions delegated to Permanent Secretaries/Heads of Departments and other senior public officers are properly exercised, the Director of Personnel Administration in consultation with the Commission,

established in 2006, a Monitoring, Auditing and Oversight Unit. The Unit also provides training and consultancy services to the persons so delegated.

## 3.0 Method of Functioning and Exercise of Powers (continued)

### 3.3 Review of the Performance of Ministries and Departments under Delegated Authority

A review of the performance of Ministries and Departments under delegated authority for 2010 indicates that there has been a steady increase in the number of acting and temporary appointments made under Delegated Authority, from the inception of the Delegation Order in 2006, to 2010. For the year 2010, a total number of thirty-one thousand, four hundred and ninety (31,490) matters were dealt with under Delegated Authority, which number represented an increase of eight thousand, six hundred and forty-eight (8,648) matters from the year 2009. Officers in Ministries/Departments would therefore have benefited from the Delegation of Authority by the Commission since they would have received their acting and temporary appointments in a more timely manner.

The performance of the Ministries and Departments to date with respect to the Delegation of Authority has been promising. This augurs well for any further Delegation which the Commission may envisage.

Also, under delegated authority in 2010, the Chief Fire Officer promoted one hundred and twenty-seven (127) officers and the Commissioner of Prisons made twenty-five (25) promotions.

Figure I gives a depiction of the performance of Ministries and Departments under delegated authority for the period 2006 to 2010.

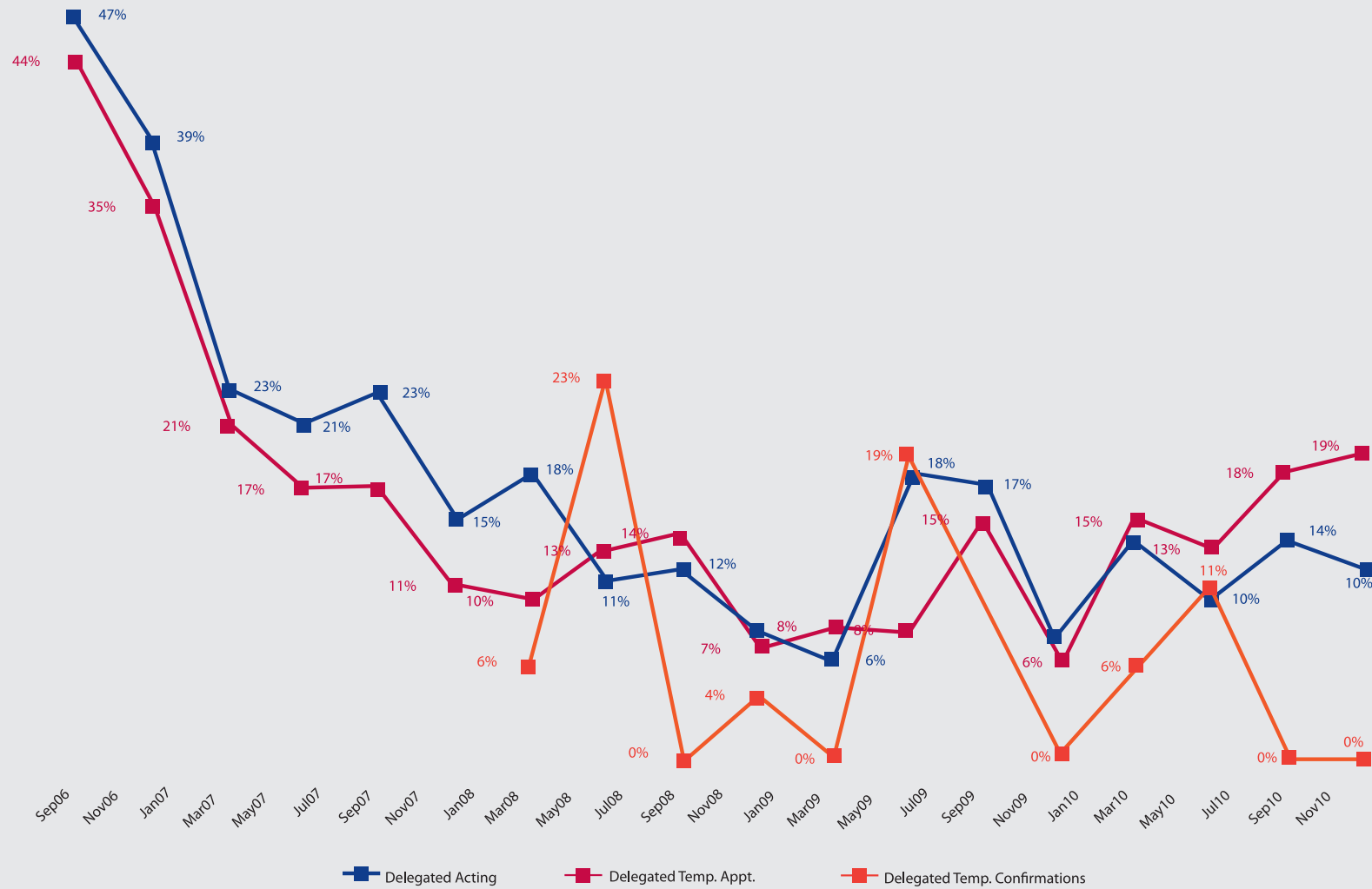


FIGURE I

*N.B. The quarterly non-compliance % is one measure of the quality of the implementation of the delegated function by Permanent Secretaries and Heads of Departments*

## 4.0 Targeted Plan for 2010

For the year 2010, the Commission established the following targets and plans in fulfilment of its constitutional mandate:

- Timely fillings of vacant offices;
- More expeditious recruitment and selection;
- Advanced and scientific methodologies for assessment;
- Enhanced Information Systems;
- Introduction of a periodic publication entitled *PSC Speaks Out*;
- Positioning the Public Service Commission, as a Policy, Monitoring, Oversight and Representational body;
- Further delegated functions in respect of recruitment and selection to line Ministries and Departments in relation to offices specific to them.

In line with its targeted plans for 2010, the Commission was able to increase, moderately, the filling of vacancies. The Commission continued to await the decision of the Privy Council to resume its methodologies for Human Resource assessment and the approval by Cabinet for the full introduction of an electronic data management system. In the interest of the wider dissemination of its work, the Commission launched its first publication of *PSC Speaks Out* through which it hopes to engage its stakeholders in the nature and pursuit of its mandate and functions and has continued its monitoring and training activities in preparation for the further delegation of functions on which it proposes to embark.

The Commission also held two retreats as a first step towards amending its Regulations to bring it more in line with modern Human Resource Management practices. Work towards this is continuing and discussions have taken place with the Executive towards defining a common Human Resource Philosophy and Policy which will inform the review of both the Public Service Commission's Regulations and the Civil Service Regulations.



## 5.0 Operational Work of the Commission 2010

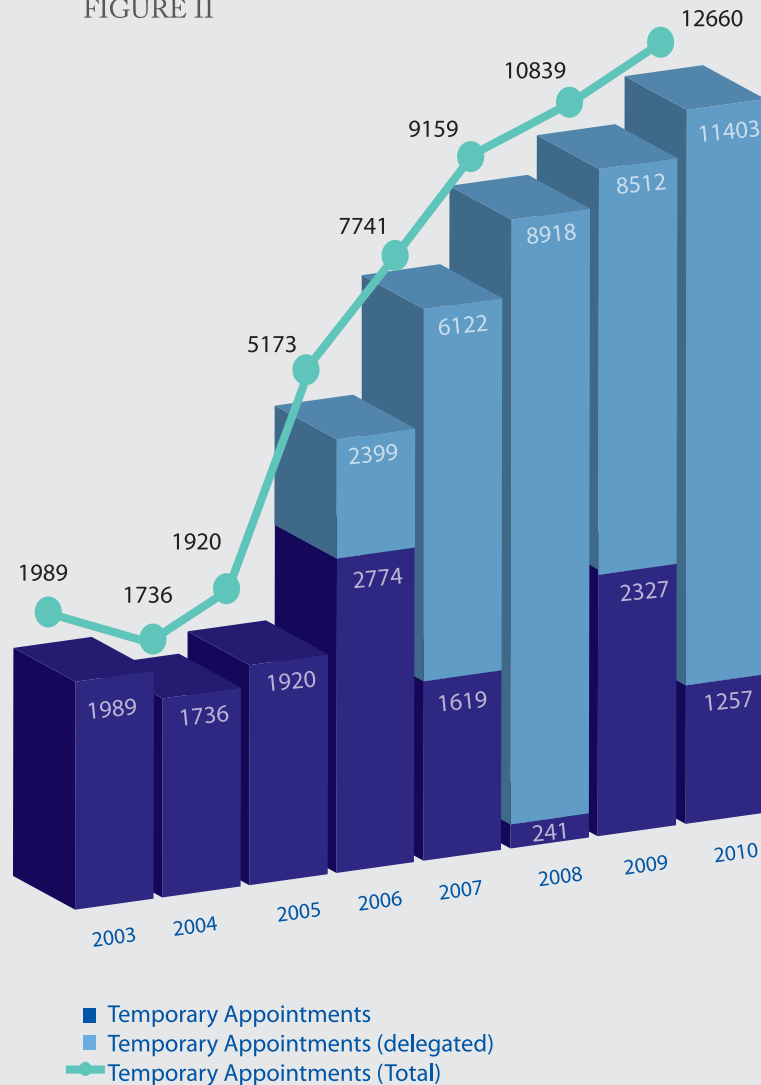
The Commission held forty-two (42) Statutory Meetings and four (4) Meetings with Permanent Secretaries.

In the course of its deliberations, the Commission considered one thousand, eight hundred and twenty (1,820) Notes.



## 6.0 Temporary Appointments

FIGURE II



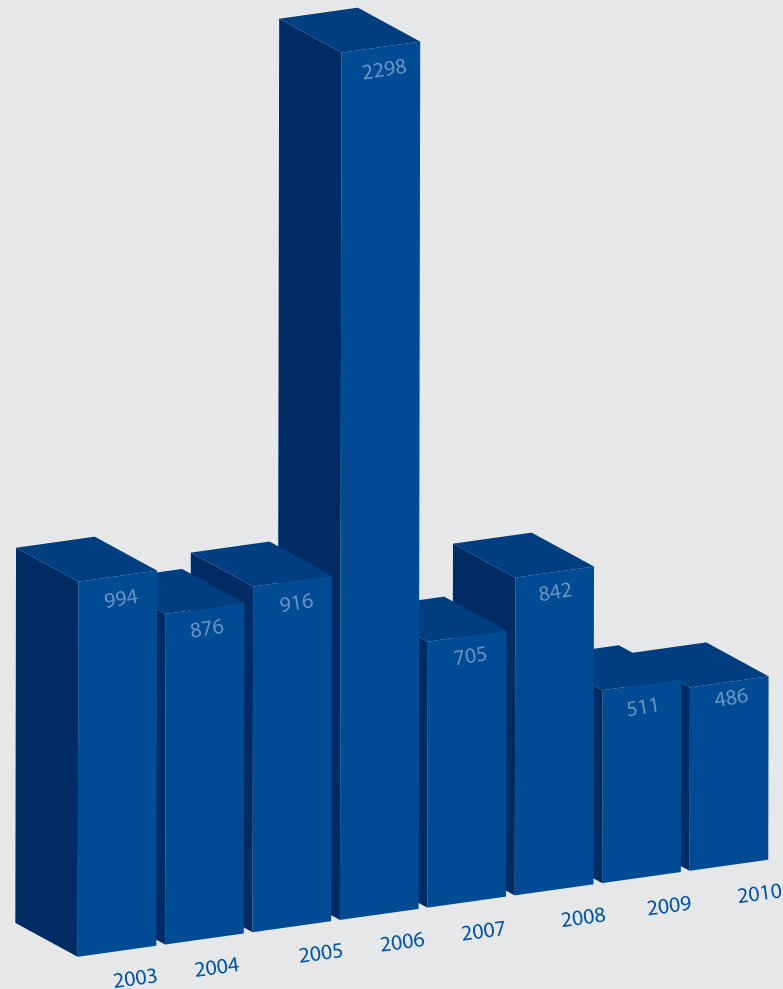
Temporary appointments are made by the Commission from candidates on Order of Merit Lists or from the list of approved applicants for an office. In Trinidad, the initial temporary appointment is made by the Commission and the continued temporary appointments are made by the Ministries and Departments under delegated authority. In Tobago, the Chief Administrator has been delegated the authority to make all temporary appointments.

In 2010, the Commission made one thousand, two hundred and fifty-seven (1,257) temporary appointments and eleven thousand, four hundred and three (11,403) were made under delegation by Ministries and Departments.

Figure II shows that Permanent Secretaries/Heads of Departments have embraced the opportunity to appoint officers on a temporary basis under Delegated Authority. The staff in the Human Resource Units have grasped the concepts and as compared to 2006, when there were only two thousand, three hundred and ninety-nine (2,399) appointments made on a temporary basis under Delegated Authority. In 2010, there was an increase of nine thousand and four (9,004) temporary appointments made under Delegated Authority.

## 7.0 Permanent Appointments

FIGURE III



Appointment is the placing of a person in an office by the Public Service Commission. Appointments can be permanent whereby the person becomes the substantive holder of the office, or temporary whereby the person is placed in a temporary vacancy or on a temporary basis in a permanent office and therefore is not a substantive holder of the office. The Commission made four hundred and thirty-three (433) permanent appointments and the Chief Fire Officer appointed fifty-three (53) Fire Fighters under delegated authority, in 2010.

Figure III indicates that there was a decrease in the number of permanent appointments made in 2009 and 2010, as compared to 2008.

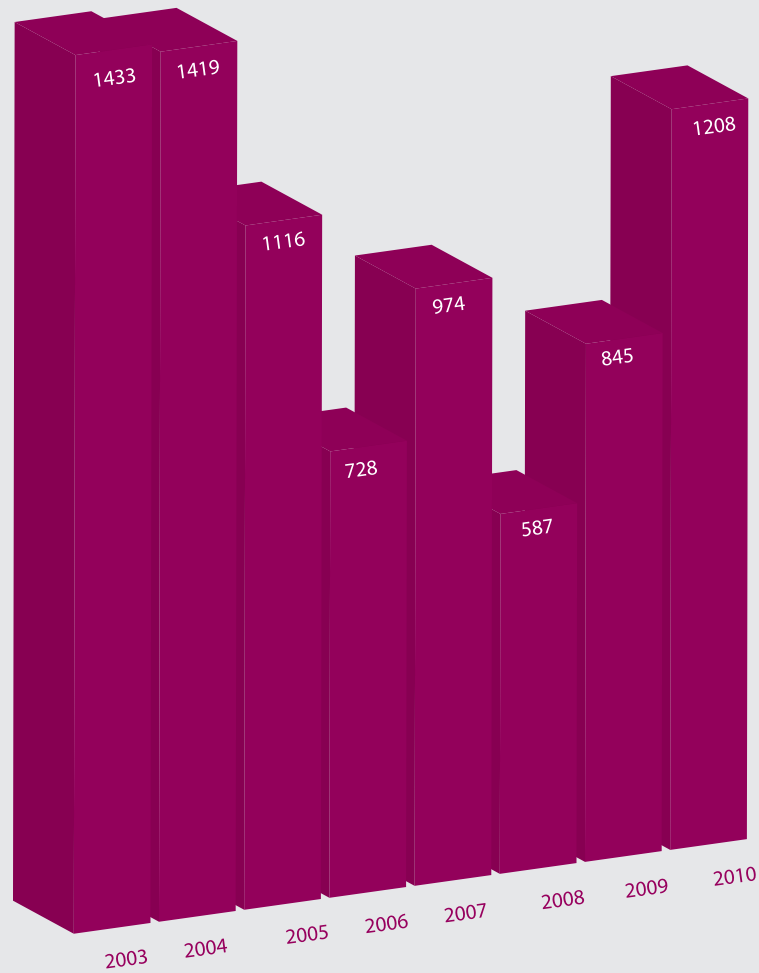
There were several environmental and health issues being experienced by the staff of the Service Commissions Department during these two (2) years which resulted in a reduction in productivity.

By Minute No. 835 dated 8th April, 2010, Cabinet lifted the hold on permanent appointments in the Human Resource Officer series after a period of six years, as a result of which the Commission made the following appointments and promotions in 2010:

Director, Human Resources and Director, Human Resources Services	28
Senior Human Resource Officer	38
Human Resource Officer III	46
Human Resource Officer II	61
Human Resource Officer I	96

## 8.0 Promotion

FIGURE IV



Promotion means the appointment of an officer to an office in a grade carrying a higher remuneration whether or not such office is in the same Ministry or Department.

Officers are selected for promotion based on their position on an Order of Merit List for the office (if a list has been established) or from serving officers in the various services in accordance with Regulation 18 of the Public Service Regulation for officers in the Civil Service, Regulation 158 for officers in the Fire Service and Regulation 172 for officers in the Prison Service.

In 2010, the Commission made one thousand, two hundred and eight (1,208) promotions.

Figure IV indicates that the Commission was able to make three hundred and sixty-three more promotions in 2010 than it made in the previous year. There were still existing environmental issues being experienced by the Staff in the Service Commissions Department building in 2010 but towards the latter part of the year, there was a general improvement in the working conditions. The Staff was therefore able to return to full working hours and this impacted positively on the productivity level in 2010, as far as promotions were concerned.

## 8.0 Promotion (continued)

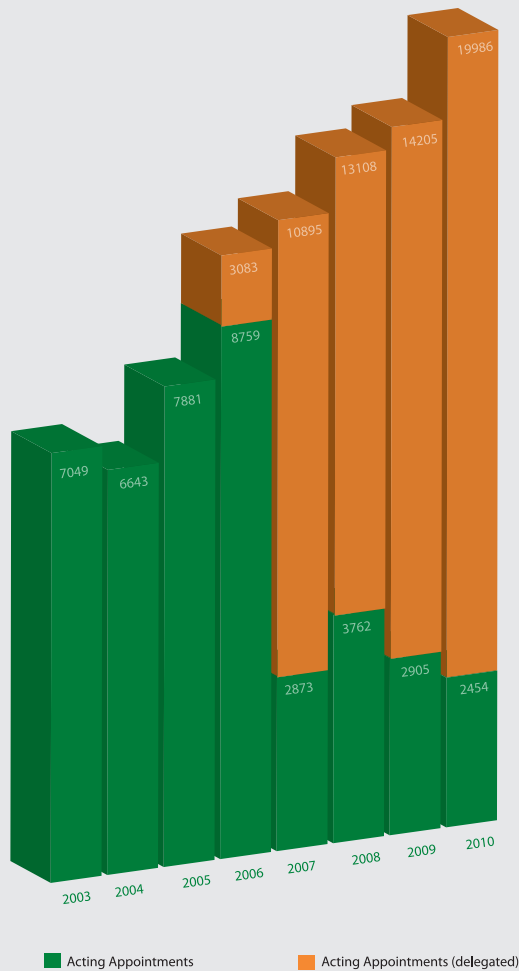
### 8.1 Promotion in the Fire Service

In June 2010, the Commission, after consultation with the Chief Fire Officer and the Second Division of the Fire Services Association, established a point system to be used for promotion to offices in the Second Division.

The point system has now been implemented in the Fire Services. A similar point system is under discussion for implementation in the Second Division of the Prison Services.

## 9.0. Acting Appointment

FIGURE V



Acting appointment is the temporary appointment of an officer to a higher office or otherwise (lateral or lower) whether that office is vacant or not. A vacant office is an office whether permanent or temporary where there is no incumbent.

Officers are selected for an acting appointment either based on their position on an Order of Merit List established by the Commission or in accordance with Regulations 24 to 26.

In 2010, the Commission made two thousand, four hundred and fifty-four (2,454) acting appointments and under delegation of authority nineteen thousand, nine hundred and eighty-six (19,986) were made.

Figure V indicates that in 2010, there was an increase of five thousand, seven hundred and eighty-one (5,781) acting appointments made under Delegated Authority by the Permanent Secretaries/Heads of Departments and Senior Managers in the Public Service. This increase indicates that the exercise of the Delegation of Authority has been impacting positively on the number of acting appointments being made.

### 9.1 Secondment

Secondment is the temporary 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 Authority or organization approved by the President. Such movement of officer/s is done with the approval of the Commission.

In 2010, the Commission released thirty-five (35) officers for appointment on secondment to other agencies and appointed twelve (12) officers on secondment to the Public Service.

## 10.0 Transfer

Transfer means the permanent movement of an officer from an office in one Ministry/Department or Division within a Ministry/Department to a similar office in another Ministry or another Division within a Ministry/Department.

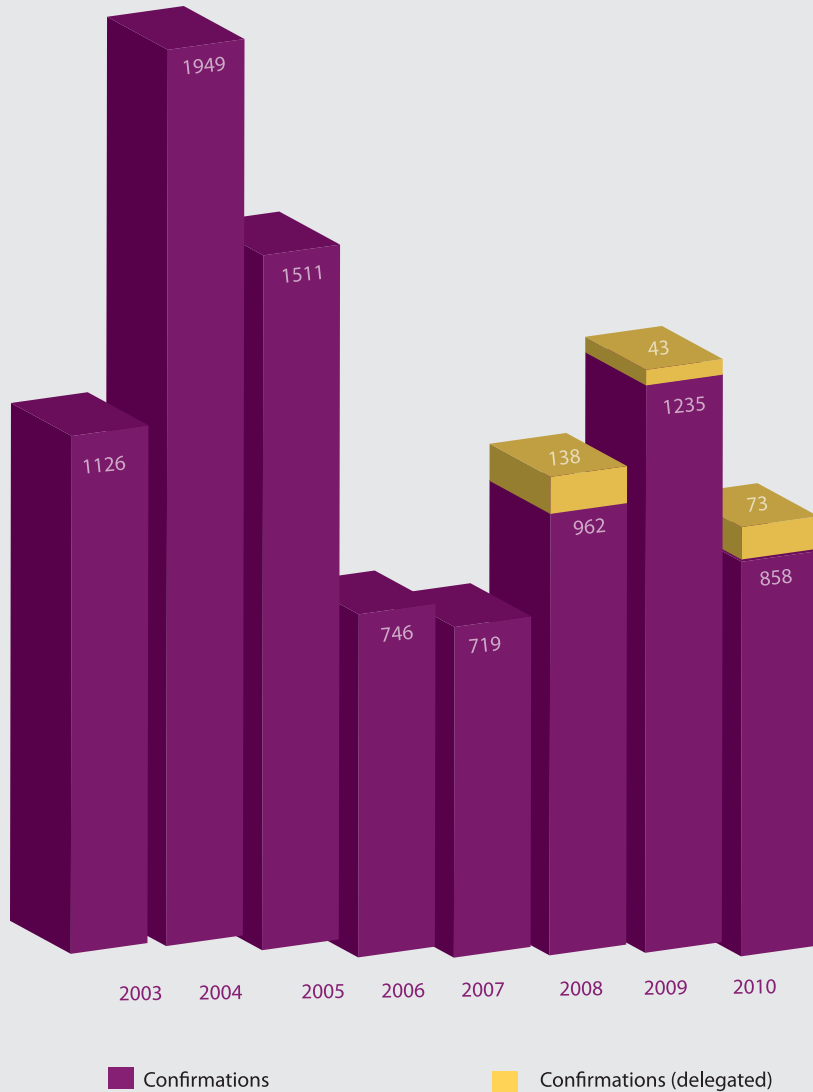
Over the years the Commission has received numerous requests from persons for transfers closer to their homes. Officers have often cited stress and other health issues, brought on by the daily traffic congestion, as the main reasons for the requests for transfer closer to their homes. Requests for transfers are overwhelming and challenge the management of the Commission as many Government offices are located in the Port-of-Spain area.

During the year 2010, the Commission made seven hundred and fifty-four (754) transfers, of these six hundred and sixteen (616) were as a result of the re-alignment of Ministerial Portfolios, whereby the staff had to be transferred to new and re-designated Ministries.

The Permanent Secretaries and Heads of Department effected twenty-eight (28) transfers under delegated authority.

## 11.0 Confirmation of Appointment

FIGURE VI



Confirmation is a definite act taken by the Service Commissions which gives permanence to an appointment after the holder satisfies all the requirements of such appointment. It must be noted that a public officer’s first appointment is subject to medical fitness and on two years’ probation and subsequent appointments are on one year’s probation.

The Commission confirmed eight hundred and fifty-eight (858) appointments in 2010. Under delegation of authority, the Permanent Secretaries and Heads of Departments confirmed seventy-three (73) appointments.

Figure VI indicates that compared with 2009, there was an increase of thirty (30) confirmation of appointments, in 2010, which were done under delegated authority. There was a decrease, however, in 2010 in the number of appointments confirmed by the Commission. This could be explained by the fact that, in 2009, the staff of the Service Commissions Department treated with a backlog of confirmation of appointments and therefore a greater number of matters were submitted to the Commission at that time.

Additionally, confirmation of appointments was delegated to Permanent Secretaries/Heads of Departments with effect from 1st June, 2006, therefore the Public Service Commission is now only dealing with outstanding confirmation of appointments prior to 1st June, 2006. The number of confirmation of appointments being handled by the Public Service Commission will therefore decrease every year and become nil eventually.



## 12.0 Resignations/Retirements/Termination of Appointments

Public Service Commission Regulations provide for public officers to be separated or removed from offices in the public service by resignation, retirement and termination of appointment.

During the year under review, public officers have separated from the Public Service by the following modes:

	Statutory Meetings	Delegated Authority
Resignations	–	135
Abandonment of Office	25	–
Termination of Employment	1	–
Reasons		
Officers not offered further temporary employment (due to adverse security vetting report)		
Grounds of Inefficiency		
Compulsory Retirement	1	428
Voluntary Retirement	–	85
Permission to retire	5	33
Retirement in the Public Interest	–	–
Grounds of Marriage	–	5
Medical Board	31	–
Death	–	46

## 13.0 Discipline

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 the Public Service Commission Regulations.

The Commission is also empowered to take disciplinary action against any public officer who is alleged to have breached the

relevant codes of conduct.

In the instance where an officer is convicted of a criminal charge in any Court and the time allowed for his appeal has elapsed, Section 129 (5) of the Constitution of the Republic of Trinidad and Tobago authorizes the Public Service Commission to consider the relevant proceedings of the charge and impose a penalty on the officer without the institution of any disciplinary proceedings.

### 13.1 Suspension (with Full Pay)

In the conduct of disciplinary proceedings against an officer, the Commission, if it is of the opinion that the public interest or the repute of the public service so requires, can direct an officer to cease reporting for duty, pending the outcome of disciplinary proceedings.

## 13.0 Discipline (continued)

### 13.2 Interdiction

The Commission can also order that an officer be interdicted from duty on no less than half pay where it has instituted disciplinary proceedings which may result in the officer's dismissal from the service or where he has been charged before the court for a criminal offence.

The following gives a statistical representation of disciplinary proceedings against public officers in 2010:

No. of officers suspended	02
No. of officers on interdiction/re-interdicted	11
No. of disciplinary tribunals appointed to hear matters	19
No. of matters completed by Tribunals during the year of review	12
No. of officers on disciplinary charge	19
No. of officers found guilty of disciplinary charge	06
No. of withdrawals of disciplinary charge	01
No. of persons found guilty in court	03
No. of officers found not guilty in court due to non appearance of police officers	06
No. of matters discontinued	-
No. of one man tribunals	10

Of concern to the Commission is the number of court cases that are dismissed due to the non appearance of complainants who are police officers. In 2010, there were six (6) such cases. In all these cases the Commission was forced to reinstate the officers after prolonged

periods and restore to them the portion of their salary withheld during the period the matter was before the courts. The Commission has repeatedly brought this unsatisfactory state of affairs to the attention of the Commissioner of Police.

## 14.0 Judicial Review/High Court Action

The Judicial Review Act 2000 provides for an application to the High Court of the Supreme Court of Judicature for relief, by way of judicial review, of a decision of an inferior court, tribunal, public body, public authority or a personality in the exercise of a public duty or function in accordance with any law.

The passage of this legislation has significantly impacted the Public Service Commission. The Judicial Review Act has removed the Ouster Clause making it possible for members of the public service to challenge the decisions of the Commission in the high court of law. Prior to this, the decisions of the Commission could not have been challenged. When decisions of the Commission reach the court of law, detailed preparation must be done and documentation must be garnered by the Commission to meet its challenge in court.

Appendices II, III and IV outline the four (4) High Court Actions which were completed in 2010. The four (4) matters were withdrawn; costs were awarded to the Commission in two (2) of the matters; costs were awarded to the Claimant in one (1) matter and there was no order as to costs in the remaining matter.

### Statistics of Judicial Review /High Court Matters for 2010 are shown hereunder

No. of High Court Matters pending at January 2010	31
No. of High Court Matters filed	03
No. of High Court Matters concluded	04
No. of High Court Matters withdrawn	
- Costs awarded to the Commission	02
No. of High Court Matters withdrawn	
- Costs awarded to the Claimant	01
No. of High Court Matters withdrawn - no order as to costs	01
No. of Appeals filed by the officers.	0
No. of Appeals to the Privy Council	0
No. of Appeals to the Public Service Appeal Board	7
No. of Appeals dismissed	0
No. of Appeals allowed	0
No. of Appeals withdrawn	02

## 15.0 Complaints/Representations

Over the years, Public Officers have submitted numerous complaints/representations to the Commission with respect to their appointments, promotions, acting appointments or disciplinary action taken against them. In most instances, the officers claimed that they have been treated unfairly or victimized.

These matters invariably require extensive research as information to complete them is normally stored in archival and secondary storage. Additionally, they take long to complete as the Commission has to rely on reports/comments from Permanent Secretaries and Heads of Departments and on the retrieval of data from manual records because the Integrated Human Resource Information System (IHRIS) does not store historical data.

In 2010, one hundred and eighty-one (181) complaints were received from public officers concerning a myriad of matters. These are outlined hereunder:

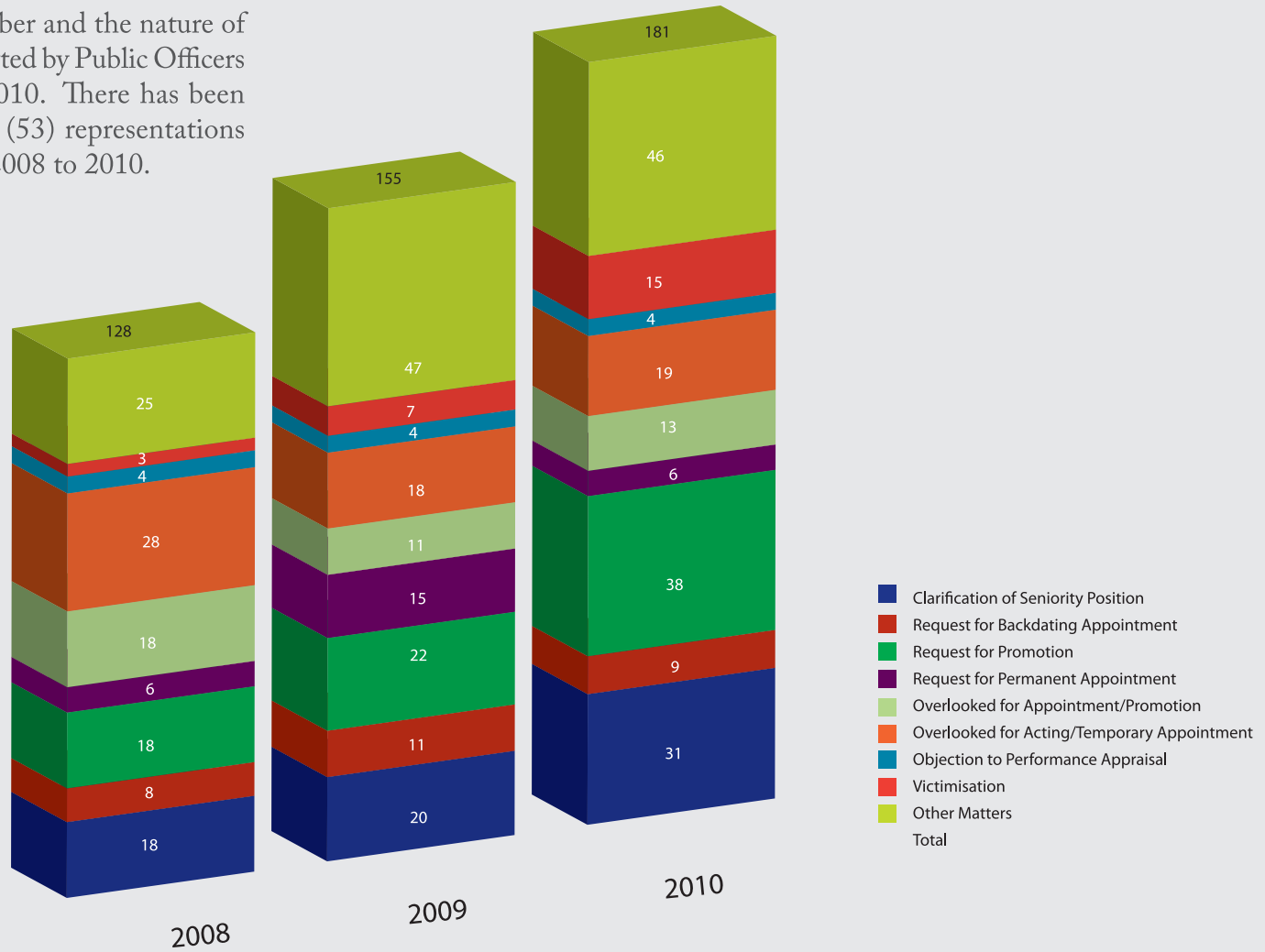
- Requests for appointment/promotion/acting appointment
- Being bypassed for promotion
- Request for compensation for acting in higher offices
- Victimization/ Discrimination
- Requests for reasons for being transferred
- Queries on incomplete /non-submission of and Poor Overall Performance Ratings on Performance Appraisal Reports

At the beginning of the year, the Commission had one hundred and fifty-five (155) matters brought forward from the previous years making a total of three hundred and thirty-six (336) matters for completion in 2010.

One hundred and four (104) matters were completed in 2010 and two hundred and thirty-two (232) will be carried forward to 2011. Of the one hundred and four (104) matters completed in 2010, twenty-eight (28) matters were in favour of the complainants as shown hereunder:

Nature of Complaint	No. of Matters
Requests for backdating	4
Being bypassed for promotion	12
Request for temporary appointment	2
Victimization/Discrimination/Unfair Treatment	3
Requests for acting	2
Clarification of Seniority	5
<b>Total</b>	<b>28</b>

Figure VII gives the number and the nature of the representations submitted by Public Officers over the years 2008 to 2010. There has been an increase of fifty-three (53) representations received over the period 2008 to 2010.



## 16.0 Requests Under The Freedom of Information Act

The Freedom of Information Act No. 26 of 1999 gives members of the public a general right (with exceptions) of access to official documents of public authorities and for matters thereto.

Requests for information under the Freedom of Information Act must be honoured within thirty (30) days. The nature of requests to the Service Commissions Department for information is summarised as follows:

- Seniority Lists for promoted and temporary officers
- Order of Merit lists and position number on the list of officers
- Examination results and copies of Answer Booklets and Question Papers
- Results and comments from interviews conducted

In keeping with the Act, members of the public can seek the intervention of the Office of the Ombudsman for resolution of matters. In 2010, there were four (4) instances which occasioned

the intervention of the Ombudsman on behalf of public officers. All such matters were concluded successfully.

In 2010, two hundred and eighty-five (285) requests for information were made under the Freedom of Information Act as follows:-

- **One hundred and forty-seven (147) from officers in the Civil Service**
- **Eighty-five (85) from officers in the Fire Service**
- **Fifty-three (53) from officers in the Prison Service**

Responses were submitted with respect to eighty-three (83) of the Civil Service matters; sixty four (64) of the Fire Service matters and forty-five (45) of the Prison Service matters. In the remaining instances, there was a need for the retrieval of archival records, which are stored off site and this has resulted in a delay in responding.

## 17.0 Requests Under The Equal Opportunity Act

The Equal Opportunity Act No. 69 of 2000 seeks to prohibit certain kinds of discrimination and promotes equality of opportunity between persons of different status. In addition, the Act provides for the establishment of an Equal Opportunity Commission and an Equal Opportunity Tribunal and for matters connected thereto.

Section 8 of the Act provides as follows:

8. *An employer or a prospective employer shall not discriminate against a person:-*
- (a) *in the arrangements he makes for the purpose of determining who should be offered employment;*
  - (b) *in the terms and conditions on which employment is offered; or*
  - (c) *by refusing or deliberately omitting to offer employment.*

In 2010, eight (8) letters of complaints were received from Chairman of the Equal Opportunity Commission on behalf of public officers in accordance with this section 8 of the Equal Opportunity Act which states that “*employer or prospective employer shall not discriminate against a person*”. Advice from the Legal Adviser, Service Commissions Department, stated that the Public Service Commission does recruitment pursuant to its Constitutional functions of appointment as outlined in

Section 121 of the Constitution which is the power to appoint persons to hold or act in offices to which this section applies, including the power to make appointments on promotion and transfer and to confirm appointments, and to transfer and to remove and exercise disciplinary control over persons holding or acting in such offices and to enforce standards of conduct on such officers.

The Public Service Commission does not fall within section 8 as it is not the employer of public officers (Endell Thomas vs Attorney General). The Commission is therefore not authorised to respond to the complaints. The Act needs to be amended to provide for an employer, prospective employer or a *Service Commission*, to permit the Commission to fall within the ambit of the Equal Opportunity Act.

At a meeting between representatives of the Public Service Commission and the Equal Opportunity Commission, it was decided that the Equal Opportunity Commission should consult with the Ministry of the Attorney General to make the necessary amendment to the Act. To date, the matter has not been finalised.

The Commission is willing to fulfil all its legislative obligations as soon as the appropriate amendment has been made to the Equal Opportunity Act.



## 18.0 Service Commissions Department (Tobago)

The Tobago House of Assembly Act No.40 of 1996 establishes that the Tobago House of Assembly does not have responsibility for matters involving the Public Service Commission. However, the Act makes provision for its presence in order to fulfil its constitutional mandate with respect to public officers in Tobago. To do this, the following course of action was undertaken by the staff of the Service Commissions Department on the directive of the Public Service Commission:-

- from 2000 to 2004, periodic visits were made to Tobago by senior officers of the Service Commissions Department, Trinidad to address complaints of public officers;
- in 2005, a 'Tobago Desk', comprising a three member team including the Executive Director, Human Resource Management and two Senior Human Resource Advisers of the Service Commissions Department, was established. These officers were assigned the responsibility to assist in expediting matters for Tobago and to monitor and audit the exercise of the delegated functions of the Commission;
- from 2007, a Liaison Officer, the Director of Personnel Administration and other members of the Executive have been visiting Tobago on a rotational basis to complement the earlier initiatives.

These efforts provided a presence, in Tobago, but proved to be a tremendous strain on the officers of the Service Commissions

Department, who, in addition to performing these duties in Tobago, also attended to their regular portfolios in Trinidad.

As a result, it was recognised that there was a need for the Service Commissions Department to establish a permanent presence, in Tobago, to facilitate the discharge of its constitutional functions and to ensure that the undermentioned services similar to those available in Trinidad were provided to stakeholders and clients in Tobago:-

- monitoring and auditing of the exercise of the powers delegated to the Chief Administrator, Tobago House of Assembly and the Permanent Secretary, Central Administrative Services, Tobago;
- training of public officers in the administration of the delegated functions;
- monitoring of the system established between the Tobago House of Assembly and the Permanent Secretary, Central Administrative Services, Tobago with respect to the recruitment of persons on a temporary basis from a pool of applicants to ensure fairness and equity and compliance with the Public Service Commission Regulations;
- the conduct of interviews relevant to positions on the establishment of Tobago House of Assembly and Central Administrative Services, Tobago;

## 18.0 Service Commissions Department (Tobago) (continued)

- addressing complaints from the public and public officers with respect to functions of the Commissions.

Further, Cabinet by Minute No. 3309 dated 4th December, 2008, agreed to the rental for a period of three (3) years of office space at Wilson Road, Scarborough, Tobago with effect from the date of occupation, to accommodate the Tobago arm of the Service Commissions Department and to facilitate the conduct of the operations of the Service Commissions Department. The office was commissioned on 25th October, 2009.

The opening of the Service Commissions Department office

in Tobago has allowed for the direct interface of the Service Commissions Department staff with the staff of the Tobago House of Assembly and the Ministry of Tobago Development as well as public officers and the public in Tobago. This has resulted in enhanced communication and enables the Director of Personnel Administration to achieve more efficient, effective and timely delivery of services to the Tobago public officers as well as the general public.

In 2010, fifty-six (56) promotions were made to offices in the Tobago House of Assembly and one (1) promotion in the Ministry of Tobago Development.

## 19.0 Challenges to the Commission in 2010

In 2010, the Commission continued to face a number of challenges to the efficient discharge of its mandate. These challenges might be classified as Environmental, Operational and Institutional.

### 19.1 Environmental

Since 2009, the Service Commissions Department has been plagued by periodic unsanitary and unhealthy conditions in the workplace. The conditions have had adverse effects on the work of the Commission due to the high levels of absenteeism and work stoppages. The Director of Personnel Administration has made several requests for relocation of the office since 2009, however, to date all efforts at relocation have been unsuccessful.

Heads of Departments resulting in delayed acting appointments and promotions.

- Late submissions/Non submissions of recommendations by Permanent Secretaries and Heads of Departments to fill vacancies.

Permanent Secretaries and Heads of Departments have to be constantly reminded and admonished in respect of their responsibilities to the staff and the wider management in the interest of the overall systemic performance.

### 19.2 Operational

Work performance/productivity has also been affected by additional shortcomings. These are:

- The absence of an electronic document management system and the continued reliance on archaic manual systems.
- Non-submission of up-to-date Performance Appraisal Reports by Permanent Secretaries/

### 19.3 Institutional

The Commission has been unable to make appointments to vacant offices of Clerk Typist I and Clerk Stenographers I/II for a number of years.

By minute No. 746 dated 3rd April, 2008, Cabinet agreed that:

- (a) Regulations 6 and 7 of the Civil Service Regulations made under section 28 of the

## 19.0 Challenges to the Commission in 2010 (continued)

Civil Service Act, Chapter 23:01 be amended to provide for the removal of the qualifying examination requirements for the offices of Clerk Typist and Clerk Stenographer I/II; and

- (b) The Attorney General cause to be prepared the necessary legislation to give effect to the decision recorded at (a) above.

The delay in resolving this issue is impeding the permanent appointment of nine hundred and fifty-five (955) temporary Clerk Typists I, seventy (70) temporary Clerk Stenographer I and forty-four (44) temporary Clerk Stenographers I/II. Some of these officers have been appointed, on a temporary basis, for over twenty (20) years. Many have retired from the Public Service without the benefit of permanent appointment as the necessary legislation has not yet been enacted.

In 2010, one hundred and ninety-three (193) officers were appointed as Clerk I. Notwithstanding these appointments having been made, there are three thousand and eighty-one (3,081) Temporary Clerks I who are still to be permanently appointed many of them having served in the position for over ten (10) years. Unfortunately, the number of vacancies available far exceeds the number of Temporary Clerks I who are yet to be appointed.

### 19.4 Vacancies at the level of Administrative Assistant

Regulation 9(3) of the Civil Service Regulations, Chapter 23:01 indicates that an officer in the clerical grade must hold an appointment of Clerk IV and must have passed the Clerk IV course for promotion to the Administrative Class or obtained a Certificate in Public Administration before consideration can be given to promotion as an Administrative Assistant.

At present, there are eighty-one (81) vacant offices of Administrative Assistant. Of this number, there are only twenty-four (24) appointed Clerks IV who are qualified to act or be appointed as Administrative Assistants. The remaining fifty-seven (57) appointed Clerks IV do not hold the necessary qualifications for appointment into the Administrative Grade and because of their age profile (55-59) it seems unlikely that they will obtain such qualifications before retirement.

## 19.0 Challenges to the Commission in 2010 (continued)

### 19.4 Vacancies at the level of Administrative Assistant (continued)

There are one hundred and thirty-nine (139) vacant positions of Clerk IV. In seeking to promote officers to the vacant Clerk IV positions from appointed officers in the Clerk III grade, it is noteworthy that there are three hundred and eleven (311) Clerks III who are eligible for promotion to Clerk IV but who are not eligible for promotion to Administrative Assistants because they do not hold the necessary qualifications. These three hundred and eleven (311) Clerks III are in the age group 50 to 60 years. There are only thirty-eight (38) Clerks III who satisfy the requirements for promotion into the Administrative Grade but these persons have to be appointed as Clerks IV first when their turn comes, before they can be considered for further promotion.

The impact of the referenced circumstances has resulted in an untenable situation where the Public Service Commission has had to resort to placing qualified officers holding positions of Clerks I, II and III to act as Administrative Assistants, Administrative Officers II and even Administrative Officers IV for periods of approximately one (1) to seven (7) years in some instances. It is noteworthy that these officers

cannot be appointed to the Administrative Grade even though they hold the necessary qualifications and have been acting for prolonged periods, because of the stipulation in the Civil Service Act that states that officers to be appointed to the Administrative Grade must come from eligible officers in the Clerk IV grade. This situation is not likely to resolve itself in the foreseeable future given the statistics indicated above.

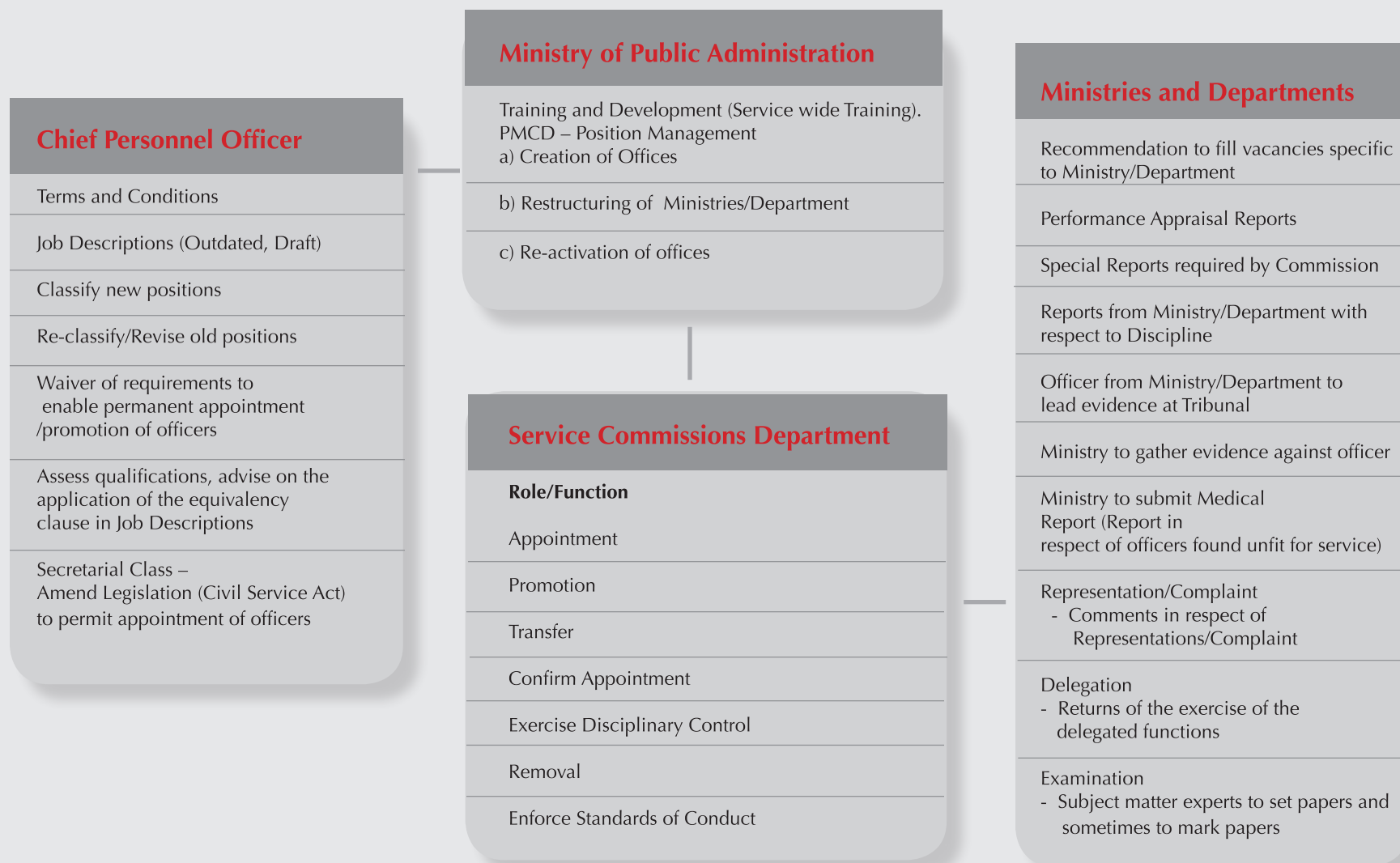
Many years ago, the Chief Personnel Officer allowed appointments from qualified officers below the level of Clerk IV to Administrative Assistant but this practice was stopped some years ago, no doubt because of a strict enforcement of the Civil Service Regulation.

An amendment to Regulation 9(3) of the Civil Service Regulation would serve to resolve this situation and allow for the appointments to the Administrative Class of suitably qualified officers.

These issues are outside of the ambit of the Public Service Commission and have been drawn to the attention of the relevant authorities.

## FRAGMENTED NATURE OF HUMAN RESOURCE MANAGEMENT IN THE PUBLIC SERVICE

Figure VIII is a diagrammatical representation of the nature of the management of Human Resources in the Public Service. It also shows the fragmented nature of this function within the Public Service.



The Commission has repeatedly pointed to the difficulties inherent in this configuration of functions, in respect of the timely and efficient discharge of its constitutional responsibility:

Some of these difficulties are indicated hereunder:

- Training and skills cannot always be reconciled with existing job specifications as prescribed by another agency and on the basis of which the Commission is required to make appointments/promotions
- Requests to the Commission to make appointments where requirements are not fully met challenge the public credibility of the Commission
- Archaic manual systems for document storage retrieval and management undermine the productivity and efficiency of the Commission
- Job compensation and benefits also fall under the purview of the Chief Personnel Officer. The Commission has been unable to recruit candidates for certain positions because salaries for

these offices are not appealing enough to attract and retain candidates

- Freezing of vacancies for prolonged periods prevents appointments by the Commission and can mitigate against effective delivery of services

The work of the Commission depends on the timely and efficient delivery by all related agencies. Until an effective oversight authority is instituted and mandated to ensure accountability on the part of the related agencies in respect of their performance, the output of the Commission will continue to be challenged. The Commission has offered to work with the Executive in search of an institutional solution to the current situation.

The fragmented nature of the practice of Human Resource Management in the Public Service and the absence of an effective coordinating authority are not conducive to efficiency in the final output of the Commission.

## 20.0 Projections for 2011

For 2011, in addition to its operational work as prescribed in the Constitution, the Commission will continue to engage the authorities on the unresolved challenges outlined in the report, advance the targeted plans described for 2010, and pursue the areas outlined in its strategic plan, for 2011, namely the establishment of Standing Selection Panels, the implementation of a Document Management System and new/revised regulations to enhance its work.



## Appendix I

*Legal Supplement Part B—Vol. 45, No. 87—24th May, 2006*

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LEGAL NOTICE No. 105

REPUBLIC OF TRINIDAD AND TOBAGO

THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD  
AND TOBAGO, CHAP. 1:01

ORDER

MADE BY THE PUBLIC SERVICE COMMISSION WITH THE APPROVAL OF  
THE PRIME MINISTER PURSUANT TO SECTION 127 OF THE CONSTITUTION

THE PUBLIC SERVICE COMMISSION (DELEGATION OF  
POWERS) (AMENDMENT) ORDER, 2006

1. This Order may be cited as the Public Service Commission Citation (Delegation of Powers) (Amendment) Order, 2006.
2. In this Order, “a reference to” “the Regulations” means, the Interpretation G.N.132 of 1966
3. Subject to the provisions set out in the Schedule, the Public Delegation Service Commission (hereinafter called “the Commission”), with the approval of the Prime Minister, hereby delegates to the authorities in the First and Second Schedules the powers specified therein in relation Schedule to the said authorities, respectively.
4. The Public Service Commission (Delegation of Powers) Order is L.N.60. of 1999 First and Second Schedules Chap. 1:01 232/1990 27/1991 103/1994 amended by revoking the First and Second Schedules and substituting the following:

“FIRST SCHEDULE

PART I

CHAIRMAN AND DEPUTY CHAIRMAN, PUBLIC SERVICE COMMISSION

1. The Chairman and the Deputy Chairman of the Commission are hereby delegated Powers the power to appoint persons on recruitment from outside the particular Service in the delegated 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
2. The power delegated under paragraph 1, is in respect of the public offices specified Chap. 23:01 in the Classification of Offices set out in the First Schedule to the Civil Service Act, 1965 Chap. 35:50 the Third Schedule to the Fire Service Act, the First Schedule to the Prison Service Act. Chap. 13:02 Chap. 39:01 158/1966

*Public Service Commission (Delegation of Powers) (Amendment)  
Order, 2006*

PART II

PERMANENT SECRETARIES AND HEADS OF DEPARTMENTS

- Powers delegated temporary appointments
1. The powers delegated to Permanent Secretaries and Heads of Department are as follows:
- (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;
- (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;
- (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;
- (d) to confirm the appointment of a public officer to a public office 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.
- Transfers
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.
- Further temporary appointment Confirmation
3. The powers delegated in this Part do not apply to officers, 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.
- Chap. 23:01
- Report to Commission

PART III

DEPUTY PERMANENT SECRETARIES

- Powers delegated Acting appointments
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.
- Further temporary appointment Confirmation

# Appendix I (continued)

## *Public Service Commission (Delegation of Powers) (Amendment) Order, 2006*

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2. The powers hereby delegated are in respect of public officers in the Ministry under Application of 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.
3. The powers hereby delegated do not apply to offices the appointment or promotion Application to which is subject to consultation with the Prime Minister.
4. A Deputy Permanent Secretary shall submit to the Commission once in every Report to quarter through the Permanent Secretary a report on the exercise of the power delegated Commission to him.

### PART IV

#### DIRECTORS, HUMAN RESOURCES

1. The powers delegated to Directors, Human Resources are as follows:
  - (a) to appoint a public officer to act in a public office in the Civil Service up to delegated Powers and including Salary Range 34 for periods up to six months, in the exercise of Acting which power delegated the Directors, Human Resources shall apply the appointment 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 up to and including Salary Range 34 Further in the Public Service for periods not exceeding six months at a time where temporary such persons have already been appointed temporarily by the Public Service appointment Commission for a fixed period;
  - (c) to confirm the appointment of a public officer to a public office up to and Confirmation 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.
2. The powers delegated in this Part are in respect of public officers in the Ministry Application 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.

3. The powers hereby delegated do not apply to offices the appointment or promotion Application to which is subject to consultation with the Prime Minister.
4. A Director, Human Resource shall submit to the Commission once in every quarter Report to through the Permanent Secretary a report on the exercise of its powers delegated to him. Commission

### PART V

#### PERMANENT SECRETARY, MINISTRY OF HEALTH

1. The Permanent Secretary, Ministry of Health is delegated the powers to appoint Powers delegated persons temporarily to the offices of Clinical Instructor and Nursing Instructor.
2. The Permanent Secretary, Ministry of Health, shall submit to the Commission Report to once in every quarter, a report of the exercise of the powers delegated to him under this Commission Part.

336 *Public Service Commission (Delegation of Powers) (Amendment) Order, 2006*

PART VI

THE DIRECTOR OF STATISTICS, CENTRAL STATISTICAL OFFICE,  
MINISTRY OF PLANNING AND DEVELOPMENT

Powers delegated 1. (1) The powers delegated to the Director of Statistics, Central Statistical Office, Ministry of Planning and Development are as follows:

(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.

Report to Commission (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.

PART VII

THE COMMISSIONER OF PRISONS

Powers delegated 1. The powers delegated to the Commissioner of Prisons are as follows:

(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 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;

(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;

(d) the power to transfer prison officers from one Prison to another;

(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;

(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.

## Appendix I (continued)

Public Service Commission (*Delegation of Powers*) (*Amendment*)  
*Order, 2006* 337

## PART VIII

## THE CHIEF FIRE OFFICER

1. The powers delegated to the Chief Fire Officer are as follows:
- (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 Appointment 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 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 Acting Fire Service below the office of Fire Station Officer and in the exercise of this appointments 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;
- (d) the power to transfer Fire Officers from one Division or District or Branch in Transfers the Fire Service to another such Division or District or Branch;
- (e) the power to direct a fire officer to cease to report for duty in accordance with Suspension Regulation 88 of the Regulations and the Chief Fire Officer shall report the exercise of this power forthwith to the Commission;
- (f) The functions of the Commission under regulation 164 of the Regulations in Resignation respect of a fire officer in an office in the Second Division of the Fire Service below the office of Fire Station Officer.

2. The Chief Fire Officer shall submit to the Commission, once in every quarter, a Report to report of the exercise of any of the powers delegated to the Chief Fire Officer and to any Commission other fire officer.

## PART IX

## CHIEF ADMINISTRATOR, TOBAGO HOUSE OF ASSEMBLY, TOBAGO

1. The powers delegated to the Chief Administrator, Tobago House of Assembly, Appointments 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, 1965 and which are regarded as the basic normal entry points to the general clerical, secretarial and manipulative classes;
- (b) to appoint a public officer to act in a public office in the Civil Service, Tobago Acting House of Assembly, for periods up to six months whether such acting Appointment 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;

# Appendix I (continued)

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## *Public Service Commission (Delegation of Powers) (Amendment) Order, 2006*

Transfers	<p>(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.</p> <p>(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;</p> <p>(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.</p>
	<p>2. In the exercise of the powers delegated under paragraph 1(e), the Chief Administrator shall—</p> <p>(a) exercise the powers of the Commission under regulation 90(6) and (7);</p> <p>(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;</p> <p>(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.</p>
Report	<p>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.</p>
Application	<p>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 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.</p>
PART X	
THE SENIOR PUBLIC OFFICER, HIGH COMMISSIONS, MISSIONS AND EMBASSIES OF TRINIDAD AND TOBAGO	
Powers delegated	<p>1. The powers delegated to the Senior Public Officer, High Commissions, Missions, and Embassies of Trinidad and Tobago are as follows:</p> <p>(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;</p> <p>(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).</p>



# Appendix I (continued)

## *Public Service Commission (Delegation of Powers) (Amendment) Order, 2006*

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### PART XI

#### THE PERMANENT SECRETARY, CENTRAL ADMINISTRATIVE SERVICES, TOBAGO

1. The powers delegated to the Permanent Secretary, Central Administrative Powers delegated Services, Tobago, are as follows:

- (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, 1965 and which are regarded as the basic normal entry Chap: 23:01 points to the general clerical, secretarial and manipulative classes;
  - (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 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;
  - (c) to transfer a public officer from an office in a grade in the Department of Transfers 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.

# Appendix I (continued)

## 340 *Public Service Commission (Delegation of Powers) (Amendment) Order, 2006*

3. The Permanent Secretary shall submit to the Commission, once in every quarter, a report of the exercise of any powers delegated to him.

4. 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, 1965 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.

### “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.



# Appendix I (continued)

*Public Service Commission (Delegation of Powers) (Amendment) Order, 2006* 341

SECOND SCHEDULE—CONTINUED

COLUMN 1	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), 1998</i>	COLUMN 4 PRISON SERVICE <i>Reference to Regulation of Fire Prison Service (Code of Conduct) Regulations, 1990</i>
<i>Description of Misconduct</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;	Regulation 135(2)	Regulation 101(5)	Regulation 4(2)
(b) Fire Service;			
(c) Prison Service			
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)(2)	Regulation 6(1)(d)
Breach of rules relating to broadcast	Regulation 140	Regulation 110	Regulation 12
Act of indebtedness to the extent it impairs efficiency, etc.	Regulation 141	Regulation 111	Regulation 13(1)

# Appendix I (continued)

342 *Public Service Commission (Delegation of Powers) (Amendment) Order, 2006*

SECOND SCHEDULE—CONTINUED

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4
<i>Description of Misconduct</i>	CIVIL SERVICE <i>Reference to Regulation of Civil Service Regulations</i>	FIRE SERVICE <i>Reference to Regulation of Fire Service (Terms and Conditions of Employment) Regulations, 1998</i>	PRISON SERVICE <i>Reference to Regulation of Prison Service (Code of Conduct) Regulations, 1990</i>
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;	Regulation 149(1)(b)	Regulation 119(1)(b)	
(b) Fire Service (Terms and Conditions of Employment) Regulations, 1998 and other written law;	Regulation 149(1)(c)	Regulation 119(1)(c)	
(c) Prison Service (Code of Conduct) Regulations, 1990.			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)
Neglect of duty	Regulations 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)(f)

# Appendix I (continued)

*Public Service Commission (Delegation of Powers) (Amendment) Order, 2006* 343

SECOND SCHEDULE—CONTINUED			
COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4
<i>Description of Misconduct</i>	<i>CIVIL SERVICE Reference to Regulation of Civil Service Regulations</i>	<i>FIRE SERVICE Reference to Regulation of Fire Service (Terms and Conditions of Employment, Regulations, 1998</i>	<i>PRISON SERVICE Reference to Regulation of Prison Service (Code of Conduct) Regulations, 1990</i>
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 of 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).".

Dated this 19th day of April, 2006.

C. THOMAS  
*Chairman of the  
Public Service Commission*

## Appendix I (continued)

344 *Public Service Commission (Delegation of Powers) (Amendment)  
Order, 2006*

A. TIM POW  
*Deputy Chairman of the  
Public Service Commission*

S. SEEMUNGAL  
*Member of the  
Public Service Commission*

N. ROLINGSON  
*Member of the  
Public Service Commission*

P. BENSON  
*Member of the  
Public Service Commission*

S. MAHARAJ  
*Member of the  
Public Service Commission*

Approved.

P. MANNING  
*Prime Minister*

Dated this 30th day of April, 2006.

## Appendix II

### HIGH COURT ACTION WITHDRAWN IN 2010 WITH COSTS AWARDED TO THE PUBLIC SERVICE COMMISSION

GREAVES SMITH, Cecelia – Senior Human Resource Officer  
-vs-  
Public Service Commission

**HCA #/Date filed:** CV 2006-00898 – 12th April, 2006

**Date of Outcome:** 8th November, 2010

**Judicial Review of**

The unreasonable, procedurally improper and/or unfair decision of the Public Service Commission to terminate the Acting Appointment as Permanent Secretary/Deputy Permanent Secretary and appoint another to replace her in post of Permanent Secretary/Deputy Permanent Secretary without permitting her to be heard etc.

**Order /Judgement**

Court granted leave to the Appellant to withdraw her application and ordered her to pay costs agreed at \$75,000.00 to the Respondent with a stay of execution of 42 days.

## Appendix II (continued)

### HIGH COURT ACTION WITHDRAWN IN 2010 WITH COSTS AWARDED TO THE PUBLIC SERVICE COMMISSION

MITCHELL, Fern – Firefighter #2274 and O'BRIEN, Kean – Firefighter #2651  
-vs-  
Director of Personnel Administration

**HCA #/Date filed: CV. No. 2010-00072 – 8th January, 2010**

**Date of Outcome: 15th October, 2010**

#### Judicial Review of

#### Order/Judgement

- (a) A Declaration that the Chief Fire Officer and/or the Director of Personnel Administration have no authority under the Public Service Commission (Amendment) (No. 2) Regulations 1998 (the 1998 Regulations) or under the general law to agree on the criteria to be used for promoting officers of the Trinidad and Tobago Fire Service to the offices of Fire Sub-Station Officer and Fire Sub-Officer or at all.
- (b) A Declaration that the decision of the Chief Fire Officer and the Director of Personnel Administration whereby they agreed on criteria to be used for promoting officers of the Trinidad and Tobago Fire Service to the offices of Fire Sub-Station Officer and Fire Sub Officer, was ultra vires 1998 Regulations.
- (c) A Declaration that the introduction and/or purported introduction into the Trinidad and Tobago Fire Service by the Chief Fire Officer and the Director of Personnel Administration of a system of promotion known as the Points System, whereby criteria for promotion contained in Regulation 158 of the 1998 Regulations are weighted, is ultra vires void and of no legal effect.

Claimants were granted leave to withdraw their application and were ordered by the Court to pay Seven Thousand, Five Hundred Dollars (\$7,500) in costs.

## Appendix II (continued)

### HIGH COURT ACTION WITHDRAWN IN 2010 WITH COSTS AWARDED TO THE PUBLIC SERVICE COMMISSION

MITCHELL, Fern – Firefighter #2274 and O'BRIEN, Kean – Firefighter #2651  
-vs-  
Director of Personnel Administration

- (d) A Declaration that the introduction and/or purported introduction of the aforesaid Points System of promotion in the Service is contrary to the policy of the 1998 Regulations.
- (e) A Declaration that upon a true construction of Regulation 158 of the 1998 Regulations the Chief Fire Officer and/or the Public Service Commission have no discretion to exclude “Devotion to Duty” or any other criterion when considering the eligibility of an officer for promotion.
- (f) A Declaration that the construction placed by the Chief Fire Officer and the Director of Personnel Administration on “General Fitness” in the aforesaid Regulation 158, as being restricted to an officer’s sick leave record, constitutes an error of law.
- (g) A Declaration that the conduct of the Chief Fire Officer in being party to the aforesaid decision constituted an irrational exercise of his delegated powers with respect to the promotion of officers of the Second Division of the Service.
- (h) An Order, pending the hearing and determination of the claim herein, restraining the Chief Fire Officer and/or the Public Service Commission from promoting any officer of the Second Division of the Service on the basis of the aforesaid Points System.
- (i) An Order directing the Chief Fire Officer to promote officers of the Second Division of the Service by taking into consideration all the criteria listed in Regulation 158 of the 1998 Regulations, without weighting those criteria.
- (j) An Order of certiorari removing into the Honourable Court and quashing the aforesaid decision.
- (k) Interest.
- (l) Costs.

## Appendix III

### HIGH COURT ACTION WITHDRAWN IN 2010 WITH COSTS AWARDED TO THE CLAIMANT

LALLO, Romel – Fire Sub Station Officer, National Security  
-vs-  
Public Service Commission

**HCA #/Date Filed:** CV 2009-00898 – 12th March, 2009

**Date of Outcome:** 26th May, 2010

#### **Judicial Review of**

An order of certiorari to come into this Honourable Court and quash the decision of the Public Service Commission to refuse and/or deny the Claimant access to the information/document requested in his applications.

#### **Order/Judgement**

On May 26th, 2010, the Honourable Mr. Justice des Vignes granted permission to the Claimant to withdraw the claim. The Judge directed that costs were to be paid by the Defendant to the Claimant, certified fit for Counsel. The Judge further directed the Claimant to serve a Statement of Costs on or before Friday June 11th, 2010. Withdrawn with costs to be paid to the Claimant.



## Appendix IV

### HIGH COURT ACTION WITHDRAWN IN 2010 WITH NO ORDER AS TO COSTS

Edwin Grell and Ors – Senior Superintendent Prisons  
-vs-  
Public Service Commission

**HCA#/Date Filed:** CV 2007-04670 – 11th December, 2007

**Date of Outcome:** 30th July, 2010

#### Judicial Review of

#### Order/Judgement

1.1 A declaration that the intended Defendant in refusing and/or omitting and/or failing to submit to the Public Service Commission a full, complete and comprehensive list of First Division Officers in Trinidad and Tobago which the Intended Defendant considers suitable for promotion so as to facilitate and/or implement Cabinet's accepted recommendations for the creation of twenty one (21) new First Division positions in the Trinidad and Tobago Prison Service, which said accepted recommendations are contained in Cabinet Minute No. 1758 dated 20th July 2006 is unreasonable, null, void and of no effect; an order of certiorari to remove into this Honourable Court and quash the decision and/or action referred to in 5 – 1 above;

Permission granted for the Applicant to withdraw the application with no order as to costs.

On 5th October, 2010, the Commission noted that the matter was closed.

1.2 A declaration that the decision and/or action of the intended Defendant in refusing and/or omitting and/or failing to submit to the Public Service Commission, a full, completed and comprehensive list of First Division Officers in Trinidad and Tobago 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 is unreasonable, unlawful, illegal, contrary to good administration, null, void and of no effect.

## Notes

# Notes

