



INTERIM ANNUAL REPORT 2018-2019

EQUAL OPPORTUNITY TRIBUNAL

Email: eot.info@eot.gov.tt
Website: www.eottt.org

Tel: 1-868-672-2929 Fax: 1-868-671-6497
Address: 55-57 Manic Street, Chaguanas



CONTENTS

Values of the Tribunal _____	4
Mission _____	4
Vision _____	4
Greetings _____	5
Message from the Chairman _____	5
Message from the Registrar _____	7
What We Do _____	10
The Tribunal _____	10
Tribunal Management and Administration _____	11
Organisational Structure _____	11
Tribunal Finance _____	13
Funding of the Tribunal _____	13
Tribunal's Performance Standards and Measurement System _____	14
Reviewing the Past Year: 2018/2019 _____	15
Judicial Administration _____	15
Security _____	16
Security Breaches _____	16
Physical Amenities _____	16
Electronic/Digital Case Management _____	17
Website _____	18
Human Resources _____	18
Staff Functions/Welfare _____	18
Looking Ahead: Advancement and Evolution _____	21
Port of Spain Registry _____	21
Strategic Development Plan _____	22
Tribunal Case Schedule _____	22
Technology _____	22
Library and electronic research _____	23
Public Confidence, Communication _____	23
Human Resources _____	23
Lay Assessors _____	24

10 Year Anniversary	24
Expenditure for Tribunal Developmental Programme 2019/2020	25
Tribunal's Performance 2018/2019	27
Appendices	28
Proposed Organisational Chart	29
Equal Opportunity Act	30
RULES OF PRACTICE AND PROCEDURE, 2016 OF THE EQUAL OPPORTUNITY TRIBUNAL	31

VALUES OF THE TRIBUNAL

Mission

The mission of the Tribunal is to be a venerated, independent and robust court leading the evolution of culturally conscious anti-discrimination jurisprudence in the Caribbean.

Vision

The vision of the Tribunal is to emerge as an indigenous court that members of the society can confidently rely on to resolve complaints of discrimination that fall within the Tribunal's remit, fairly and expeditiously, and by so doing zealously guard and enforce their social rights.

*"No discrimination, that's what we are about as a country"
Barack Obama.*

GREETINGS

Message from the Chairman

The statutory mandate of the Tribunal - existing as it does in a small multiracial, predominantly literate, transitioning society, with high expectations, open skepticism, suspicion and distrust, limited resources and diverse, entrenched competing social norms - seems prodigious. Equality and equity vary with circumstance and perception. The Judicial Education Institute of Trinidad and Tobago¹ validated the concept of equality expressed:

“Applying the concept of equality, as both a principle and a right, does not mean seeking some kind of a mathematical formula to calculate and achieve absolute homogeneity. Instead, the concept of equality must be understood substantively. It requires equal treatment for equals, different treatment for those who are differently situated, and special treatment for groups whom, though they are considered equal from one perspective, from another perspective merit special treatment ...”

In the midst of the gridlock of social diversity, norms and expectations and the constraints of its legislative remit, how does the Tribunal satisfy the thirst for this friable and elusive notion of equal opportunity and or social equity? Central to dispensing this mandate, is a well-equipped, accessible court that is guided absolutely by the rule of law and recognises the malleability of the concept of equality and adheres slavishly to the principles of procedural fairness.

I assumed the mantle of responsibility for the Tribunal on April 2, 2018. I succeeded His Honour Justice Rajmanlal Joseph who retired in September 2017 after having led the Tribunal from its inception in 2009. For the short time that I have been its Chairman, I have agonised for many long moments about the evolution of the Tribunal. I have sought counsel from my mentors and colleagues, staff, relatives, friends, and frenemies - lamenting, brooding and eking out their support and wisdom. These engagements have been thought-provoking though at times unsettling. Despite the hurdles, I remain resolute in my tenacity that the will to accomplish this mandate must not be daunted. The mission of the Tribunal to create an independent, indigenous court that is a symbol of equality, fairness and social justice is indispensable as a

¹ Judiciary of Trinidad and Tobago. *Justice Through A Gender Lens - Gender Equality Protocol for Judicial Officers - Trinidad and Tobago*. Port of Spain Trinidad: Judicial Education Institute of Trinidad and Tobago, 2019.

resilient foundation for contemporary jurisprudence. I am humbled to have been passed the baton to realise it.

I have approached the task of leading the Tribunal metaphorically “bright-eyed and bushy tailed”, at times naive, with a stumble here and a fumble there, every so often a eureka moment, but focused doggedly on the end-result and the mission and vision of the Tribunal. Immediately upon assuming office, with the assistance of the Registrar, we embarked on a comprehensive analysis of the work of the Tribunal to establish a roadmap to achieve its mandate. We stumbled upon an obstacle course, without milestone, road signs and for the most part unlit and unpaved.

We have worked hard in the last year. We have the bruises to show for it. We have done a lot. We have done well. The individual roles and contributions of staff, friends and stakeholders are recognised and acknowledged .It could not have been accomplished without you!

HH Donna Prowell- Raphael,
Chairman

Message from the Registrar

"Real change, enduring change, happens one step at a time."

Ruth Bader Ginsburg

The Equal Opportunity Tribunal on the 17th September 2017 bid farewell to the first appointed Chairman His Honour Rajmanlal Joseph who retired after a tenure of 9 years at the helm. Mr. Justice Joseph's leadership was marked by his focused efficiency in creating a court where no precedents existed before. On the 2nd of April 2018 the Tribunal welcomed the appointment of Her Honour Madame Justice Donna Prowell-Raphael as its 2nd Chairman.

The leadership of Her Honour for this review period is marked by various forms of technological advancement, innovation and transformation in the Court's day-to-day operations. With the creation of a solid foundation, which can now be used as a launch pad, the EOT is now positioned to adopt and embrace modernisation exponentially in its provision of justice for all. I now embark to outline in summary some achievements for this review period.

2018 - 2019 ACHIEVEMENTS:

Restructuring and Modernizing the Court Physical Environment:

Various areas of the court environment were remodeled and updated for improved access and comfort for users.

Expanding the use of the Registrar's Judicial Powers:

A new Registrar's Court was created to provide judicial and administrative support to the tribunal through the creation of a new administrative case management regime. This court now issues directions, sets dates for pre-trial reviews and taxes bills of costs.

Introduction of Electronic Case Management Software:

Her Honour must be applauded and credited for having effectively introduced the EOT's electronic case management system. This has included uploading of court documents for electronic records and access, scheduling of matters, training measures and an organised structure for achievement of identifiable and realistic goals. These measures have placed the court closer to its goal of achieving an electronic filing system.

Unit Formulation

Units were created for proper workflow efficiency. These new units now include an Executive Unit, a Registry Unit and a Court Administration Unit. These units now provide all support services to the court.

HR Staff Policy Manual

The court has embarked on development and formulation of a policy manual for Staff Administration.

EOT Rules of Practice and Procedure

The EOT has embarked on drafting amendments to its Rules of Practice and Procedure for use by all stakeholders.

Acknowledgment of Staff and Best wishes

I am compelled to highlight my true appreciation thus far from all members of staff who have provided their limitless support and commitment to the technological maintenance and modernisation of the EOT thus far. For those who have moved on I wish to say thank you for your years of dedicated assistance in getting the court to its current state of affairs. For those who continue to provide support I would say your efforts are acknowledged in building something that is larger than us but which would continue to endure long after our retirement. To new staff appointees we welcome you to a court that is now on the cusp of technological

advancement and with your help and dedicated support our strategic goals will be achieved with resolute success.

Narendra Lalbeharry,
REGISTRAR

*“There is nothing more difficult to take in hand, more perilous to conduct, or more uncertain in its success, than to take the lead in the introduction of a new order of things.” –
Niccolo Machiavelli*

WHAT WE DO

The Tribunal

We are an anti-discrimination court created by the Equal Opportunity Act²- titled the Equal Opportunity Tribunal. We are the only such court in the English speaking Caribbean³. We are a superior court⁴ of record that places the Tribunal at the same status as the High Court. We have the exclusive jurisdiction to hear and determine complaints referred to us by the Equal Opportunity Commission⁵.

The Tribunal is headed by a Chairman, who is also a Judge of the status of a High Court Judge⁶. The Chairman, determines all matters coming before the Tribunal. The Lay Assessors⁷ provide support and assistance to the Chairman, and sit with the Chairman to hear matters.

The Registrar assists the Tribunal⁸ and adjudicates the award of costs, issues summonses, subpoenas and orders and assists the Tribunal in other judicial functions (including case management) as may be designated from time to time.

² Appendix II: Chap. 22:03 Laws of the Republic of Trinidad and Tobago.

³ Stephenson, Jacqueline. "Anti-discrimination legislation in the Caribbean: is everyone protected?" *Equality, Diversity and Inclusion: An International Journal*, (© Emerald Publishing Limited 2019), Dec 2018: <https://www.emeraldinsight.com/doi/pdfplus/10.1108/EDI-11-2017-0238>.

⁴ *Equal Opportunity Act*, 41(1).

⁵ *Ibid* 39(2).

⁶ *Ibid*, 41(2).

⁷ *Ibid*, 42(3), 44,

⁸ *Ibid*, 41(5), 48(2).

TRIBUNAL MANAGEMENT AND ADMINISTRATION

Organisational Structure

Since its inception, there has been no formal court structure in place. Although this is not reflected in the approved Organisational Chart, there was an unclear delineation of administrative and judicial functions with an appreciation that the Registrar was responsible for administration and the Chairman had responsibility for judicial functions with some input into human resource management. The Attorney General was accepted as the line Minister with overall but loose supervision over the functions of the Tribunal, which were subject to his approval.

The administrative/management structure of the Tribunal has been revised and realigned having regard to the approved Organisational Chart and the constitutional need for compliance with that of a judicial body within the Westminster system. Under the new organisational structure -

- The Chairman is responsible for the governance of the Tribunal and provides the strategic leadership necessary for its effective functioning and advancement. The Chairman has overall oversight of the management of the Tribunal with special focus on its policy, planning and development.

- The Tribunal will be administered by a **Tribunal Management Unit** headed by the Registrar. This will comprise the following departments:-
 - **Tribunal Registry,**
 - **Tribunal Technology and Systems Management Services,**
 - **Tribunal Protocol and Information Services, Tribunal Security Management,**
 - **Tribunal Human Resources,**
 - **Tribunal Facilities, Assets, Office Management, Procurement and**
 - **Tribunal Finance/Accounting Division.**

- The Registrar reports to the Chairman of the Tribunal for the management and co-ordination of the several departments of the Tribunal Management Unit.
- In addition to the **Tribunal Management Unit** we propose to have a **Court and Judicial Support Department** that will be under the control of the Chairman.
- Liaison with the Executive and government continues to be via the Office of the Attorney General.

TRIBUNAL FINANCE

Funding of the Tribunal

The Registrar is the Accounting Officer of the Tribunal. The auditing functions of the Tribunal are carried out by the Industrial Court and the Tribunal is ultimately answerable to the Comptroller of Accounts for its financial affairs.

The Tribunal is funded/financed by the State through an independent Head of Expenditure⁹. For the last three (3) years the allocation to the Tribunal has not exceeded Five (5) Million Dollars (\$5,000,000.00).

While strategic planning and its assessment remain essential trappings for the advancement of the Tribunal, the actual budgeting, allocations and releases are dictated by the Minister of Finance. Without the funding to support its strategic planning, the Tribunal can become paralysed and its growth is stagnated. The evolution of the Tribunal therefore ultimately lies in the will of the Executive.

See Draft estimates of Expenditure 2019:

<https://www.finance.gov.tt/wp-content/uploads/2018/10/Numbered-Draft-Estimates-Recurrent-Expenditure-2019.pdf>

“I have cherished the ideal of a democratic and free society in which all persons live together and with equal opportunities. It is an ideal which I hope to live for and to achieve. But if needs be, it is an ideal for which I am prepared to die.”

Nelson Mandela

⁹ Head 75 - Estimates of Expenditure.

TRIBUNAL'S PERFORMANCE STANDARDS AND MEASUREMENT SYSTEM

The Tribunal has nominal public presence. It has been underutilised and under resourced. Notwithstanding the decade of its existence, the public is largely unfamiliar with the role and functions of the Tribunal or the vast array of relief it could provide. Most do not know of its existence, and a significant portion of those who do, believes it is a department of the Equal Opportunity Commission. It is imperative, if the Tribunal is to achieve its mission or vision, that it generates a “sense of urgency¹⁰”. The stakeholders must identify the cause and reason for the Tribunal's invisibility and lethargy, and commit not only to improvement, but to generating the momentum to initiate and sustain it.

As the Tribunal begins the task of developing a system to monitor and measure its performance, we accept that fundamental to the work of the Tribunal are the five key areas of performance standards:-

- Access to Justice,
- Expedition and Timeliness,
- Equality, Fairness, and Integrity,
- Independence and Accountability and
- Public Trust and Confidence.

¹⁰ Kotter, J.P. "Why Transformation Efforts Fail." *Harvard Business Review*, 1995, 73(2): 60.

REVIEWING THE PAST YEAR: 2018/2019

Considerable time was spent during the year in review, on creating and implementing policies, procedures and processes, and renovating and upgrading the court facilities. In addition an effort was made to treat with the backlog of cases that had accumulated.

Judicial Administration

Save for the administrative and financial processes inherited from, and generated by, the public service personnel, there was little discernable processes related to judicial administration. Court operations were largely improvised. Save for the Registry there was no designated court staff. For example, Ag Clerk IV doubled as the court orderly and the secretary to the lay assessors assisted with taking verbatim notes in court.

The Tribunal was not techno-friendly. Scanners were not used. WIFI though available was unreliable and access to it by staff restricted. Electronic messaging and emails among staff was not supported. There were no computer templates for court documents or judgments. Case management was entirely manual.

There is still no operational library or library staff, communications officer or judicial support staff. In addition to the foregoing, the staff lacked information or knowledge about the Tribunal and its functions. Registry staff was unable to identify or understand court documents and or to provide the judicial support required for court functions. Attempts to train in-house proved inadequate and had to be outsourced. There remains a dire need for staff to have on-going legal and or paralegal training and or training in court protocols and administration.

Annual Reports have not been published since 2013. No record (soft or hard copy) for the operations of the office of the Chairman from 2009-2017 can be located. This interim report is the first report of the Tribunal for over five (5) years. The Tribunal has never had a Strategic Plan nor has strategic planning been part of its operations. It is hoped that funding will be made available for the publishing of an Annual Report for 2018/2019 together with the development of a Strategic Plan.

At this juncture the Tribunal must extend its gratitude to Her Honour Madame Justice Deborah Thomas-Felix, President of the Industrial Court for her assistance in helping the Tribunal to find its legs. Not only has she made her wisdom available, but she has provided in-house training for Orderlies and included the Chairman and Registrar in the ILO Conciliation training for Industrial Court judges. The assistance of Ms. Youland Robinson in helping us to organize the court structure and staff who took time from her work at the Industrial Court to be with us at the Tribunal, is appreciated.

The work of Ms. Christiane Prowell, Attorney at Law, in providing judicial support pro bono especially in creating court templates must also be recognised and acknowledged. The support of College of Legal Studies in the training of staff is gratefully acknowledged.

Security

In the current environment the security of the Tribunal is a priority. The manned security for the Tribunal was minimal, the scanner bed for the personal effects of persons entering the precincts has never worked. Electronic security has never been established. The Tribunal is still not protected by cameras.

Within the last year, the security of the court has been upgraded. A scanner has been installed at the entrance to the building on the ground floor that scans persons as they enter, and an accompanying process manually established for monitoring persons and recording their whereabouts. Security has also been placed at the Executive offices. The installation of a camera system is still a work in progress. We are still without a scanner bed to scan the personal effects of persons entering the Tribunal.

Security Breaches

The deficiency of security has no doubt contributed to the ease with which the Tribunal's vehicle was vandalised overnight on the compound of the Tribunal, and the difficulties the police are having in identifying the culprits. In addition there is some recent concern about the possible leak of confidential information and attempts to intimidate the Chairman, which are presently being treated with. A robust security system to adequately safeguard the Tribunal and its personnel is mandatory.

Physical Amenities

The Tribunal currently shares a building with the Equal Opportunity Commission. The Tribunal occupies approximately one third of the first floor, and the second floor. The space was laid out and outfitted in 2013 to house the Tribunal. This area housed administrative staff and offices

and a main court room, the conference room reception and waiting area, registry kitchen and toilets.

Over the last year considerable attention has been placed on aesthetics and house-keeping, notwithstanding the stringent financial constraints. The ceiling produced a white powdery substance associated with the faeces of certain mites. The Chairman has had to seek medical attention for allergies and respiratory issues on at least five (5) occasions. While staff was not as severely impacted, there have been complaints of some health implications by some employees.

During the year under review we were able to convert the conference room into a Registrar's Court, enclose a small area to house the law reports and texts of the Tribunal, furniture was cleaned, refurbished with the help of staff and relocated to improve the ambience. The Staff contributed items from their homes to assist in re-decorating the Tribunal, and the Chairman and Registrar undertook the refurbishing of their offices at their personal cost.

The walls were re-painted, signage installed, and we were able to negotiate with the Equal Opportunity Commission an increase in the toilets to be able to allocate toilet space for the public. The ceiling on the second floor was replaced by the landlord, to assist in alleviating the dust issue that was causing the health issues among more sensitive members of staff. Contracts with the janitorial staff were reviewed.

Special thanks go to Ms. Gail McEachnie - Interior Decorator who provided her expertise at no cost to the Tribunal and Mr. Marcus Mayers (Driver) who undertook the task of taking items home and scrubbing and cleaning them for the Tribunal at no cost as well as removing the drapery, dusting and cleaning them.

Electronic/Digital Case Management

An interim case management system was sourced to replace the manual system of case management, which also allows for reminder emails to attorneys and limited video-conferencing. Filed documents can now be scanned immediately onto the system upon being lodged at the court. Attorneys are reminded of impending deadlines by emails, which has assisted in reducing the number of applications for adjournments. A permanent platform is being sought which would include electronic filing of documents.

Website

The Tribunal's website was upgraded in-house. A monthly case listing is now available on the website, as well as Rules of the Tribunal, the EOA, and a full report of all decided cases.

Human Resources

The Tribunal has a regular staff complement of twenty (20) - twenty-five (25) persons. Administrative functions of the Tribunal are carried out largely by persons who fall within the public service. The court functions are carried out by persons on fixed term contracts ('BOAs') who are designated as BOAs.

A Human Resource Manual is being developed for the employees who do not fall within the public service. Staff reports for these employees should be available for the first time. The existing organisational chart was extensively reviewed and updated to take into account the proposed Port of Spain Registry¹¹. The new proposed Organisational Chart of the Tribunal is annexed at Appendix I.

I am aware that the radical culture change that accompanied the leadership transition has been challenging for the some of the employees. Good Industrial Relations practice places rights and responsibilities on employees as it does on the employer. Punctuality is not an option. Sick leave is called sick leave for a reason. Time-off is discretionary. Vacation is determined by contract. Confidentiality is a pillar of the work of the Tribunal. As I take the responsibility for the tremors that ensued as we strove to reinstate these principles, I simultaneously take the opportunity to thank Mrs. Leela Ramdeen, Lay-Assessor, the Registrar and staff (both past and present) for their support and loyalty to the vision of the Tribunal.

Staff Functions/Welfare

Celebrations were held for Divali, Christmas and Carnival. Because of the stringency of finance, staff took up the baton both creatively and financially. Metaphorically - necessity became the mother of invention. Members of staff contributed time, talent, food and money generously and liberally. A decision was taken to launch a Sports Club and an interim committee was selected.

¹¹ See post, p21.

The initiative and hard work especially of Caroline Mascall-Beckles and Jannel Naimool-Graham who donated money, brought chairs and table, table cloths, cutlery, music and whatever else was needed from their homes must be applauded. The transformation of the reception area into an entertainment lounge by Caroline, Jannel, Fransel and Abbi for the Divali and Christmas celebrations was incredible. The team work of the staff for the Christmas decorations, made it possible to inject the Christmas feeling elegantly into the Tribunal's otherwise formal ambience. Although Fransel Roopchand and Abbi Noel are no longer with the Tribunal, their work in making our social functions a success must be commended.

Congratulations to Anissa Rampersad (who is also no longer with us) who took the best dressed prize at the Tribunal's first Divali function. The many contributions of staff towards the lunch and festivities allowed the Tribunal to host this function without dipping into its coffers. We must thank Pundit Rajin Maharaj for his words of inspiration and blessing of the function.

The imagination of Marcia, Lisa, Bianca, Ravi and Marcus in creating the Tribunal's first ever Christmas Crèche was amazing. The Tribunal thanks our Lay Assessor Mrs. Ramdeen for persuading his Grace the Archbishop to venture all the way out to Chaguanas at our facilities to bless the Crèche. His short homily was stimulating. We thank his Grace for taking the time to be with us.

Our first in-house Christmas lunch was a tremendous success. The food was great. The Christmas comity and spirit was infectious as staff mingled and socialised well into the afternoon.

The Tribunal welcomed teams from the Equal Opportunity Commission and the Environmental Commission for its Carnival Cook Out Competition. Thanks to the excellent cooking skills of our team lead by Marcia and Ravi, our multi-talented Registrar (with a discreet tip or two from his charming wife Soraiya), the Tribunal took no prisoners as it won the carnival cook-out to become the official holders of the Carnival Cook Out Challenge Trophy.

We extend our gratitude to the judges Mr. Sombat Mekhawong of Sombat's Thai Cuisine, Mr. Shelford Robinson of Shelford's Lounge and Ms. Stephanie Skeete, manager of Indoor Sports Facility. Our gratitude to our in house calypsonians Mrs. Bianca Griffith-Cummings and Mrs. Caroline Mascall-Beckles as well as the calypsonians from varying Calypso Tents - Crazy,

Anslem Douglas, Slick T D Entertainer, just to mention a few and our Master of Ceremonies Mr. Solomon Pena, all of whom gave their time and talent pro bono.

Coming out of the staff feedback outreach on Old Year's Day, a need has been recognised to institute assisted grief counselling, financial counselling and to look at medical insurance options for Business Operations Assistants.

LOOKING AHEAD: ADVANCEMENT AND EVOLUTION

As the Tribunal marks 10 years of existence, the opportunity is at hand for introspection and reflection. We must recognise and utilise our strengths and harness and bind our resources as we assuage our weaknesses and gird ourselves to boldly confront a challenging, demanding but undefined future. The commitment and confidence of all stakeholders is mandatory, if the Tribunal is to attain the pinnacle it warrants.

Port of Spain Registry

Our plank for the advancement of the Tribunal in the short term is the establishment of a Registry in Port of Spain. There are several considerations that have influenced the decision to relocate a Registry in Port of Spain, For example: -

- The parties and their attorneys generally are not based in Chaguanas, and accessibility to the Tribunal is neither easy nor readily available to them. Accessibility to the Tribunal is one of the key performance standards for to which the Tribunal is committed.
- The insulation and soundproofing of the ceiling of the Tribunal and its roof is inadequate. The Tribunal cannot sit when it is raining as the sound of the rain thundering onto the galvanized roofing, drowns out the voices in the Tribunal.
- The area occupied by the Tribunal in Chaguanas cannot house much needed amenities such as a library, mediation facilities or offices for lay assessors,

Even if the location of the Tribunal, its size and general inconvenience can be disregarded, the accommodation of the only Registry of the Tribunal in the same building as the Equal Opportunity Commission has lent credence to the unhappy public opinion that the Tribunal is a department or division of the Commission. There is a critical need to insulate the Tribunal from the Commission, so that they can be seen as separate, distinct and independent bodies. The physical separation of the bodies will help to instill confidence in the public that the adjudication of their dispute by the Tribunal will not be predisposed to the same influences that led to the failure of the conciliation at the Commission.

The Tribunal has identified an appropriate building at Pembroke Street Port of Spain, in the vicinity of the Hall of Justice for its Port of Spain Registry. This building has the amenities required for a flagship Registry of the country's Anti-discrimination Court. There is adequate

room to house a Library, Court Room, Conference and Mediation Facilities. This outfitting of the building is consistent with the needs of the Tribunal, and this could assist cost of furnishing and equipping the building for Tribunal use. All the necessary steps have been taken for the acquisition of the building through the Ministry of Public Administration. The matter is now with the office of the Attorney General.

Strategic Development Plan

It is timely for the Tribunal to crystallise its mission, goals, objectives and strategies for achieving them in a three (3) - five (5) year Strategic Plan. This would inform disciplined and systematic effort to realise the mandate of the Tribunal. This Plan must be predicated on a clear guide for establishing detailed customised Performance Standards and methods for their measurement. Suitable evaluation criteria must also be developed, including the collection and analysis of data to determine whether standards are being reached and the goals and objectives being realised. The Tribunal can then understand if why or how it needs to further improve. It enables transparency, allows the Tribunal to account to its stakeholders and predict trends to assist its advancement.

Tribunal Case Schedule

The Tribunal has fixed case schedule as follows:

- Regular sittings for Case Management in June and December.
- The Court will set for trials in October and April.
- The Court will sit in Tobago (as necessary) for regular sittings in November.
- The Court will sit to deliver judgments in February and July.
- Emergency/Urgent sittings will be held as necessitated.

The efficacy of the calendar will be reviewed in the coming year and adjustments made as warranted.

Technology

Electronic capability to enable the Tribunal to dispense justice that is accessible and efficient is essential in these modern times. We have been able to put in a place a stop gap system, which operates through a commercial but secure international platform that facilitates case management, reminder emails, and limited video conferencing. The Tribunal requires, as a matter of urgency, an integrated case management system which would include an e-filing platform, and video conferencing.

Library and electronic research

While the Tribunal presently houses a minimal collection of texts, it has neither a Library (including the space to accommodate one) nor access to an electronic research data base. Both of these tools are now minimum equipment for any modern court. This is seriously hampering the fundamental business of the Tribunal to properly research the law and make good judgments. It is proposed that there be the establishment of a leading library for research on anti-discrimination relief that could service students and practitioners throughout the Caribbean.

Public Confidence, Communication

Even in the absence of statistics it is safe to surmise that, most people resist being discriminated against or victimised. They may however require clarity as to the extent of protection, and or how this right can be enforced. The lack of financial resources and or knowledge or awareness of how the justice system works are a common filters of who actually access legal relief and who are left behind.

An attempt was made to set up a communication/protocol unit that disseminates information to the public through the media and manages the interaction between the court and the various public bodies professionally. A dynamic communication department that disseminates information on the integrity to the court and the relief it is empowered to give will provide a level of confidence to the people who we serve and assure their use of the proper channels to obtain relief.

The Tribunal extends its gratitude to Mr. Jones P. Madeira, Protocol Officer to the Chief Justice (Ret), for the mentoring and support provided to Ms. Fransel Roopchand.

Human Resources

We have recently reviewed and tweaked the organisational structure of the Tribunal to reshape the staff complement essential to meet that of a modern superior court of record. Among the key employees being sought are judicial research and support staff, court protocol staff, a librarian, orderlies for the court, a senior communication officer and in-house managed security.

In doing so we have identified key sensitive positions, the incumbents for which will have access to important material information that underpin the operation of the Tribunal. These include the IT personnel, the security personnel, judicial support staff, and the administrative

assistants to the Chairman, the Lay Assessors and the Registrar. Recent experience has been that hiring employees through the regular hiring process for contract workers exposes the Tribunal to employing persons before the Tribunal is able to assess by personal interaction, their personality, trustworthiness and loyalty (as opposed to their skill base, academic credentials, and or certification). It would be desirable if the Tribunal can select incumbents for such positions whose fidelity and expertise have been ascertained through prior personal interaction and to which the Tribunal can attest.

It is an ideal of the Tribunal to have employees who are happy, productive and loyal. The Tribunal is committed to implementing the best practices in industrial relations and has taken steps to incorporate ILO standards of decent work. In this regard we welcome aboard Mr. Robert Guiseppi who has agreed to provide Industrial Relations support. Staff training in modern court administration and the provision of staff incentives including appropriate reward and compensation packages, security of tenure, staff welfare programmes are needed to build and retain a competent motivated workforce.

Lay Assessors

The appointment of Lay Assessors¹² is necessary for the continued work of the Tribunal for new matters coming before it.

10 Year Anniversary

This year the Tribunal celebrates the tenth anniversary of its existence. We are hopeful that we will be able to mark the momentous event with an appropriate function. The Tribunal is desirous of commemorating this milestone with the launching of the Port of Spain Registry and an extensive Library on anti-discrimination law. This initiative is dependent on the funding, allocations and releases that we receive from the State.

¹² *The Equal Opportunity Act*, s 42(3)

EXPENDITURE FOR TRIBUNAL DEVELOPMENTAL PROGRAMME 2019/2020

In addition to the usual allocations for current the following allocations would be required to fund the Tribunal's developmental programme for 2019/2020:

No.	DESCRIPTION OF ITEM	ESTIMATED COST \$	HEAD OF EXPENDITURE
1.	Rental of the Port of Spain Registry	1,400,000.00	02/001/08
2.	Outfitting of the Port of Spain Registry (including, computers etc)	2,500,000.00	Developmental Vote to be established
3.	Electricity	120,000.00	02/001/04
4.	Library	300,000.00	02/001/11
5.	Lexis-Nexis Research	70,000.00	02/001/11
6.	Additional Staff (Contracted) as the new Proposed org chart (pending approval)	1,500,000.00	02/001/16
7.	Additional Staff (SRC) as the new Proposed org chart (pending approval)	300,000.00	01/001/23
8.	Additional Staff (Established) as the new Proposed org chart (pending approval)	330,000.00	01/001/01
9.	Staff Training and Development	500,000.00	02/001/17
10.	Electronic Case Management and E-filing	200,000.00	03/001/02/
11.	Scanners	285,000.00	03/001/04

No.	DESCRIPTION OF ITEM	ESTIMATED COST \$	HEAD OF EXPENDITURE
12.	Court Branding & Communication and Public Outreach	75,000.00	02/001/62
13.	Publication of Case Reports and Annual Reports	77,000.00	02/001/62
14.	Hiring of Consultant and Development of 3-5 year Strategic Plan	100,000.00	02/001/28
15.	10 year Anniversary Celebrations	60,000.00	02/001/66
16.	Purchase of vehicle - (X-trail)	200,000.00	03/001/01

TRIBUNAL'S PERFORMANCE 2018/2019

Our records indicate that since its inception seventy (70) matters have been referred to the Tribunal. Rising from three (3) - five (5) in the years 2012-2014 to ten (10) each in the last two (2) years. Of the approximately seventy (70) - seventy-five (75) matters referred to the Tribunal since its inception, some were settled privately and others litigated and judgments issued. We have forty (40) matters now pending before the Tribunal.

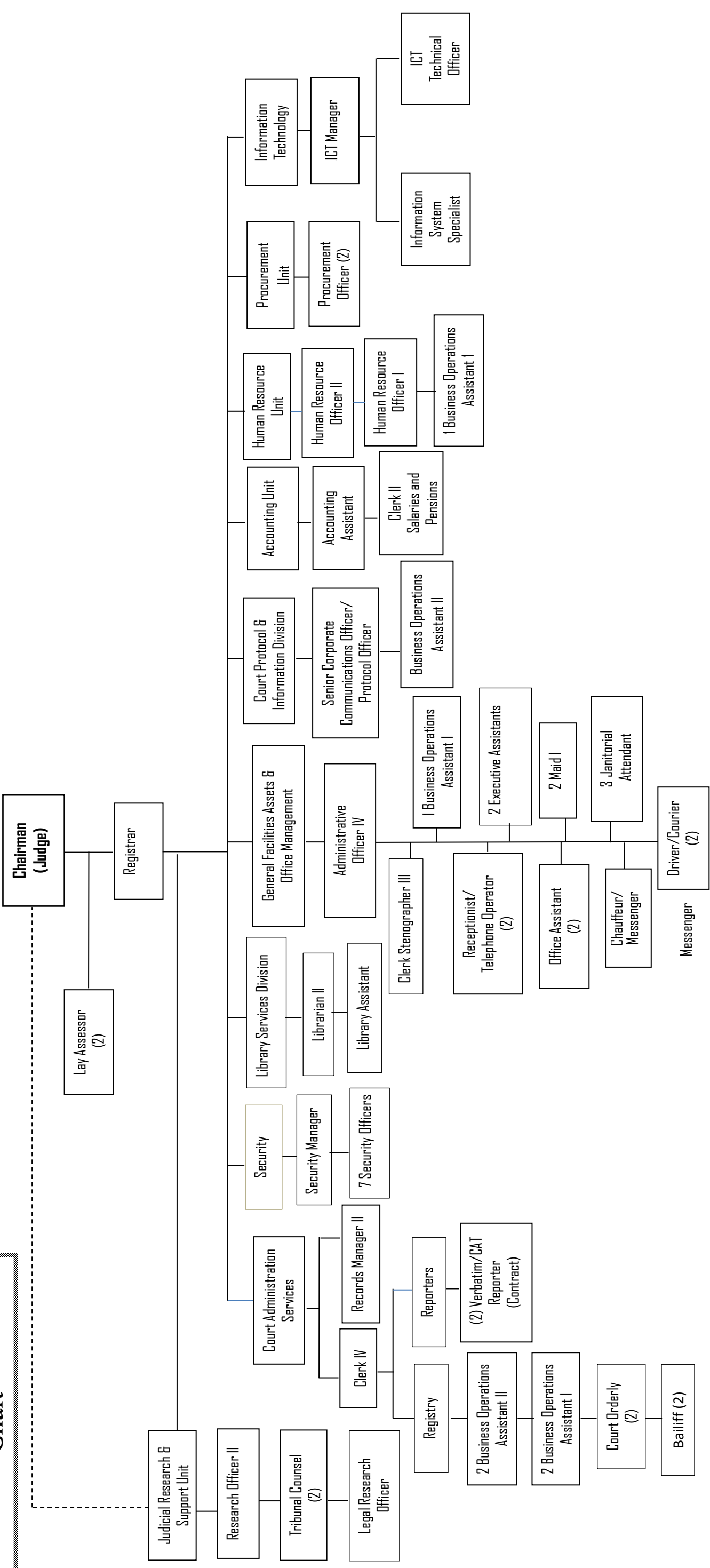
In the last year the Tribunal has delivered judgments on several jurisdictional issues which have demarcated its jurisdiction and set much needed guidelines for complainants. Five (5) such judgments have been already delivered, and we propose to complete five (5) more before the end of this court year. This is being hampered by the lack of judicial support staff and research amenities. The Registrar continues to provide good assistance but resort still has had to be had to private research resources to facilitate the delivery of judgments.

Case Management is fixed to continue in June, and trials will be heard in Trinidad in October and Tobago in November.

APPENDICES

Proposed Organisational Chart

Equal Opportunity Tribunal Proposed Organizational Chart



Equal Opportunity Act

Also available on our website and at the following link:

https://rgd.legalaffairs.gov.tt/laws2/alphabetical_list/lawspdfs/22.03.pdf

EQUAL OPPORTUNITY ACT

CHAPTER 22:03

Act
69 of 2000
Amended by
5 of 2001

Current Authorised Pages

<i>Pages</i>	<i>Authorised</i>
<i>(inclusive)</i>	<i>by L.R.O.</i>
1-32	..

Note on Subsidiary Legislation

This Chapter contains no subsidiary legislation.

CHAPTER 22:03

EQUAL OPPORTUNITY ACT

ARRANGEMENT OF SECTIONS

SECTION

PART I

PRELIMINARY

1. Short title.
2. Commencement.
3. Interpretation.

PART II

DISCRIMINATION TO WHICH THE ACT APPLIES

4. Application to discrimination limited.
5. Discrimination.
6. Discrimination by victimisation.
7. Offensive behaviour.

PART III

DISCRIMINATION IN EMPLOYMENT

8. Discrimination against applicants.
9. Discrimination against employees.
10. Vocational training.
11. Exception: Genuine occupational qualification.
12. Exception: Religious shop.
13. Exception: Domestic services and family business.
14. Exception: Inherent requirements, unjustifiable hardship, risk.

PART IV

DISCRIMINATION IN OTHER FIELDS

15. Education: Discrimination against applicants and students.
16. Exception: Single-sex educational establishments.

ARRANGEMENT OF SECTIONS—*Continued*

- 17. Discrimination *re*: Provision of goods and services.
- 18. Discrimination *re*: Accommodation.
- 18A. Unjustifiable hardship.

PART V

NON-APPLICATION OF ACT

- 19. Sports.
- 20. Privileges in connection with pregnancy or childbirth.
- 21. Membership of a club.
- 22. Voluntary bodies.
- 23. Charities.
- 24. Insurance.
- 25. Exemption for religious bodies.

PART VI

THE EQUAL OPPORTUNITY COMMISSION

- 26. Establishment and composition of the Commission.
- 27. Functions of the Commission.
- 28. Tenure of Commissioners.
- 29. Officers and staff of the Commission.

PART VII

COMPLAINTS

- 30. Lodging a complaint.
- 31. Persons with a disability.
- 32. Investigation.
- 33. Notice.
- 34. No grounds for complaint.
- 35. Conciliation.
- 36. Failure to comply with conciliation notice.
- 37. Conciliation to be held in private.
- 38. Registration of conciliation agreement.

UNOFFICIAL VERSION

UPDATED TO DECEMBER 31ST 2015

SECTION

39. Power of Commission to publish report and initiate proceedings before Tribunal.
40. Non-admissibility of evidence in conciliation proceedings.

PART VIII

THE EQUAL OPPORTUNITY TRIBUNAL

41. Establishment and jurisdiction of Tribunal.
42. Appointments.
43. Conditions of service of Chairman and lay-assessors.
44. Procedure of Tribunal.
45. Other procedure.
46. Additional powers of Tribunal.
47. Conciliation.
48. Recovery of compensation, damages or fines.
49. Effective date of Order.
50. Appeal.
51. On whom order or award to be binding.
52. Rules of Court.

PART IX

GENERAL

53. Commission's Report.
54. Report to be laid in Parliament.
55. Offence: Non-disclosure of information.
56. Conflict of interest.
57. Act binds the State.

SCHEDULE 1.

SCHEDULE 2.

CHAPTER 22:03

EQUAL OPPORTUNITY ACT

69 of 2000. **An Act to prohibit certain kinds of discrimination, to promote equality of opportunity between persons of different status, to establish an Equal Opportunity Commission and an Equal Opportunity Tribunal and for matters connected therewith.**

Commencement.
[285/2000].

[PART VI—20TH NOVEMBER, 2000.
PARTS I TO V AND VII TO IX—31ST JANUARY, 2001]

PART I

PRELIMINARY

Short title.

1. This Act may be cited as the Equal Opportunity Act.

Commencement.
[285/2000].

****2.** (1) Parts I, II, III, IV and V of the Act came into operation on the 31st January 2001.

(2) Part VI of the Act came into operation on 20th of November 2000.

(3) Parts VII, VIII and IX of the Act came into operation on the 31st of January 2001.

Interpretation.

3. In this Act—

“Commission” means the Equal Opportunity Commission established under section 26(1);

“Commissioner” means a person appointed under section 26(1);

“disability” means—

- (a) total or partial loss of a bodily function;
- (b) total or partial loss of a part of the body;
- (c) malfunction of a part of the body including a mental or psychological disease or disorder; or
- (d) malformation or disfigurement of part of the body;

UNOFFICIAL VERSION

UPDATED TO DECEMBER 31ST 2015

“employment” means employment under a contract of service or apprenticeship or a contract personally to execute any work or labour and includes the employment of an independent contractor;

“ethnicity”, in relation to a group of people, means the origin, characteristics, classification and distinctive cultural or aesthetic traditions of that group of people;

“family” means parents, brothers, sisters and other lineal antecedents and descendants, uncles, aunts and cousins;

“family business” means an enterprise owned or controlled by the members of a family;

“man” means a male person of any age;

“marital status” means the status or condition of being—

(a) single;

(b) married;

(c) married but living separately and apart from one’s spouse;

(d) divorced; or

(e) widowed;

“Minister” means the Minister to whom the responsibility for equal opportunity is assigned;

“notice” means a notice in writing;

“place of public worship” means a church, mandir, temple, mosque or other similar building or temporary structure in which religious activities are conducted whether permanently, intermittently or temporarily;

“race”, in relation to a person, means a group of persons of common ethnic origin, colour or of mixed race;

“Registrar” means the Registrar of the Tribunal appointed under section 41;

“relevant law” means any written law dealing with the subject matter of discrimination;

“religious shop” means a commercial enterprise that trades predominately in religious items;

“sex” does not include sexual preference or orientation;

“State” includes—

- (a) Government Ministries;
- (b) Municipal Corporations;
- (c) Statutory Authorities;
- (d) Enterprises owned or controlled by or on behalf of the State or which received funding from the State of more than two thirds of its total income in any one year;
- (e) Service Commissions; and
- (f) Tobago House of Assembly;

“status”, in relation to a person, means—

- (a) the sex;
- (b) the race;
- (c) the ethnicity;
- (d) the origin, including geographical origin;
- (e) the religion;
- (f) the marital status; or
- (g) any disability of that person;

“Tribunal” means the Equal Opportunity Tribunal established under section 41;

“woman” means a female person of any age.

PART II

DISCRIMINATION TO WHICH THE ACT APPLIES

4. This Act applies to—

- (a) discrimination in relation to employment, education, the provision of goods and services and the provision of accommodation, if the discrimination is—
 - (i) discrimination on the ground of status as defined in section 5; or
 - (ii) discrimination by victimisation as defined in section 6;
- (b) offensive behaviour referred to in section 7.

Application to
discrimination
limited.

5. For the purposes of this Act, a person (“the discriminator”) discriminates against another person (“the aggrieved person”) on the grounds of status if, by reason of—

Discrimination.

- (a) the status of the aggrieved person;
- (b) a characteristic that appertains generally to persons of the status of the aggrieved person; or
- (c) a characteristic that is generally imputed to persons of the status of the aggrieved person,

the discriminator treats the aggrieved person, in circumstances that are the same or are not materially different, less favourably than the discriminator treats another person of a different status.

6. (1) A person (“the discriminator”) discriminates by victimisation against another person (“the person victimised”) in any circumstances relevant for the purposes of any provision of this Act if he treats the person victimised less favourably than in those circumstances he treats or would treat other persons, and does so by reason that the person victimised has—

Discrimination by victimisation.

- (a) brought proceedings against the discriminator or any other person under this Act, or any relevant law;
- (b) given evidence or information in connection with proceedings brought by any person against the discriminator or any other person under this Act, or any relevant law;
- (c) otherwise done anything under or by reference to this Act, or any relevant law, in relation to the discriminator or any other person; or
- (d) alleged that the discriminator or any other person has committed an act, which (whether or not the allegation so states) would amount to a contravention of this Act, or any relevant law,

or by reason that the discriminator knows the person victimised intends to do any of those things referred to in paragraphs (a) to (d), or suspects the person victimised has done, or intends to do, any of them.

(2) Subsection (1) does not apply to treatment of a person by reason of any allegation made by him, if the allegation was false and not made in good faith.

Offensive
behaviour.

7. (1) A person shall not otherwise than in private, do any act which—

- (a) is reasonably likely, in all the circumstances, to offend, insult, humiliate or intimidate another person or a group of persons;
- (b) is done because of the gender, race, ethnicity, origin or religion of the other person or of some or all of the persons in the group; and
- (c) which is done with the intention of inciting gender, racial or religious hatred.

(2) For the purposes of subsection (1), an act is taken not to be done in private if it—

- (a) causes words, sounds, images or writing to be communicated to the public;
- (b) is done in a public place;
- (c) is done in the sight and hearing of persons who are in a public place.

(3) This section does not apply to acts committed in a place of public worship.

(4) In this section—

“public place” includes any place to which the public have access as of right or by invitation, whether express or implied and whether or not a charge is made for admission to the place.

PART III

DISCRIMINATION IN EMPLOYMENT

Discrimination
against
applicants.

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;

UNOFFICIAL VERSION

UPDATED TO DECEMBER 31ST 2015

- (b) in the terms or conditions on which employment is offered; or
- (c) by refusing or deliberately omitting to offer employment.

9. An employer shall not discriminate against a person employed by him—

Discrimination against employees.

- (a) in the terms or conditions of employment that the employer affords the person;
- (b) in the way the employer affords the person access to opportunities for promotion, transfer or training or to any other benefit, facility or service associated with employment, or by refusing or deliberately omitting to afford the person access to them; or
- (c) by dismissing the person or subjecting the person to any other detriment.

10. A person shall not discriminate against another person where that other person is seeking or undergoing training for any employment—

Vocational training.

- (a) in the terms or conditions on which that other person is afforded access to any training course or other facilities concerned with such training; or
- (b) by terminating that other person's training or subjecting that other person to any detriment during the course of training.

11. (1) Sections 8 to 9 shall not apply in respect of discrimination on the grounds of sex in a case where being of a particular sex is a genuine occupational qualification for employment, promotion, transfer or training.

Exception: Genuine occupational qualification.

(2) Without limiting the generality of subsection (1), being of a particular sex is a genuine occupational qualification if—

- (a) the duties relating to the employment can be performed only by a person having physical

- attributes (excluding physical strength or stamina) which only a person of a particular sex possesses;
- (b) the duties relating to the employment or training involve participation in a dramatic performance or other entertainment in a capacity for which a person of a particular sex is required for reasons of authenticity;
 - (c) the duties relating to the employment or training involve participation as an artist's photographic or exhibition model in the production of a work of art, visual image or sequence of visual images for which a person of a particular sex is required for reasons of authenticity;
 - (d) the duties relating to the employment or training need to be performed by a person of a particular sex to preserve decency or privacy;
 - (e) the nature of the establishment, or the part of it within which the work is done, requires the employment to be held by a person of a particular sex; or
 - (f) the person employed or being trained provides or is to provide persons of a particular sex with personal services concerning their welfare, education or health or similar personal services, and those services can most effectively be provided by a person of that particular sex.
- (3) Sections 8 to 10 shall not apply in a case where—
- (a) the duties relating to the employment or training involve participation in a dramatic performance or other entertainment in a capacity for which a person of a particular race is required for reasons of authenticity;
 - (b) the duties relating to the employment or training involve participation as an artist's photographic or exhibition model in the production of a work of art, visual image or sequence of visual images for which a person of a particular race is required for reasons of authenticity.

12. Sections 8 to 10 shall not apply in respect of discrimination on the ground of religion in a case where being of a particular religion is a necessary qualification for employment in a religious shop. Exception:
Religious shop.

13. (1) Sections 8 to 10 shall not apply to the employment of not more than three persons in domestic or personal services in or in relation to the home of the employer. Exception:
Domestic
services and
family business.

(2) Notwithstanding sections 8 to 10, a family business may employ relatives in favour of non-relatives.

14. Sections 8 to 10 shall not apply to the employment of a person with a disability if— Exception:
Inherent
requirements,
unjustifiable
hardship, risk.

(a) taking into account the person's past training, qualifications and experience relevant to the particular employment and, if the person is already employed by the employer, the person's performance as an employee, and all other relevant factors that it is reasonable to take into account, the person because of disability—

(i) would be unable to carry out the inherent requirements of the particular employment; or

(ii) would, in order to carry out those requirements, require services or facilities that are not required by persons without a disability and the provision of which would impose an unjustifiable hardship on the employer;

(b) because of the nature of the disability and the environment in which the person works or is to work or the nature of the work performed or to be performed, there is or likely to be—

(i) a risk that the person will injure others, and it is not reasonable in all the circumstances to take that risk; or

- (ii) a substantial risk that the person will injure himself.

PART IV

DISCRIMINATION IN OTHER FIELDS

Education:
Discrimination
against
applicants and
students.

15. (1) Subject to any agreement or practice between the State and any educational establishment, Board or other institution, an educational establishment shall not discriminate against a person—

- (a) by refusing or failing to accept that person's application for admission as a student; or
- (b) in the terms and conditions on which it admits him as a student.

(2) An educational establishment shall not discriminate against a student—

- (a) by denying or limiting the student's access to any benefits, facilities or services provided by the educational establishment; or
- (b) by expelling the student or subjecting the student to any other detriment.

Exception:
Single-sex
educational
establishments.

16. Section 15 shall not apply to the non-admission of students of a particular sex by an educational establishment which admits students of one sex only or which would be taken to admit students of one sex only if there were disregarded students of the opposite sex—

- (a) whose admission is exceptional; or
- (b) whose numbers are comparatively small and whose admission is confined to particular courses of instruction or teaching classes.

Discrimination
re:
Provision of
goods and
services.

17. (1) Any person concerned with the provision (whether or not for payment) of goods, facilities and services to the public or a section of the public shall not discriminate against a person who seeks to obtain those goods, facilities and services—

- (a) by refusing to supply the goods, provide the facilities or perform the services;

- (b) in the terms on which he supplies the goods, provides the facilities or performs the services; or
- (c) in the manner in which he supplies the goods, provides the facilities or performs the services.

(2) The following are examples of the facilities and services mentioned in subsection (1):

- (a) access to and use of any place which members of the public or a section of the public are permitted to enter;
- (b) accommodation in a hotel, guest house or other similar establishment;
- (c) facilities by way of banking or insurance or for grants, loans, credit or finance;
- (d) facilities for entertainment, recreation or refreshment;
- (e) facilities for transport or travel;
- (f) the services of any profession or trade, or any statutory authority or municipal authority.

(3) Nothing in this section applies to the provision of services the nature of which is such that they can only be provided to members of one sex.

18. (1) A person shall not discriminate against another person—

Discrimination
re:
Accommodation.

- (a) in the terms on which he offers the person accommodation;
- (b) by refusing an application of the other person for accommodation; or
- (c) by deferring an application for the other person, or according him a lower order of precedence on any list of applicants, for that accommodation.

(2) A person shall not discriminate against another person for whom accommodation has been provided—

- (a) by denying him access, or limiting his access, to any benefit connected with the accommodation;

(b) by evicting him, or subjecting him to any other detriment.

(3) Nothing in this section applies to—

(a) the provision by a person of accommodation in any premises if that person or a relative of his resides, and intends to continue to reside, on the premises;

(b) the provision by a person of accommodation where the premises comprise not more than three units available for lease;

(c) the accommodation in any hostel or other similar institution established wholly for the welfare of the person of a particular status;

(d) accommodation provided by a religious body; and

(e) shared accommodation which for reasons of privacy or decency or because of the nature of the sanitary facilities should be used by one sex only.

Unjustifiable
hardship.

18A. (1) For the purposes of this Act, in determining what constitutes unjustifiable hardship, all relevant circumstances of the particular case are to be taken into account including:

(a) the nature of the benefit or detriment likely to accrue or be suffered by any person concerned;

(b) the effect of the disability of a person concerned; and

(c) the financial circumstances and the estimated amount of expenditure required to be made by the person claiming unjustifiable hardship.

(2) Section 15 does not render it unlawful to refuse or fail to accept a person's application for admission as a student at an educational establishment where the person, if admissible as a student, would require services or facilities that are not required by students who do not have a disability and the provision of which would impose unjustifiable hardship on the educational establishment.

(3) Sections 17 and 18 do not render it unlawful to discriminate against a person on the grounds of the person's disability if the provision of the goods or services, or making facilities available, would impose unjustifiable hardship on the person who provides the goods and services or makes the facilities available.

PART V

NON-APPLICATION OF ACT

19. Nothing in this Act, shall, in relation to any sport, game Sports. or other activity of a competitive nature where the physical strength, stamina or physique of the average woman puts her at a disadvantage to the average man, prohibit any act related to the participation of a person as a competitor in events involving that activity which are not confined to competitors of one sex.

20. It is not a contravention of this Act for a person to grant Privileges in connection with pregnancy or childbirth. to a woman rights or privileges in connection with pregnancy or childbirth.

21. It is not a contravention of this Act for the membership Membership of a club. of a club to be available to persons of one sex only.

22. Where a body is established and its activities are carried Voluntary bodies. on otherwise than for profit, it is not a contravention of this Act to restrict—

- (a) the membership of that body; or
- (b) the provision of benefits, facilities or services,

to a person of a particular sex or marital status.

23. This Act does not— Charities.

- (a) affect a provision of a deed, will or other instrument, whether made before or after the commencement of this Act, that confers charitable benefits or enables charitable benefits to be conferred on persons of a particular status; or
- (b) prohibit an act which is done in order to give effect to such a provision.

Insurance.

24. Nothing in this Act prohibits the treatment of a person in relation to an annuity, life insurance policy, accident insurance policy, or similar matter involving the assessment of risk, where the treatment—

- (a) was affected by reference to actuarial or other data from a source on which it was reasonable to rely; and
- (b) was reasonable having regard to the data and any other relevant factors.

Exemption for religious bodies.

25. This Act shall not apply to—

- (a) the ordination or appointment of priests, ministers of religion or members of a religious order;
- (b) the training or education of persons seeking ordination or appointment of priests, ministers of religion or members of a religious order; or
- (c) the employment of persons in any school, college or institution under the direction or control of such a body being employment of persons in a manner that conforms with the doctrines of that religion or is necessary to avoid injury to the religious susceptibilities of the adherents of that religion.

PART VI

THE EQUAL OPPORTUNITY COMMISSION

Establishment and composition of the Commission. [5 of 2001].

26. (1) There is established a body to be known as the Equal Opportunity Commission (hereinafter referred to as “the Commission”) which shall comprise five Commissioners including a Chairman and a Vice-Chairman appointed by the President after consultation with the Prime Minister and the Leader of the Opposition.

(2) A Commissioner shall be a person with training and experience in the field of the law, industrial relations, sociology

or administration and who has served in either of these fields for a period of not less than ten years or who has served in a combination of these fields for a period which in the aggregate is not less than ten years.

(3) There shall be a panel of advisers to the Commission comprising representatives of every principal religion in Trinidad and Tobago.

(4) The Minister shall appoint the panel of advisers referred to in subsection (3).

(5) The membership of the Commission shall reflect, as far as possible, a balance of race and gender.

27. (1) The functions of the Commission are—

Functions of the
Commission.

- (a) to work towards the elimination of discrimination;
- (b) to promote equality of opportunity and good relations between persons of different status generally;
- (c) to keep under review the working of this Act and any relevant law and, when so required by the Minister, or otherwise thinks it necessary, draw up and submit to the Minister proposals for amending them;
- (d) to receive, investigate and, as far as possible, conciliate allegations of discrimination;
- (e) to develop, conduct and foster research and educational programmes and other programmes for the purpose of eliminating discrimination and promoting equality of opportunity and good relations between persons of different status;
- (f) to prepare and to publish appropriate guidelines for the avoidance of discrimination;
- (g) to do any other thing conducive or incidental to the carrying out of its functions.

(2) The Commission shall whenever considering a complaint of discrimination on the grounds of religion consult with and consider the opinions of the panel in making its decision.

Tenure of
Commissioners.

28. (1) Subject to subsection (2), a Commissioner shall be appointed for a period not exceeding three years, but is eligible for reappointment.

(2) The appointment of a Commissioner shall be terminated by the President after consultation with the Prime Minister and Leader of the Opposition if—

- (a) he becomes bankrupt;
- (b) he is nominated, elected or appointed to any other office of emolument;
- (c) he is incapable, for whatever reason, of performing his duties and functions under this Act.

(3) A Commissioner may, by letter in writing addressed to the President, resign from the office of Commissioner.

Schedule 1.

(4) A Commissioner shall, before entering upon the duties of his office, take the oath or make the affirmation as set out in Schedule 1.

(5) A Commissioner shall be paid such salary and other allowances as may be recommended from time to time by the Salaries Review Commission and approved by the Minister to whom responsibility for finance is assigned.

Officers and
staff of the
Commission.

29. The Commission may appoint such officers and other staff to assist in the performance of its functions.

PART VII

COMPLAINTS

Lodging a
complaint.

30. (1) A person who alleges that some other person has discriminated against him or has contravened section 6 or 7 in relation to him may lodge a written complaint with the Commission setting out the details of the alleged act of discrimination.

(2) A complaint under subsection (1) shall be lodged with the Commission within six months from the date of the alleged act of discrimination.

(3) Notwithstanding subsection (2), the Commission, in exceptional circumstances, may accept a complaint which is lodged more than six months after the date of the alleged act of discrimination.

31. (1) A person who because of a disability is unable to lodge a written complaint under this Act may authorise another person to act on his behalf in relation to the complaint, and the person so authorised shall have the same powers in relation to the lodgement of the complaint as he would have if he were the person on whose behalf he acts. Persons with a disability.

- (2) An authority under subsection (1) may be given—
- (a) in writing; or
 - (b) in such other manner as the Commission approves.

32. The Commission shall investigate each complaint lodged with it. Investigation.

- 33.** The Commission may by notice in writing— Notice.
- (a) require any person to furnish such information as may be described in the notice;
 - (b) specify the time within which the required information is to be furnished; and
 - (c) require the person to attend at such time and place specified in the notice and to give oral evidence about and produce all documents in his possession or control relating to, any matter specified in the notice.

34. Where upon investigating a complaint the Commission finds that there is no evidence of discrimination it shall inform the complainant in writing and shall give its reasons therefor, whereupon no further action shall be taken by the Commission. No grounds for complaint.

Conciliation.

35. (1) Where the Commission finds that the subject matter of the complaint may be resolved by conciliation, it shall make all reasonable endeavours to resolve the matter in accordance with subsection (2).

(2) The Commission may by notice require the following person to attend the conciliation:

- (a) the complainant;
- (b) the person who is alleged to have committed the act of discrimination which is the subject matter of the complaint;
- (c) any other person who—
 - (i) is likely to be able to provide information relevant to the proceedings of the conciliation; or
 - (ii) whose presence at the proceedings is likely to assist in the settlement of the matter,

and the Commission may in the said notice require any person so invited to produce such documents at the conciliation as are specified in the notice.

Failure to comply with conciliation notice.

36. A person who, without reasonable excuse, refuses or fails to comply with any requirement of a notice under sections 33 and 35(2), is liable on summary conviction—

- (a) in the case of an individual, to a fine of one thousand dollars;
- (b) in the case of a body corporate, to a fine of five thousand dollars,

for every day that the individual or body corporate refuses or fails to comply with any requirement of a notice.

Conciliation to be held in private.

37. The conciliation shall be held in private and, subject to this Act, shall be conducted in such manner as the Commission thinks fit.

Registration of conciliation agreement.

38. Where a complaint has been settled by conciliation, the settlement shall be embodied in a written agreement and

registered with the Tribunal and, upon registration, the agreement shall be deemed to be an order of the Tribunal.

39. (1) Where the Commission is of the opinion that the subject matter of a complaint cannot be resolved by conciliation or it has attempted to resolve the matter by conciliation but has not been successful in that attempt, the Commission shall—

Power of Commission to publish report and initiate proceedings before Tribunal.

- (a) prepare a report relating to the investigation with its recommendations;
- (b) send a copy of the report to the parties to the complaint;
- (c) publish the report; and
- (d) make the report available for inspection by the public.

(2) Where the subject matter referred to in subsection (1) remains unresolved and the Commission has fulfilled the requirements set out in subsection 1(a) to (d), the Commission shall, with the consent and on behalf of the complainant, initiate proceedings before the Tribunal.

40. Evidence of anything said or done in the course of conciliation proceedings under this Part is not admissible in proceedings before the Tribunal.

Non-admissibility of evidence in conciliation proceedings.

PART VIII

THE EQUAL OPPORTUNITY TRIBUNAL

41. (1) For the purposes of this Act, there is hereby established an Equal Opportunity Tribunal (hereinafter referred to as “the Tribunal”) which shall be a superior Court of record and shall have in addition to the jurisdiction and powers conferred on it by this Act all the powers inherent in such a Court.

Establishment and jurisdiction of Tribunal.

(2) The Tribunal shall consist of a Judge of status equal to that of a High Court Judge, who shall be the Chairman, and two lay-assessors as may be appointed under or in pursuance of section 42.

(3) The Tribunal shall have an official seal which shall be judicially noticed in all Courts.

(4) The Tribunal shall have jurisdiction—

(a) to hear and determine complaints referred to it by the Commission;

(b) to require persons to attend before it for the purpose of giving evidence and producing documents; and

(c) to make such declarations, orders and awards of compensation as it thinks fit.

(5) There shall be appointed for the purpose of assisting the Tribunal in the performance of its functions a Registrar and such other officers and staff as the President thinks fit.

Appointments.

42. (1) The Chairman shall be appointed by the President acting in accordance with the advice of the Judicial and Legal Service Commission.

(2) Sections 104 to 107 of the Constitution shall apply to the appointment of the Chairman.

(3) The lay-assessors shall be appointed by the President from among such persons as appear to the President to be qualified by virtue of their knowledge of or experience in law, religion, race relation, gender affairs, employment issues, education, culture, economics, social welfare or human rights and who have served in either of those fields for a period of not less than ten years or who has served in a combination of these fields which in the aggregate is not less than ten years.

(4) The lay-assessors shall assist the Chairman in arriving at a decision in proceedings before the Tribunal.

(5) The lay-assessors shall hold office for such term, not less than three years, as may be determined by the President at the time of their appointment, and are eligible for reappointment.

(6) Notwithstanding that his term of office has expired, a lay-assessor may, with the permission of the President acting on the advice of the Chairman, continue in office for such a period

after the expiry of his term as may be necessary to do anything in relation to the completion of proceedings that were commenced before the Tribunal before his term of office expired.

(7) The President, on the recommendation of the Chairman, may terminate the appointment of a lay-assessor if—

- (a) he becomes bankrupt;
- (b) he misbehaves in office;
- (c) he is nominated, elected or appointed to any other office of emolument;
- (d) he is involved in a matter or interest which appears to the Chairman to be incompatible with the function of lay-assessors; or
- (e) he is incapable, for whatever reason, of performing his duties and functions under this Act.

(8) Where a lay-assessor is ill, or otherwise unable to act, or where his office is vacant, the President may appoint a temporary member to act in the stead of such lay-assessor during his illness, or incapacity, or until the office is filled, as the case may be.

(9) No defect in the qualification or appointment of a lay-assessor shall vitiate any proceedings thereof.

(10) A lay-assessor may, by instrument in writing addressed to the President, resign from his office.

43. (1) There shall be paid to the Chairman the same salary and allowances as a Judge of the High Court, and such other allowances as the President may determine; and the said salary and allowance shall be a charge on the Consolidated Fund.

Conditions of service of Chairman and lay-assessors.

(2) The conditions of service, other than the provisions relating to pension, of a Judge of the High Court shall also apply to the Chairman.

(3) Such other conditions of service shall be applicable to the lay-assessors as may be prescribed by Order of the President.

(4) A lay-assessor shall be paid such salary and other allowances as may be recommended from time to time by the Salaries Review Commission and approved by the Minister to whom responsibility for finance is assigned.

(5) The salary, remuneration, allowances and the other conditions of service of the Chairman and of the lay-assessors shall not be altered to their disadvantage after their appointment and during their tenure of office.

Ch. 23:52.

(6) The offices of Chairman and lay-assessor of the Tribunal are pensionable offices for the purposes of the Pensions Act.

Schedule 2.

(7) The lay-assessors shall, before entering upon the duties of their office, take the oath or make the affirmation set out in Schedule 2.

Procedure of Tribunal.

44. (1) The jurisdiction of the Tribunal and powers of the Tribunal may be exercised by the Chairman and at least one lay-assessor.

(2) The Chairman shall preside at all sittings of the Tribunal.

(3) Unless rules made under this section otherwise provide, fourteen clear days' notice shall be given to the complainant and to the respondent of the date fixed for the hearing of a matter by the Tribunal.

(4) The complainant and the respondent may appear before the Tribunal in person or by their Attorney-at-law.

(5) A summons signed by the Registrar of the Tribunal shall have the same force and effect as any formal process capable of being issued in any action taken in the High Court for enforcing the attendance of witnesses and compelling the production of documents.

(6) With the consent of the complainant and the respondent the Tribunal may order that written submissions be filed in addition to and in place of an oral hearing.

(7) The decision of the Tribunal in any proceedings shall be made by the Chairman and shall be delivered by him.

(8) The Tribunal may, subject to the approval of the President, make Rules not inconsistent with this Act governing the carrying on of the business of the Tribunal and the practice and procedure in connection with appeals, including the regulating of any matters relating to cost of proceedings before the Tribunal; but no such Rule shall have effect until it has been published in the *Gazette*.

(9) Where in any written law there is conferred on the Tribunal jurisdiction which was previously exercised by another Court, Tribunal, authority or person (hereinafter called “the former Tribunal”), then, subject to any Rules made under this section—

- (a) the procedure which governed the exercise of the jurisdiction by the former Tribunal shall continue, *mutatis mutandis*, to govern such exercise by the Tribunal;
- (b) the decisions of the Tribunal in relation to such exercise are enforceable in the same way as those of the former Tribunal;
- (c) the effect of things done in or for the purpose of that jurisdiction by the former Tribunal is preserved.

45. (1) The Tribunal, as respects the attendance and examination of witnesses, the production and inspection of documents, the enforcement of its orders, the entry on inspection of the property, and other matters necessary or proper for the due exercise of its jurisdiction, shall have all such powers, rights and privileges as are vested in the High Court of Justice on the occasion of an action. Other procedure.

(2) Where the Tribunal exercises its powers to summon a person to give information under subsection (2), the Tribunal may direct that all or any part of the proceedings in the matter before it, as it may consider proper, be thereafter conducted *in camera*, and in any such case it may enjoin the parties or any of them and any member of the public and officers of the Tribunal from disclosing any such information given in their presence and hearing.

(3) A summons signed by the Registrar shall be equivalent to any formal process issuable in any action taken in the High Court of Justice for enforcing the attendance of witnesses and compelling the production of documents.

(4) The Tribunal may require evidence or argument to be presented in writing and may decide the matters upon which it will hear oral evidence or argument.

Additional powers of Tribunal.

46. In addition to the powers conferred on it under the foregoing provisions of this Part, the Tribunal may—

- (a) proceed to hear and determine a matter before it in the absence of any party who has been duly summoned to appear before the Tribunal and has failed to do so;
- (b) order any person—
 - (i) who in the opinion of the Tribunal may be affected by an order or award; or
 - (ii) who in any other case the Tribunal considers it just to be joined as a party, to be joined as a party to the proceedings under consideration on such terms and conditions as may be prescribed by rules made by the Tribunal;
- (c) generally give all such directions and do all such things as are necessary or expedient for the expedient and just hearing and determination of the complaint or any other matter before it.

Conciliation.

47. In any matter before the Tribunal, the Chairman shall make all such suggestions and do all such things as appear to be right and proper for reconciling the parties.

Recovery of compensation, damages or fines.

48. (1) On the expiration of the time fixed for compliance with an order or award for the payment of compensation, damages or fines, the amount thereof shall become due and payable and is recoverable in the manner provided by this section.

(2) Compensation, damages or fines are, upon a certificate issued by the Registrar stating that the amounts specified therein are due and payable under an order or award of the Tribunal—

- (a) recoverable summarily as a civil debt; or
- (b) recoverable in the manner provided in subsection (3),

by the person for whose benefit the order or award for such compensation or damages was made or, in the case of an order for a fine, by the Registrar and the certificate of the Registrar under this subsection is conclusive evidence of the matters specified therein.

(3) Upon the filing of a certificate issued under subsection (2) in the Registry of the High Court of Justice, the order or award shall as from the date of filing be of the same force and effect and proceedings may be taken thereon and the order or award may be enforced as if it had been a judgment originally obtained or entered upon the date of filing in the High Court of Justice.

(4) The High Court of Justice shall have the same control and jurisdiction over the order or award as it has over the judgments given by itself but in so far as it relates to execution.

(5) All costs and charges incurred under this section shall be recoverable in like manner as if included in the certificate.

(6) All fines recoverable by the Registrar under this section shall be paid into the Consolidated Fund.

49. An order or award in any matter referred to the Tribunal for determination may be made operative from such date as the Tribunal may consider fair and just having regard to all the circumstances of the case. Effective date of Order.

50. (1) Subject to subsection (2), the hearing and determination of any proceedings before the Tribunal, and an order or award or any finding or decision of the Tribunal in any matter (including an order or award)— Appeal.

- (a) shall not be challenged, appealed against, reviewed, quashed or called in question in any Court on any account whatever; and

(b) shall not be subject to prohibition, *mandamus* or injunction in any Tribunal on any account whatever.

(2) Subject to this Act, any party to a matter before the Tribunal is entitled as of right to appeal to the Court of Appeal on any of the following grounds, but no other:

- (a) that the Tribunal has no jurisdiction in the matter, but it shall not be competent for the Court of Appeal to entertain such grounds of appeal, unless objection to the jurisdiction of the Tribunal has been formally taken at some time during the progress of the matter before the making of the order or award;
- (b) that the Tribunal has exceeded its jurisdiction in the matter;
- (c) that the order or award has been obtained by fraud;
- (d) that any finding or decision of the Tribunal in any matter is erroneous in point of law;
- (e) that the Tribunal has erred on a question of fact saved that no appeal shall lie except by leave of the Court of Appeal sitting in full Court; or
- (f) that some other specific illegality not mentioned above, and substantially affecting the merits of the matter, has been committed in the course of the proceedings.

(3) On hearing of an appeal in any matter brought before it under this Act, the Court of Appeal shall have power—

- (a) if it appears to the Court of Appeal that a new hearing should be held, to set aside the order or award appealed against and order that a new hearing be held; or
- (b) to order a new hearing on any question without interfering with the finding or decision upon any other question,

and the Court of Appeal may make such final or other order as the circumstances of the matter may require.

(4) The Court of Appeal may in any matter brought on appeal before it, dismiss the appeal if it considers that no substantial miscarriage of justice has actually occurred although it is of the opinion that any point raised in the appeal might have been decided in favour of the appellant.

(5) A decision of the Court of Appeal in respect of an appeal from an order or award of the Tribunal shall be final.

- 51.** An order or award of the Tribunal shall be binding on—
- (a) all parties who appear or are represented before the Tribunal;
 - (b) all persons who have been summoned to appear as parties, whether they have appeared or not.

On whom order or award to be binding.

52. The Rules Committee under the Supreme Court of Judicature Act may, subject to provisions of this Act, make Rules governing appeals to the Court of Appeal.

Rules of Court. Ch. 4:01.

PART IX

GENERAL

53. The Commission shall within three months after the end of each calendar year submit to the Minister a report of its operations during that year.

Commission's Report.

54. The Minister shall cause the report of the Commission to be laid in Parliament.

Report to be laid in Parliament.

55. (1) It shall be an offence for any member of the Commission, or the Tribunal, or the Registrar, or any member of the staff assisting the Commission, or the Tribunal, either directly or indirectly, except in the performance of a duty under this Act, to make a record of, or divulge or communicate to any person, any information concerning the affairs of any person acquired by him by reason of his office or employment under this Act.

Offence: Non-disclosure of information.

(2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine of five thousand dollars.

Conflict of interest.

56. (1) Where a member of the Commission or the Tribunal has any actual or reasonably perceived interest in a complaint, he shall disclose the nature of such interest at the first practicable opportunity and shall not deal with the complaint.

(2) If a member of the Commission or the Tribunal has dealt with a complaint before such interest has been identified or disclosed, the investigation by the Commission or the proceedings before the Tribunal, as the case may be, relating to such complaint shall be null and void.

(3) Where a situation arises under subsection (2), the Minister shall appoint a fit and suitable person to act for the member of the Commission or the Tribunal, as the case may be, to deal with the complaint *de novo*.

Act binds the State.

57. This Act binds the State.

[Section 28(4)].

SCHEDULE 1

Oath (or Affirmation) of Office for Commissioners

I, A. B., having been appointed as a Commissioner of the Equal Opportunity Commission do swear by (solemnly affirm) that I will bear true faith and allegiance to Trinidad and Tobago and will uphold the Constitution and the law, and I will conscientiously, impartially and to the best of my knowledge, judgment and ability discharge the functions of my office and do right to all manner of people after the laws and usages of Trinidad and Tobago without fear or favour, affection or ill-will.

[Section 43(7)].

SCHEDULE 2

Oath (or Affirmation) of Office for Lay-assessors
of the Tribunal

I, A. B., having been appointed as a Lay-assessor of the Equal Opportunity Tribunal do swear by (solemnly affirm) that I will bear true faith and allegiance to Trinidad and Tobago and will uphold the Constitution and the law, and I will conscientiously, impartially and to the best of my knowledge, judgment and ability discharge the functions of my office and do right to all manner of people after the laws and usages of Trinidad and Tobago without fear or favour, affection or ill-will.

RULES OF PRACTICE AND PROCEDURE, 2016 OF THE EQUAL OPPORTUNITY TRIBUNAL

Also available on our website and at the following link:

https://docs.wixstatic.com/ugd/efc974_ba8f359321c74908af6ee77acaa959bd.pdf

“I stand for simple justice, equal opportunity and human rights.

The indispensable elements in a democratic society - and well worth fighting for”.

Helen Suzman



THE REPUBLIC OF TRINIDAD AND TOBAGO

RULES OF PRACTICE AND PROCEDURE, 2016 OF THE EQUAL OPPORTUNITY TRIBUNAL

These rules of practice and procedure were made by His Honour Mr. Rajmanlal Joseph, Judge/Chairman of the Tribunal with the concurrence of Her Honour Ms. Leela Ramdeen and His Honour Mr. Harridath Maharaj, Lay Assessors and Mr. Narendra Lalbeharry, Registrar.

Published by: Eniath Printing Limited, 2016.

© Equal Opportunity Tribunal of Trinidad and Tobago

TABLE OF CONTENTS

<u>RULE</u>		<u>PAGE</u>
-------------	--	-------------

PART 1 CITATION, APPLICATION AND DEFINITIONS

1.1	Citation	13
1.2	How rule is referenced	13
1.3	Application of the Rules	13
1.4	Tribunal's exercise of its Power under Rules	13
1.5	The Act takes precedent over Rules	13
1.6	Proceeding not invalid due to irregularity in Form	13
1.7	Definitions	13-15

PART 2 TIME COMPUTATION

2.1	How to calculate time	18
2.2	Days mean clear days	18
2.3	Meaning of clear days	18
2.4	Deals with specified period	18
2.5	Deals with fixed period	18
2.6	- do -	18
2.7	Time – Vacations	19
2.8	Meaning of month	19
2.9	Documents	19-20

PART 3 ADMINISTRATION

3.1	Location of Registry	22
3.2	Control of Registry	22
3.3	Seal of Tribunal	22
3.4	Orders of Tribunal	22
3.5	Sittings of Tribunal	22
3.6	Vacation periods of Tribunal	22
3.7	Extended leave of Tribunal	22
3.8	Opening days and hours of Tribunal	22-23

TABLE OF CONTENTS

<u>RULE</u>		<u>PAGE</u>
-------------	--	-------------

PART 4 THE REGISTRAR

4.1-4.8	Deals with the power, authority and jurisdiction of the Registrar	26-27
---------	---	-------

PART 5 INITIATION OF PROCEEDINGS

5.1	Deals with the manner in which proceedings are initiated in the Tribunal	30
5.2	Notice of Application	30

PART 6 SERVICE

6.1-6.29	Deals with how service of documents are validly effected	32-36
----------	--	-------

PART 7 APPEARANCE

7.1-7.17	Outlines how to enter an appearance and the effects thereof	38-39
----------	---	-------

PART 8 DEFENCE

8.1-8.2	Deals with Defence	42-44
---------	--------------------	-------

TABLE OF CONTENTS

<u>RULE</u>		<u>PAGE</u>
--------------------	--	--------------------

PART 9 DIRECTIONS HEARING

9.1-9.3	Outlines the function of the Tribunal at a Directions Hearing	46
---------	---	----

PART 10 ADJOURNMENTS

10.1	Deals with the circumstances the Tribunal would consider an application for an adjournment	48
------	--	----

PART 11 APPLICATION FOR INTERIM REMEDIES

11.1-11.14	Outlines the requirements for making an application for an interim remedy and how the Tribunal deals with such applications	50-52
------------	---	-------

PART 12 MEDIATION

12.1-12.12	Manner in which mediation emerges and conducted	54-55
------------	---	-------

PART 13 HEARING PROCEEDURE

13.1-13.8	How matters are dealt with by the Tribunal	58-59
-----------	--	-------

TABLE OF CONTENTS

RULE **PAGE**

PART 14 EVIDENCE

14.1-14.13 How the Tribunal deals
with written and oral evidence 62-64

PART 15 STAY

15.1-15.2 How the Tribunal deals with applications
for a stay of a judgement/order 66

PART 16 JOINER OF PARTIES AND INTERVENTIONS

16.1-16.3 The manner and circumstances the Tribunal
would allow a party to intervene or be joined
in proceedings 68

PART 17 DISCONTINUANCE OR WITHDRAWAL

17.1-17.5 How a party may discontinue or withdraw from
proceedings before the Tribunal 70

PART 18 AMENDMENT TO PLEADINGS

18.1-18.2 How pleadings are amended 72

TABLE OF CONTENTS

RULE PAGE

PART 19 BURDEN OF PROOF

19.1	The duty of a party to introduce appropriate evidence in support of its position	74
------	--	----

PART 20 COSTS

20.1-20.4	Deals with costs generally	76
-----------	----------------------------	----

PART 21 SITE VISIT AND INSPECTION

21.1	Deals with site visits by the Tribunal	78
------	--	----

PART 22 DECISIONS, JUDGEMENTS AND ORDERS OF THE TRIBUNAL

22.1-22.9	Deals with the judgements and orders of the Tribunal and the role of the Registrar therein	80-81
-----------	--	-------

PART 23 CASES ORIGINATING IN TOBAGO

23.1	How Tobago matters are to be dealt with	84
------	---	----

TABLE OF CONTENTS

<u>RULE</u>		<u>PAGE</u>
--------------------	--	--------------------

PART 24 APPLICATION OF CIVIL PROCEEDINGS RULES

24.1	Circumstances in which the Civil Proceedings Rules shall apply	86
------	---	----

PART 25 APPEALS FROM THE DECISION OF THE TRIBUNAL

25.1	How to appeal a decision of the Tribunal to the Court of Appeal	88
------	--	----

	PRESCRIBED FORMS	91-104
--	-------------------------	--------

THE EQUAL OPPORTUNITY TRIBUNAL RULES OF PRACTICE AND PROCEDURE, 2016

INTRODUCTION

These are the Rules of Practice and Procedure of the Equal Opportunity Tribunal (the Tribunal) made pursuant to section 44(8) of the Equal Opportunity Act, 2000 as amended By Act No.5 of 2001 (The Act).

All matters that come before the Tribunal do so having been initiated by the Equal Opportunity Commission (the Commission) pursuant to section 39(2) of the Act. The purpose of these Rules of Practice and Procedure therefore is to outline how the jurisdiction of the Tribunal is exercised when matters are before it and when interim remedies are being sought by parties in an action that is engaging its attention.

“Ultimately, the purpose of rules of court is to guide the court and the litigants towards the just resolution of the cause. Moreover, rules are not designed to answer every question which could arise.” To be sure, the provisions of the Act must be complied with and will necessarily override these rules in the event that there is any variance.

Moreover, the Judge/Chairman of the Equal Opportunity Tribunal accepts full responsibility for any errors or flaws in these Rules.

These Rules are made by the Judge/Chairman with the concurrence of the Lay Assessors and Registrar of the Equal Opportunity Tribunal this **28th day of January, 2016.**

His Honour Mr. Rajmanlal Joseph
JUDGE/CHAIRMAN

PART 1

CITATION, APPLICATION AND DEFINITIONS.

THE REPUBLIC OF TRINIDAD AND TOBAGO

**THE EQUAL OPPORTUNITY ACT, 2000 AS AMENDED BY
ACT No. 5 OF 2001 (THE ACT)**

**RULES OF PRACTICE AND PROCEDURE OF THE EQUAL
OPPORTUNITY TRIBUNAL (THE TRIBUNAL)**

**MADE BY THE TRIBUNAL WITH THE APPROVAL OF THE
PRESIDENT PURSUANT TO SECTION 44 (8) OF THE ACT.**

1. CITATION, APPLICATION AND DEFINITIONS.

- 1.1 The rules may be cited as the Equal Opportunity Tribunal RULES, 2016
- 1.2 A rule may be referred to by the number given to it.
- 1.3 These rules may apply to all proceedings before the Tribunal, however, the Judge/Chairman of the Tribunal may dispense with compliance with any requirement of these rules, either before or after the occasion for compliance arises.
- 1.4 The Tribunal may exercise any of its powers under these Rules on its own initiative or at the request of any party.
- 1.5 In proceedings before the Tribunal directions may be given as to the procedure to be followed in respect of a matter not dealt with by the Act or these Rules. Such directions where not covered by these Rules may be guided by the existing **Supreme Court of Judicature CIVIL PROCEEDINGS RULES 1998, as amended.**
- 1.6 No proceeding is invalid by reason only of a defect or other irregularity in form.
- 1.7 In these Rules -
“**Act**” means the Equal Opportunity Act, 2000 as amended by Act No. 5 of 2001

“**Tribunal**” means the Equal Opportunity Tribunal established under Section 41 of the Act.

“**Complainant**” means any person who consents to proceedings original or interim filed on his behalf

“**Respondent**” means the person against whom an order or

remedy is sought by the complainant

“Commission” means the Equal Opportunity Commission (EOC) established under Section 26(1) of the Act

“Directions Hearing” means hearing by the Tribunal or Judge/Chairman in order to give directions concerning timelines for filing and service of the Complaint Form, Particulars of Complaint, Defence and Reply, the identification of issues, the scheduling of the delivery of documents, identification of witnesses and establishment of time frames for filing of such witness statements, the mediation or settlement of some or all of the issues in dispute and any other matters relevant to the trial of the action.

“Document” includes -

- (a) a complaint form, particulars of complaint, defence, reply, forms, correspondence, memoranda, files, books of account, agreements, reports, charts, graphs, and any other written or pictorial communication;
- (b) a sound recording, videotape, photograph, map, plan, survey or the like thing;
- (c) information recorded or stored by means of any device, including computer files; and
- (d) facsimiles or copies of documents;

“Fax” means electronic transmission of a facsimile of a document

“File” means to lodge at the Registry, in the form and condition acceptable to the Registry, together with payment of the prescribed fee (if any);

“Hearing” means the hearing of the proceedings before the Tribunal for which a complaint has been lodged in which the Tribunal is empowered to make a final determination of the proceedings, or the hearing of an interim application in advance of such hearing;

“Interim Application” means a request for the ruling of the Tribunal on a particular issue at any stage within a proceeding or intended proceeding, and includes an application for injunctive relief as well as for a stay or an interim stay of an order or decision of the Tribunal;

“Mediation” includes all forms of conciliation, facilitation, settlement, conferences and other forms of negotiation;

“Notice of Proceedings” means a document from the EOC in accordance with Section 39 (2) of the Act filed in the Registry which begins the proceedings in accordance with Rule 5.1;

“Party” means –

- (a) the Complainant and or Respondent in original, interim or appellate proceedings;
- (b) for the purpose of these Rules, any person whom the Tribunal determines to be a party;

“Representative” means an attorney-at-law duly authorised to represent a person in a proceeding.

“Pleadings” means a complaint form, particulars of complaint, defence and reply.

PART 2

**TIME
COMPUTATION**

2.

TIME COMPUTATION

- 2.1 This rule demonstrates how to calculate any period of time for doing any act which is fixed –
- (a) by these Rules;
 - (b) by any practice direction; or
 - (c) by any order of the Tribunal
- 2.2 All periods of time expressed as a number of days are to be computed as clear days.
- 2.3 In this rule “clear days” means that in computing the number of days the day on which the period begins and the day on which the period ends are not included.
- 2.4 Where the specified period –
- (a) is 5 days or less; and
 - (b) includes –
 - (i) a Saturday or Sunday; or
 - (ii) any other day on which the Tribunal office is closed, that day does not count.
- 2.5 When the period fixed –
- (a) by these Rules;
 - (b) by any practice direction; or
 - (c) by any order,
for doing any act at the Tribunal Office ends on a day on which the Tribunal is closed, it shall be in time if done before 4 p.m. on the next day on which the Tribunal is open.
- 2.6 When the period fixed –
- (a) by these Rules;
 - (b) any practice direction; or
 - (c) by any order,

for doing any act which does not need to be done at Tribunal ends -

- (i) on a Saturday or Sunday;
- (ii) on any public holiday; or
- (iii) on Carnival Monday or Carnival Tuesday,
it must be done on the next ordinary business day

2.7 TIME – VACATIONS

- (1) During the long vacation time prescribed by these Rules for serving any Particulars of Complaint or amendment thereof other than the complainant's Particulars of Complaint served with his Complaint Form does not run.
- (2) However, this rule does not override any order of the Tribunal which specifies a date for service of a Particulars of Complaint.

2.8 MEANING OF MONTH

Where “month” occurs in any order or any other document, it means a calendar month.

2.9 DOCUMENTS

- (a) So far as is practicable, every document prepared for use in the Tribunal must be on “letter size” paper; approximately 11 inches long by 8.5 inches wide. Margins of 1” (25mm) must be left at top and bottom and 1.5” (33mm) at each side.
- (b) Every document to be filed at the Tribunal must be headed with the title of the proceedings and –
 - (i) a description of the document;
 - (ii) a statement of the nature of the case;
 - (iii) be endorsed with the name;
 - firm name
 - bar number
 - address
 - telephone and fax numbers (if any);and

- E-mail address (if any),
of the attorney-at-law filing the
document, and where an advocate
attorney has been instructed,
- the name;
- bar number;
- telephone and fax numbers (if any);
and
- E-mail address (if any) of that
advocate

PART 3

ADMINISTRATION

3.

ADMINISTRATION

- 3.1 There shall be a Registry for the Tribunal in Chaguanas and in any other place as may hereafter be determined by the Judge/Chairman.
- 3.2 The Registry shall be under the control and direction of the Registrar. In exercising that control and direction, the Registrar is to have regard to any direction by the Judge/Chairman.
- 3.3 The Seal of the Tribunal shall be an impressed Seal with the wording “Seal Equal Opportunity Tribunal”.
- 3.4 Orders of the Tribunal (or copies of them) when issued out of the Tribunal and Summons / Warrants of the Tribunal shall be sealed with the seal of the Tribunal.
- 3.5 The places, dates and times of the sittings of the Tribunal are to be published if, and in such manner, as the Judge/Chairman directs.
- 3.6 The Tribunal shall observe the same vacation periods as the Supreme Court of Judicature of Trinidad and Tobago.
- 3.7 This Rule does not affect any right to leave or extended leave, of the Judge/Chairman or other members of the Tribunal.
- 3.8 The offices of the Tribunal shall be open on every day of the year except –
 - (a) Saturdays and Sundays;
 - (b) Carnival Monday and Carnival Tuesday;
 - (c) Public Holidays;
 - (d) The next working day after Christmas day; and

- (e) Tuesday after Easter, between 8 a.m. and 4 p.m. However, if the Judge/Chairman gives directions as to opening at other times and other days, the Registrar shall follow those directions.

PART 4

THE REGISTRAR

4.

THE REGISTRAR

- 4.1 The Registrar shall keep the books, files and other records of the Tribunal, and is to ensure that the appropriate entries are made in them. The Registrar shall retain custody of all documents filed in any proceedings.
- 4.2 The Registrar shall issue and sign all process of the Tribunal.
- 4.3 The Registrar shall keep an account of all fees, fines and money paid or payable into the Tribunal, give such receipts as are required under any law, and pay out any money to which a party is entitled. In addition, the Registrar may be authorised by the Judge/Chairman to open, operate and maintain an account at a commercial bank in Trinidad and Tobago in the name of the Tribunal for the safe keeping of moneys collected.
- 4.4 The Registrar shall produce to an officer authorised by the Auditor General any book, file, or other record kept by the Registrar (whether or not it is a book of account) which the officer requires to be produced in the course of the officer's duties.
- 4.5 The Registrar may delegate any of the functions referred to in sub-rules 4.1 – 4.4 to any proper officer in the Registry as the Registrar sees fit.
- 4.6 The Registrar may tax bills of costs when required to so do by the Tribunal.
- 4.7 The Tribunal may by order direct the Registrar or any other officer of the Tribunal to do or to refrain from doing, in any proceedings, any act relating to the duties of the officer's office.

- 4.8 If the Registrar gives a direction, makes an order or does any act in any proceedings, the Tribunal may, on application by any party or on its own accord, review the direction, order or act, and make such order by way of confirmation, variation, discharge or otherwise as the Tribunal directs.

PART 5

INITIATION OF PROCEEDINGS

5.

INITIATION OF PROCEEDINGS

- 5.1 Proceedings are begun/initiated by filing at the Registry the original and two copies of the following documents.
- (a) A letter from the Equal Opportunity Commission (EOC) in accordance with Section 39 (2) of the Act indicating that the complaint remains unresolved and the EOC has fulfilled the requirements set out in Subsection 1 (a) to (d) of the Act and that the Complainant consents in writing to the matter being referred to the Tribunal.
 - (b) A copy of the published report of the EOC.
- 5.2 A Notice of Application (Form 4) shall –
- (a) include the title of the proceedings;
 - (b) include a full description of the nature of the application;
 - (c) specify any remedy that is being sought;
 - (d) state the name and address of all persons intended to be served with the notice of application;
 - (e) be accompanied by an affidavit outlining the evidence in support of the application;
 - (f) a draft order must accompany the notice of application.

PART 6

SERVICE

6.

SERVICE

- 6.1 A sealed Complaint Form with Particulars of Complaint (Form 1) must be personally served on each Respondent together with all accompanying documents as directed by the Tribunal.
- 6.2 A sealed Notice of Application must be personally served on each Respondent together with supporting affidavits/s and all accompanying documents within 7 days of filing.
- 6.3 A copy may be delivered to a person by handing it to the person or by leaving it in the person's presence and informing the person of its nature.
- 6.4 Except where personal service is required, service on a party may be effected by delivering a copy, at the residence or place of business of the party, to a person apparently not less than 16 years old and apparently residing at that residence or employed at that place of business.
- 6.5 For service of a document to be regular it is not necessary for the original to be produced to any person.
- 6.6 Documents other than a sealed complaint and / or a sealed Notice of Application may be served on a party by the Complainant/Applicant or his agent unless the Tribunal orders otherwise.
- 6.7 Where a document other than those referred to in subrule 6.6 is to be served on any person, it may be served by any of the following methods:
 - (a) personal service in accordance with rule 6.1 – 6.3;
 - (b) registered mail

- (c) delivery by courier service
 - (d) facsimile transmission; or
 - (e) E-mail.
- 6.8 If a party has given an address at which documents for him shall be served, the documents must be delivered or posted to him at that address.
- 6.9 If a party has given a facsimile transmission number in his address for service the documents shall be sent to him by facsimile transmission to that number.
- 6.10 If a party to be served has not given an address at which documents for him shall be served, documents shall be served at –
- (a) the business address of any attorney who purports to act for him in the proceedings;
 - (b) in the case of an individual, his usual or last known place of residence; or
 - (c) in the case of a proprietor of a business, either –
 - (i) his usual or last known place of residence; or
 - (ii) his place or last known place of business
- 6.11 A party may change the address for service by filing and serving a notice of change showing the new address for service.
- 6.12 Service cannot be effected on a Sunday or any public holiday unless authorised by the Judge/Chairman.
- 6.13 In case of doubtful service, the Tribunal may not allow any fresh steps in proceedings to be taken against a party, and may adjourn or strike out the proceedings, or order fresh process to issue, as it considers just.

- 6.14 In sub rule 6.13 “doubtful service” refers to a case where service of any document on a party has not been personal, and the Tribunal is satisfied on the evidence before it that the document either did not come to the knowledge of the party within reasonable time, or on that evidence, that the service is in doubt.
- 6.15 If for any reason it is impractical to effect service of a document on a person in any of the modes prescribed in this rule for that service, the Tribunal may, on application supported by an affidavit showing grounds, direct that, instead of service, such step be taken as specified in the order for the purpose of bringing the document to the notice of the person.
- 6.16 If the Tribunal makes an order under sub rule 6.15, it may order that service be taken to be effected on the happening of any specified event, or on the expiry of any specific time.
- 6.17 If it is impractical for any reason to effect service of a document, but steps have been taken for the purpose of bringing the document to the notice of the party, the Tribunal may, if it thinks fit, direct that the service be deemed to have been effected on a date specified in the order.
- 6.18 The Tribunal may dispense with service of a document if it is appropriate to do so.
- 6.19 If an attorney or someone employed by that attorney endorses on any process a note that he accepts service of the process on behalf of any person, process is taken to have been duly served on the person on the date which a copy of the process was delivered to the attorney or left at the attorney’s office.
- 6.20 Delivery of a copy of a document in proceedings to a

party's attorney, or leaving a copy at the attorney's office, or sending a copy by registered post addressed to the attorney at the attorney's office, is taken to be good service of the document on the party as on the day when the copy is delivered or left, or would have been delivered in the ordinary course of post, as the case may require.

- 6.21 Delivery by any particular electronic means to the attorney's office of a reproduction of the document or copy, is sufficient service on that party as on the day after that delivery, if the attorney has indicated in writing that delivery by those means is acceptable as service.
- 6.22 Subrule 6.20 – 6.21 apply in a case where a party has on the record of any proceedings an attorney acting for him. These subrules do not apply to or in respect of the service of any Complaint Form or document if that service must be personal.
- 6.23 For the purposes of the proof of service, evidence of a statement by a server of the person's identity, or that the person holds some office, as evidence of that identity, as the case may be, shall be admissible.
- 6.24 Service on a company incorporated and/or continued under the Companies Act 1995 which is a party in proceedings may be effected by delivery to a director, company secretary, officer, receiver, receiver-manager or liquidator or the manager of the company, or its registered office.
- 6.25 Subrule 6.24 applies where no other law applies to service on a company.
- 6.26 If a person is carrying on business within Trinidad and Tobago under a business name not registered under the Registration of Business Names Act, Chap. 82:05, any process or document relating to any proceedings may be

served on such person –

- (a) by leaving it at a place within Trinidad and Tobago where the business is carried on with someone apparently engaged (whether employee or otherwise) in the business and apparently not less than 16 years old; or
- (b) by sending it by registered mail addressed to the business name, or to the person at a place within Trinidad and Tobago where the business is carried on.

6.27 Subrule 6.26 applies whether or not the person is named in the proceedings in his name or in the business name.

6.28 Service in accordance with subrule 6.26 has effect as personal service.

6.29 Subrules 6.26 – 6.28 does not limit the operation of the Registration of Business Names Act, or any other Act or regulation relating to service.

PART 7

APPEARANCE

7.

APPEARANCE

- 7.1 If the Respondent wishes to dispute the complaint or to dispute the Tribunal's jurisdiction, he must enter an appearance (Form 2) giving notice of intention to defend within 8 days after service of the Complaint Form and Particulars of complaint.
- 7.2 However, he need not enter an appearance if he files a defence (Form 3) within the time prescribed by the Tribunal.
- 7.3 Failure to file a defence within the time stipulated to so do may result in the Tribunal dealing with the matter in his absence.
- 7.4 An Appearance must state the date on which the Respondent received the Complaint Form and Particulars of complaint.
- 7.5 A Respondent may state in an appearance that he admits all or part of the complaint.
- 7.6 A Respondent who admits part of a complaint must state what part/s of the complaint he admits.
- 7.7 Where a Respondent admits all or part of a complaint he may file with his appearance his proposals for settlement of the entire complaint or the part/s that he admits.
- 7.8 If a Respondent admits part only of the complaint he must also file a defence as to those parts of the complaint he disputes within the time for filing a defence.
- 7.9 An Appearance must be signed by the Respondent or his attorney.

- 7.10 The Respondent must include in an appearance an address to which documents may be sent.
- 7.11 That address must be within 3 miles of the Tribunal's office at which the complaint was issued.
- 7.12 A Respondent who enters an appearance does not by doing so lose any right that he may have to dispute the Tribunal's jurisdiction.
- 7.13 A Respondent who wishes –
- (a) to dispute the Tribunal's jurisdiction to try the complaint; or
 - (b) to argue that the Tribunal should not exercise its jurisdiction, may apply to the Tribunal by notice for an order declaring that it has no such jurisdiction or should not exercise any jurisdiction which it may have.
- 7.14 A Respondent who wishes to make such an application must first enter an appearance.
- 7.15 An application under this subrule must be made within the period for filing a defence.
- 7.16 An application under subrule 7.15 must be supported by evidence.
- 7.17 If the Respondent –
- (a) enters an appearance; and
 - (b) does not make such an application within the period for filing a defence, he is treated as having accepted that the Tribunal has jurisdiction to try the complaint and is precluded from making any such application during the proceedings.

PART 8

DEFENCE

8.

DEFENCE

- 8.1 A Respondent who wishes to defend all or part of a complaint must file a defence within the time stipulated by the Tribunal.
- 8.2 If a Respondent fails to file a defence within the period for filing a defence, the Tribunal may proceed to deal with the complaint in his absence.
- 8.3 A Respondent may apply for an order extending time for filing a defence.
- 8.4 The parties to the proceedings may agree to extend the period for filing a defence up to a maximum of 2 months after the date of service of the complaint form and particulars of complaint.
- 8.5 Only one agreement to extend the time for filing a defence may be made, and the Respondent must file details of such an agreement.
- 8.6 Any further extensions may only be made by an order of the Tribunal.
- 8.7 When a Respondent files a defence, he must also serve a filed copy on all other parties.
- 8.8 The Respondent must include in his defence a statement of all the facts on which he relies to dispute the complaint against him.
- 8.9 In his defence the Respondent must say –
 - (a) which (if any) allegations in the complaint form

- and/or particulars of complaint he admits;
 - (b) which (if any) he denies; and
 - (c) which (if any) he neither admits nor denies, because he does not know whether they are true, but which he wishes the complainant to prove.
- 8.10 Where the Respondent denies any of the allegations in the complaint form and/or particulars of complaint –
- (a) he must state his reason for doing so; and
 - (b) if he intends to prove a different version of events from that given by the complainant, he must state his own version.
- 8.11 If, in relation to any allegation in the complaint form and/or particulars of complaint the Respondent does not –
- (a) admit or deny it; or
 - (b) put forward a different version of events, he must state each of his reasons for resisting the allegation.
- 8.12 The Respondent must identify in or annex to the defence any document which he considers to be necessary to his defence.
- 8.13 The Respondent may not rely on any allegation which he did not mention in his defence, but which he should have mentioned there, unless the Tribunal gives him permission to do so.
- 8.14 The Tribunal may give the Respondent such permission on an Application Hearing.
- 8.15 Where the defence is filed by an attorney it must –
- (a) be signed by the attorney;
 - (b) give his name and business address, telephone number and facsimile transmission number (if any) and his E-mail address (if any);
 - (c) if that address is not within 3 miles of the Tribunal's

office where the complaint form was issued, give an address for service within that distance.

- 8.16 Where the defence is filed by the Respondent personally (or in the case of a body corporate by an officer of that corporate), it must give an address at which documents may be served, unless he has filed an appearance which includes such an address.
- 8.17 The address must be within 3 miles of the Tribunal office where the complaint form was issued.
- 8.18 The Respondent must certify on the defence that he believes that its contents are true.
- 8.19 If it is impractical for the Respondent to give the certificate required by subrule 8.18 it may be given by his attorney.
- 8.20 If the certificate is given by the attorney he must also certify the reasons why it is impractical for the Respondent to give the certificate and that the certificate is given on the Respondent's instructions.

PART 9

DIRECTIONS HEARING

9.

DIRECTIONS HEARING

- 9.1 A Directions hearing may be held to deal with any of the following –
- (a) Establishing timelines for the filing and service of the Complaint Form, Particulars of Complaint, Defence and Reply
 - (b) determining the length and schedule of the hearing;
 - (c) determining whether the hearing will be conducted orally or in writing or a combination of both;
 - (d) hearing preliminary and interim applications, including applications to dismiss for non-compliance;
 - (e) addressing procedural issues;
 - (f) identifying and defining issues;
 - (g) arranging for the production and exchange among parties of all documents relevant to the proceeding;
 - (h) identifying witnesses and establishing time frames for filing and service of witness statements;
 - (i) establishing facts or evidence that may be agreed on;
 - (j) determining whether the matter may benefit from an alternative dispute resolution process (e.g. mediation) to resolve the issue/s before the Tribunal prior to the date set for the hearing; and
 - (k) any other matters that may assist in the just and expeditious disposition of the proceedings.
- 9.2 Any representative attending a directions hearing must have the authority to make procedural and /or other agreements and give undertakings respecting the matters to be addressed.
- 9.3 There shall be an adjourned directions hearing to determine whether all directions given were carried out and to fix a date for hearing.

PART 10

ADJOURNMENTS

- 10.1 If, after the date of hearing of any proceedings has been fixed, the parties want an adjournment, they must communicate with the Tribunal at least 7 days before the date of hearing or its continuance, stating the grounds for an adjournment. However, such a request for an adjournment, though by consent of the parties, may not necessarily be granted. If an adjournment is sought at a late stage, the Tribunal may order the payment of costs. In granting or refusing an adjournment the Tribunal may impose such conditions as it considers appropriate.

PART 11

APPLICATIONS FOR INTERIM REMEDIES

11. APPLICATIONS FOR INTERIM REMEDIES

- 11.1 This Rule applies to applications for interim remedies in relation to proceedings before the Tribunal and includes an application for –
- (a) an interim injunction; or
 - (b) an interim order or declaration.
- 11.2 An application for an interim remedy shall be made by filing in the Registry of the Tribunal the following documents -
- (a) Notice of application (Form 4);
 - (b) Affidavit/s and other documents in support of the application; and
 - (c) A draft of the order sought.
- 11.3 Once the documents are filed as required by subrule 11.2 the Registry shall as soon as practicable submit all filed documents to the Judge/Chairman for consideration of the application and hearing thereof.
- 11.4 Every application for an interim remedy shall –
- (a) state the precise relief/s sought;
 - (b) state the grounds to be argued, including a reference to any statutory provision or rule to be relied on;
 - (c) list and exhibit the documentary evidence to be used at the hearing of the application;
 - (d) name each party to be affected by the order which is sought; and
 - (e) indicate any previous order made by the Tribunal in connection with the subject matter of the application.
- 11.5 If an application for an interim remedy is required to be served, it must, unless the Tribunal otherwise orders, be

served not less than 3 clear days before the date fixed for the hearing of the application.

- 11.6 Nothing in these rules shall prohibit the Tribunal from ordering that time be abridged or extended for the service of an interim application.
- 11.7 A hearing date shall be obtained from the Registry before the application is served and it shall be endorsed on the copies for service.
- 11.8 Unless the Tribunal permits oral evidence, the evidence in the hearing of an interim application shall be by affidavit. A party who intends at the hearing to rely on any affidavit must file the affidavit in the proceeding and serve a copy on every other interested party (except a person on whom service is dispensed with in accordance with these rules) not less than 2 days before the hearing or within such period as the Tribunal may order.
- 11.9 Every affidavit shall be endorsed with a note showing on whose behalf it is filed and the dates of swearing and filing, and an affidavit which is not so endorsed, must not be filed or used without leave of the Tribunal.
- 11.10 The Tribunal, on the hearing or adjourned hearing of any interim application, may make or refuse the order sought and may make such order or give directions as may be just.
- 11.11 An interim application in relation to any proceedings shall include, as far as practicable, all or as many applications as the applicant may wish to make in relation to the proceedings and having regard to the nature of the proceedings, can conveniently be dealt with at the same time.
- 11.12 On the hearing or the adjourned hearing of the interim

application, a respondent is at liberty to make an application for an order in relation to the proceedings.

11.13 The Tribunal may either grant or refuse the order applied for by the respondent, and give such directions as may be just, or may adjourn the hearing of the application and direct that notice to be given of the application.

11.14 If the Tribunal grants or refuses any order upon the hearing or adjourned hearing of an interim application, it may do so on terms.

PART 12

MEDIATION

12.

MEDIATION

- 12.1 In accordance with Section 47 of the Act, the Tribunal encourages parties to consider mediation as a viable tool to settle their matter. If agreed to by the parties mediation shall be conducted in confidence by a member of the Tribunal. If no settlement is reached the hearing will take place with no reference to the information disclosed during the mediation, except with the consent of the parties. The Tribunal member who conducted the mediation may not sit or continue to sit as a member of the coram exercising jurisdiction to hear and determine the matter.
- 12.2 Where parties consent to mediation, the proceedings will stand adjourned to enable the mediation to be conducted, unless the Tribunal considers that, in all the circumstances, they should not be adjourned.
- 12.3 The member of the Tribunal to whom a matter is referred for mediation –
- (a) shall, within 7 days of being notified of the referral, in writing, appoint a time and place for mediation;
 - (b) may appoint a preliminary meeting of the parties; and
 - (c) may give directions relating to preparations for the conduct of the mediation.
- 12.4 A mediation session shall be attended by each party or, by a representative having the necessary authority to settle the matter.
- 12.5 Other persons may attend a mediation session with leave of the mediator.
- 12.6 The mediator shall within 7 days of the conclusion of

the mediation, advise the Tribunal of that fact but not the details thereof.

- 12.7 The parties may advise the Tribunal of the terms agreed between them, or any agreement or arrangement arrived at or arising out of mediation.
- 12.8 A mediator may terminate a mediation.
- 12.9 A party may terminate a mediation at any time by giving notice of the termination to the Tribunal, the mediator and every other party.
- 12.10 If a mediation is terminated, the proceedings are to be sent to the Judge/Chairman for further directions, if necessary.
- 12.11 All documents submitted and all statements made at the mediation are confidential and without prejudice.
- 12.12 Any confidential documents used at the mediation shall –
 - (a) not be accessible to the public;
 - (b) be returned to the party who submitted the documents after the mediation;
 - (c) not be considered to be filed in the proceedings; and
 - (d) not part of the record.

PART 13

HEARING PROCEDURE

13.

HEARING PROCEDURE

- 13.1 Every party to a complaint, must file a written submission (5 copies) with the Registry of the Tribunal and serve a copy on every other party at least 7 days before the date of hearing.
- 13.2 A written submission shall contain -
 - (a) a summary of the facts and evidence to be relied on by the party; and
 - (b) a list of witnesses to be called on by the party and a summary of the evidence of each witness including photographs and other relevant documents.
- 13.3 Unless the Tribunal directs otherwise, at the beginning of every hearing the complainant or his attorney may give a brief opening statement that describes the issues that he will address at the hearing. The statement may further include an outline of the evidence he intends to introduce, a list of witnesses, the topics to be covered and the expected amount of time required to so do.
- 13.4 After the complainant presents his case the respondent may then present his evidence to the Tribunal, make his closing submission, with the complainant having the right to reply.
- 13.5 The closing submissions and reply may be oral or in writing or a combination of both, as directed by the Tribunal.
- 13.6 If two or more proceedings before the Tribunal involve the same or similar facts, law or policy, the Tribunal may, with the consent of the parties, combine the proceedings or any part of them or hear the proceedings at the same time.

- 13.7 A witness having technical or special knowledge, who is retained by any of the parties before the Tribunal to give evidence shall provide a written curriculum vitae of his qualifications and experience, and file same at the Registry of the Tribunal at least 7 days prior to the hearing.
- 13.8 Witness summonses (Form 5) must be served no later than 7 working days before the date of hearing, except where the witness would attend willingly, and the issue of a summons is a matter of form, the Tribunal will not normally issue a witness summons less than 5 working days before the date of hearing.

PART 14

EVIDENCE

14.

EVIDENCE

- 14.1 The Tribunal shall admit any relevant oral or documentary evidence that is not privileged. Relevant evidence means evidence having any tendency to make the existence of any fact that is of consequence to the administration of the proceeding more probable or less probable than it would be without the evidence. The Tribunal may, however, exclude evidence if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issue, or consideration of undue delay, waste of time, or needless presentation or repetition.
- 14.2 The fact that evidence is deemed admissible does not mean that it will be determinative of the issue.
- 14.3 Where there is full compliance with the Evidence Act and with any legislation dealing with privilege, the Tribunal may limit introduction of evidence or issue such protective or other order that in its judgement is required to prevent undue disclosure of classified, confidential or sensitive matters including but not limited to matters of national security, business or of a personal or proprietary nature.
- 14.4 Where the Tribunal determines that information in documents containing classified, confidential or sensitive matters should be made available to another party, the Tribunal may direct the party to prepare an unclassified or non-sensitive summary or extract of the original. The summary or extract may be admitted as evidence in the record.
- 14.5 If the Tribunal determines that the procedure described at subrule 14.4 is inadequate and that classified or otherwise sensitive matters must form part of the record in order to avoid prejudice to a party, the Tribunal may advise the

parties and provide opportunity for arrangements to permit a party or representative to have access to such matters.

- 14.6 The Tribunal may accept and enter into the record direct testimony of a witness made by a written witness statement rather than by oral presentation at the hearing. A witness whose testimony is presented by a witness statement shall be available for cross-examination, as may be required.
- 14.7 A witness statement must –
- (a) give the name, address and occupation of the witness;
 - (b) be dated;
 - (c) be signed by the intended witness;
 - (d) as far as reasonably practicable, be in the intended witness's own words;
 - (e) sufficiently identify any document to which the statement refers without repeating its contents unless this is necessary in order to identify the document;
 - (f) not include any matters of information or belief which are not admissible and, where admissible, must state the source of such information or belief of any matters of information or belief; and
 - (g) include a statement by the intended witness that he believes the statements of fact in it to be true.
- 14.8 The Tribunal may order that any inadmissible, scandalous, irrelevant or otherwise oppressive matter be struck out of any witness statement. In addition the Tribunal may on application by a party to the proceedings grant leave for that party to file, serve and use a supplemental witness statement in circumstances where further matters on which the witness can give evidence arises or become relevant or known to the party after his witness statement has been served.

- 14.9 Cross-examination shall be limited to the scope of the direct evidence and subject to the discretion of the Tribunal, and shall always be limited to witnesses whose testimony is adverse to the party desiring to cross-examine. Cross-examination will be permitted to the extent necessary for full and true disclosure of the facts. The Tribunal may, in the exercise of its discretion, permit inquiry into additional matters as if on direct evidence.
- 14.10 Evidence of a confidential or sensitive nature or evidence so deemed can with the leave of the Tribunal, be heard in camera.
- 14.11 A technical witness is a person who gives scientific and technical observations, tests, measurements and estimates. He may be able to collect this information because of special training and expertise, but he is not an expert who interprets scientific and technical evidence and provides opinions.
- 14.12 An expert witness is someone who has specialised education, training and experience that qualifies him to reliably interpret scientific or technical information or to express opinions about matters for which untrained or inexperienced persons cannot provide reliable opinions.
- 14.13 The Tribunal expects the witness giving technical and / or expert evidence to remain within their area of competence, and to disclose in their witness statements all tests, observations and data relating to the issues in the matter, regardless of which party the information appears to favour.

PART 15

STAY

- 15.1 A party against whom a judgement has been given or an order made may apply to the Tribunal for a stay of execution of the judgement or order or other relief on the ground of matters which have occurred since the date of the judgement or order, and / or pending the filing of a notice of appeal.
- 15.2 Upon an application for a stay, the Tribunal may –
- (a) make an order staying the judgement or order;
 - (b) dismiss the application for a stay;
 - (c) issue directions on procedure, inviting submissions from all affected persons on whether or not a stay should be granted.

PART 16

**JOINDER OF
PARTIES AND
INTERVENTIONS**

16.

JOINDER OF PARTIES AND INTERVENTIONS

- 16.1 Where any matter or issue connected with the subject matter of the proceedings should be determined not only as between the original parties but also as between either or both of them and a person not already a party, such person may make an application to intervene in the proceedings or may be joined as a party on the application of any party.
- 16.2 Such application to intervene or to join or be joined shall be by notice supported by affidavit/s and shall contain particulars of the person's interest in the subject matter of the proceedings.
- 16.3 In order to make a determination of an application to intervene, the Tribunal shall consider whether –
- (a) the applicant's participation will materially assist the Tribunal in determining the matter by providing testimony, cross-examining witnesses, or offering arguments or other evidence directly relevant to the matters and whether the applicant has a sufficient interest in the subject matter of the proceeding and his intervention will not unnecessarily delay the progress of the matter;
 - (b) the applicant's position is or is not supportive of the proceedings;
 - (c) the applicant will not repeat or duplicate evidence presented by other parties; and
 - (d) if the application is late, there are satisfactory reasons therefore.

PART 17

DISCONTINUANCE OR WITHDRAWAL

17. DISCONTINUANCE OR WITHDRAWAL

- 17.1 A party may, with the leave of the Tribunal or the consent of the other parties, discontinue or withdraw the whole or any part of the proceedings brought by him.
- 17.2 A respondent may with the consent of the complainant and all other parties, have the proceedings withdrawn.
- 17.3 A discontinuance or withdrawal shall be made by filing in the Registry of the Tribunal, a notice stating the extent of the discontinuance or withdrawal (Form 6).
- 17.4 If the discontinuance or withdrawal is by consent, the consent shall be endorsed by each consenting party on the notice before filing.
- 17.5 Where leave of the Tribunal is sought to discontinue or withdraw, an application in that behalf shall be made and notice of such application shall be served on all parties.

PART 18

AMENDMENTS TO PLEADINGS

18.

AMENDMENTS TO PLEADINGS

- 18.1 Amendments to pleadings (Particulars of Complaint, Defence, Reply) may be made with leave of the Tribunal prior to a date of hearing being fixed.
- 18.2 However, once a date of hearing has been fixed by the Tribunal, applications for leave to amend pleadings would only be entertained in exceptional circumstances.

PART 19

BURDEN OF PROOF

19.

BURDEN OF PROOF

- 19.1 In a case in which the Tribunal hears evidence, any party offering such evidence shall have the burden of introducing appropriate evidence to support its position. Where there is conflicting evidence, the Tribunal shall decide which evidence to accept and generally act on the preponderance of the evidence.

PART 20

COSTS

20.

COSTS

- 20.1 Any party to a proceeding before the Tribunal may make an application for an award of costs on a application for interim remedy or on the conclusion of the final hearing of a matter.
- 20.2 No party shall be entitled to any recovery costs of or incidental to any proceedings from any other party to the proceedings, except under an order of the Tribunal.
- 20.3 An order for costs of an application for an interim remedy may be assessed by the Tribunal or may be sent to the Registrar to be assessed.
- 20.4 An order for costs at the conclusion of a final hearing and determination of a matter would be dealt with on the basis of prescribed costs as follows:
- (a) where the compensation awarded does not exceed \$30,000 the amount of costs to be awarded would be 30%
 - (b) exceeds \$30,000 but not exceeding \$50,000. 25%
 - (c) exceeds \$50,000 but not exceeding \$100,000. 20%
 - (d) exceeds \$100,000 a flat rate of 15% shall apply
 - (e) where no compensation is awarded by the Tribunal but an order or declaration is made in favour of a complainant a value of \$50,000 shall be assumed and the complainant would be entitled to 25% of the value as his costs.

PART 21

SITE VISIT AND INSPECTION

21.

SITE VISIT AND INSPECTION

- 21.1 The Tribunal may make one or more site visits or inspections to better understand the evidence given at the hearing, and may in each case issue directions for the procedures to be followed during the site visit or inspection.

PART 22

**DECISIONS,
JUDGEMENTS AND
ORDERS OF THE
TRIBUNAL**

22. DECISIONS, JUDGEMENTS AND ORDERS OF THE TRIBUNAL

- 22.1 In this Rule “order” includes a decision or judgement;
- 22.2 The Tribunal may at any stage of any proceedings, on the application of any party, make such order as the nature of the case requires.
- 22.3 The Tribunal may do so even if the applicant did not make a claim for relief extending to that order.
- 22.4 (i) A minute of the final order disposing of the proceedings shall be signed, sealed and filed by the Registrar
- (ii) The Registrar shall prepare, sign and seal a minute of any other order when directed to do so by the Tribunal.
- 22.5 A final order disposing of any proceedings takes effect when it is made or given, unless otherwise ordered by the Tribunal.
- 22.6 An order, which requires a person to do an act other than the payment of money, shall specify the time within which the person is required to do the act.
- 22.7 The time shall be 7 days after the date of service of a copy of the order on the person required to do the act, unless the Tribunal otherwise orders.
- 22.8 The Tribunal may, by a later order, require the person to do the act within another specified time.

- 22.9 The Tribunal may, on terms, set aside or vary an order in any of the following cases:
- (a) if the order has been made in the absence of a party, whether or not the absent party is in default of appearance or otherwise in default, and whether or not the absent party had notice of the matter on which the order was made;
 - (b) the absent party is required to make an application or set aside an order within 7 days of the said order being made;
 - (c) however, if the order was obtained by fraud or the other party/ies consents then the Tribunal may be minded to deal with the application to vary or set aside an order, even though it may be made after the seven day period as outlined in rule 22.9 (b).

PART 23

CASES
ORIGINATING IN
TOBAGO

23.

CASES ORIGINATING IN TOBAGO

- 23.1 All cases that originate in Tobago shall be dealt with in Tobago except when the matter is referred to the Tribunal by the Equal Opportunity Commission in accordance with Section 39(2) of the Act.

PART 24

**APPLICATION
OF CIVIL
PROCEEDINGS
RULES**

- 24.1 In any case where the foregoing rules do not expressly provide, the existing rules of the Supreme Court of Trinidad and Tobago shall apply *mutatis mutandis*.

PART 25

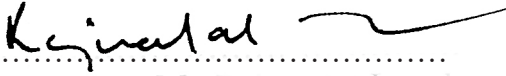
**APPEALS FROM
THE DECISION OF
THE TRIBUNAL**

25. APPEALS FROM THE DECISION OF THE TRIBUNAL

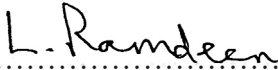
- 25.1 A party wishing to appeal a decision of the Tribunal shall comply with the provisions of section 50 of the Act and Part 64 of the Civil Proceedings Rules 1998 of the Supreme Court of Judicature as amended.

The foregoing rules of practice and procedure of the Equal Opportunity Tribunal 2016 were gazetted on June 3, 2016 in the Trinidad and Tobago Gazette (Extraordinary) Vol. 55 No. 69 as required by Section 44(8) of the Equal Opportunity Act No. 69 of 2000 as amended by Act No. 5 of 2001.

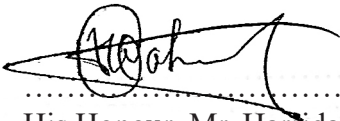
Made by the Judge/Chairman with the concurrence of the Lay Assessors of the Equal Opportunity Tribunal this **28th day of January, 2016.**



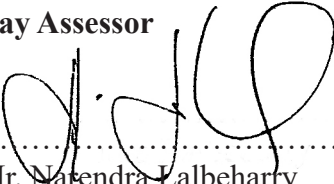
His Honour Mr. Rajmanlal Joseph
JUDGE/CHAIRMAN



Her Honour Ms. Leela Ramdeen
Lay Assessor

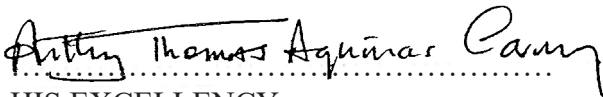


His Honour Mr. Harridath Maharaj
Lay Assessor



Mr. Narendra Lalbeharry
Registrar

Approved by His Excellency the President of the Republic of Trinidad and Tobago this *eighteenth* day of *MAY* 2016



HIS EXCELLENCY
Anthony Thomas Aquinas Carmona O.R.T.T., S.C.
PRESIDENT

PRESCRIBED FORMS

REPUBLIC OF TRINIDAD AND TOBAGO

IN THE EQUAL OPPORTUNITY TRIBUNAL

(Referred pursuant to S. 39(2) of the Equal Opportunity Act 2000 as amended by Act No. 5 of 2001)

E.O.T. No. OF 20

BETWEEN

Complainant

AND

Respondent

COMPLAINT FORM

The Complainant () of () complains against

give full names/s

give full address

the Respondent () of () (set out briefly

give full names/s

give full address

the nature of the complaint and the remedy requested)

PARTICULARS OF COMPLAINT

(Set our full particulars of the complaint)

Certificate of Consent and Truth

I/we hereby consent to this complaint being referred to the Tribunal and that the contents of this complaint are true and that I am entitled to the remedy requested.

SIGNED:
Complainant/s

SIGNED:
Attorney-at-Law for the Complainant

The Tribunal office is at #55-57 Manic Street, Chaguanas, 500621, Telephone Number 672-2929. The office is open between 8:00am and 4:00pm Monday to Friday except public holidays and court holidays.

REPUBLIC OF TRINIDAD AND TOBAGO

APPEARANCE TO COMPLAINT

IN THE EQUAL OPPORTUNITY TRIBUNAL

(Referred pursuant to S. 39(2) of the Equal Opportunity Act 2000 as amended by Act No. 5 of 2001)

E.O.T. No. OF 20

BETWEEN

Complainant

AND

Respondent

APPEARANCE

Please enter appearance for
State name(s) of Respondent(s)

WARNING: If this form is not fully completed and returned to the Tribunal at the address below within EIGHT days of service of the complaint on you, the complainant will be entitled to have the matter dealt with by the Tribunal in your absence.

- 1. Have you received the complaint form with the above number? YES / NO
- 2. If so, when?/...../.....
- 3. Did you also receive the complainant's particulars of complaint? YES / NO

4. If so, when?/...../.....
5. Are your names properly stated on the complaint form? YES / NO
 If not, what are your full names:
6. Do you intend to defend the complaint? YES / NO
 If so, you must file a defence with **28 days** of the service of the complaint on you.
7. Do you admit the whole of the complaint? YES / NO
 If you do, you shall be contacted by the Registrar within **14 days** of the filing of this appearance.
8. Do you admit any part of the complaint? YES / NO
9. If so, how much do you admit?
10. What is your own address?
11. What is your address of service:
 If you are acting in person you must give an address within 3 miles of the Tribunal's Office to which documents may be sent either from other parties or from the Tribunal. You should also give your telephone number, Fax number and e-mail address, if any.

Dated

Signed

(Respondent in person) (Respondent's Attorney-at-law)

The Tribunal office is at #55-57 Manic Street, Chaguanas, 500621, Telephone Number 672-2929. The office is open between 8:00am and 4:00pm Monday to Friday except public holidays and court holidays.

REPUBLIC OF TRINIDAD AND TOBAGO

IN THE EQUAL OPPORTUNITY TRIBUNAL
(Referred pursuant to S. 39(2) of the Equal Opportunity Act 2000 as amended by Act No. 5 of 2001)

E.O.T. No. OF 20

BETWEEN

Complainant

AND

Respondent

DEFENCE

I dispute the complaint on the following grounds:

I certify that all the facts set out in my defence are true to the best of my knowledge, information and belief. My address for service is:

Telephone No.: Fax No.: E-mail address:

Signed:.....
(Respondent)

Dated:.....

We are acting for the Respondent, our address for service is:
.....

Signed:.....
(Attorney-at-law for Respondent)

The Tribunal office is at #55-57 Manic Street, Chaguanas, 500621, Telephone Number 672-2929. The office is open between 8:00am and 4:00pm Monday to Friday except public holidays and court holidays.

REPUBLIC OF TRINIDAD AND TOBAGO

IN THE EQUAL OPPORTUNITY TRIBUNAL
(Referred pursuant to S. 39(2) of the Equal Opportunity Act 2000 as amended by Act No. 5 of 2001)

E.O.T. No. OF 20

BETWEEN

Complainant

AND

Respondent

NOTICE OF APPLICATION

The (Complainant) (Respondent) applies to the Tribunal for an order that:-

A draft of the order that I seek is attached.

The grounds of the application are –

I/We hereby certify that the facts stated above are true to the best of my/our knowledge, information and belief.

(An affidavit in support accompanies this application)

Dated:

Signed: (Attorney-at-law for) (Complainant)
(Respondent)

NOTICE:

This application will be heard by the Tribunal on the
Day of 20... at am/pm at the Tribunal's courtroom at the
undermentioned address.

If you do not attend this hearing an order may be made in your absence.

N.B. This notice of application must be served as quickly as possible on the respondent to the application.

The Tribunal office is at #55-57 Manic Street, Chaguanas, 500621, Telephone Number 672-2929. The office is open between 8:00am and 4:00pm Monday to Friday except public holidays and court holidays.

REPUBLIC OF TRINIDAD AND TOBAGO

IN THE EQUAL OPPORTUNITY TRIBUNAL

(Referred pursuant to S. 39(2) of the Equal Opportunity Act 2000 as amended by Act No. 5 of 2001)

E.O.T. No. OF 20

BETWEEN

Complainant

AND

Respondent

WITNESS SUMMONS

TO: (Witness name)

OF: (Witness address)

You are summoned to attend at the Equal Opportunity Tribunal at #55-57 Manic Street, Chaguanas, at am on the day of 20... , the day fixed for the hearing of this complaint and from day to day till the end of the trial to give evidence (and to bring with you and produce the following documents):

Sum to be paid to witness: \$.....

Dated

This summons was issued on the application of the (Complainant) (Respondent) whose
Attorney-at-law is of
.....

Signed:.....

Telephone No.: Fax No.: E-mail address:

The Tribunal office is at #55-57 Manic Street, Chaguanas, 500621, Telephone Number
672-2929. The office is open between 8:00am and 4:00pm Monday to Friday except
public holidays and court holidays.

REPUBLIC OF TRINIDAD AND TOBAGO

IN THE EQUAL OPPORTUNITY TRIBUNAL

(Referred pursuant to S. 39(2) of the Equal Opportunity Act 2000 as amended by Act No. 5 of 2001)

E.O.T. No. OF 20

BETWEEN

Complainant

AND

Respondent

NOTICE OF DISCONTINUANCE

TAKE NOTICE that the Complainant herein **HEREBY** discontinues all of this complaint against the Respondent/s herein following the complainant’s application before His Honour Mr. Rajmanlal Joseph, who granted permission for the complainant to discontinue all of his complaint by order dated theday of, 20

Dated this..... day of, 20

Signed:
Complainant or his Attorney-at-law

The Tribunal office is at #55-57 Manic Street, Chaguanas, 500621, Telephone Number 672-2929. The office is open between 8:00am and 4:00pm Monday to Friday except public holidays and court holidays.

REPUBLIC OF TRINIDAD AND TOBAGO

IN THE EQUAL OPPORTUNITY TRIBUNAL

(Referred pursuant to S. 39(2) of the Equal Opportunity Act 2000 as amended by Act No. 5 of 2001)

E.O.T. No. OF 20

BETWEEN

Complainant

AND

Respondent

REGISTRAR’S CERTIFICATE

(Issued pursuant to S. 48(2) of the Act)

By a judgment (or order) of this Tribunal dated the day of
....., 20..... it is adjudged (or ordered) that
(.....)
(give particulars of the judgment or order)

I HEREBY CERTIFY that the amount payable to..... by
..... in pursuance of the said judgment (or order) is
\$..... together with interest thereon at the rate of per cent per annum
until payment and together with costs which have been assessed at \$
Interest is payable on the said cost at the rate of per cent per annum from the
..... day of, 20..... until payment.

Dated the day of, 20

REGISTRAR

May 21, 2019
Equal Opportunity Tribunal