



Trinidad and Tobago Office of the Ombudsman



26th Annual Report

January 1, 2003 to December 31, 2003

Vision Statement

COMMITTED
TO ENSURING
THE PROTECTION OF
THE INDIVIDUAL AGAINST
BUREAUCRATIC INJUSTICE

Mission Statement

1. To investigate complaints against Government departments, agencies and authorities.
2. To provide an impartial, informal and expeditious service to the public.
3. To educate the public as to their rights and duties in a free, democratic society vis-à-vis the responsibilities and accountability of public officers.
4. To promote an effective and efficient public service that is responsive to the needs of the citizenry.





OFFICE OF THE OMBUDSMAN OF TRINIDAD AND TOBAGO

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July, 2004

The Honourable Speaker

Parliament
Red House
St Vincent Street
PORT OF SPAIN

Dear **Mr Speaker**

I have the honour to present the TWENTY-SIXTH ANNUAL REPORT of the OMBUDSMAN for the period January 1, 2003 to December 31, 2003.

The Report is submitted pursuant to Subsection 5 of Section 96 of the Constitution of the Republic of Trinidad and Tobago.

Yours faithfully

A handwritten signature in black ink that reads "G. A. Edoo".

GEORGE A. EDOO

**OMBUDSMAN
REPUBLIC OF TRINIDAD & TOBAGO**



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Overview

For the year 2003, 1304 complaints were received of which 179 were concluded. A total of 2,413 complaints were brought over from previous years resulting in a workload of 3,717 complaints. Of this amount 660 complaints were resolved.

The previous year's workload consisted of 3,294 complaints comprising 1,502 complaints received in 2002 and 1,791 complaints brought forward from previous years. The total number of complaints resolved in the year 2002 was 498.

The Tobago Office which was established in the year 2002, recorded a total of 187 complaints for the year, 2003. The total received in the year 2002 was 137 complaints.

The number of persons who accessed the outreach programme in 2003, number 618 comprised as follows:

San Fernando	170
Sangre Grande	158
Chaguanas	86
Point Fortin	86
Siparia	70
Rio Claro	48

Ten (10) complaints were received under the Freedom of Information Act in 2003. The Act came into effect on 4th December, 1999. A like number was recorded for the year 2002. Details of these matters appear in the Statistical Review published at page 12.

Of the 1304 complaints received in 2003, a substantial number were recorded against the following Ministries/Departments as indicated:

Local Government Bodies	123
Tobago House of Assembly	97
Water & Sewerage Authority	58
Social Welfare	51
Trinidad and Tobago Electricity Commission	48
National Housing Authority	46
Police	44
Prisons	42
Works & Transport	41

The local government bodies comprise five (5) City and Borough Corporations and nine (9) Regional Councils; a total of 123 complaints were recorded against them for



the year 2003 as compared with a total of 161 complaints recorded for the year 2002.

Complaints related primarily to infrastructural deficiencies in roads, watercourses and bridges which impacted on the daily lives of citizens.

Complaints against the Tobago House of Assembly in respect of services provided by departments which fall under their jurisdiction related mainly to discrimination in employment practices, to infrastructural deficiencies and to matters of social assistance and old age pensions.

Complaints against the Water & Sewerage Authority related chiefly to lack of water supply and wrongful billing.

Complaints to the Social Welfare Division related mainly to the provision of old age pension and social assistance.

Complaints against the Trinidad and Tobago Electricity Commission related to delays in the replacement of rotted and defective electricity poles, failure to obtain an electricity supply, failure to pay compensation for damage to electrical appliances and retroactive billing.

Complaints against the National Housing Authority related mainly to failure to access deeds of title after satisfaction of mortgage payments, assistance in securing housing accommodation and failure to renovate and maintain the Authority's houses and apartments.

Complaints against the Police related to matters of harassment, wrongful arrest and violence to the person. These were referred to the Police Complaints Authority.

Complaints against the Prison Services came from prisoners who complained about their accommodation, food and lack of medical attention. Complaints also concerned the listing of their matters before the Courts and pending appeals.

Complaints against the Works & Transport Ministry related mainly to infrastructural deficiencies in roads, bridges and water courses. Complaints were also received from employees disputing their rates of pay and overtime allowances.

The number and type of complaints received followed the pattern of recent years. Our success in resolving complaints depended on the co-operation and assistance of the departments and authorities with which we dealt on a day to day basis. The problems continued to be systemic in nature. Delays in handling of correspondence, delays in the payment of moneys due and compensation for admitted wrongs continue, causing injustice and hardship to Complainants.



PART I

GENERAL

International Conferences/Meetings

Inter-American Institute of Human Rights

Under the auspices of the Inter-American Institute of Human Rights, I attended a Seminar/Workshop on the ***Promotion of Reproductive Rights through the work of the Ombudsman Offices of the Caribbean*** held in Jamaica from March 18-20, 2003. The meeting was convened by the United Nations Population Fund (UNFPA), the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the Inter-American Institute of Human Rights (IIHR) and facilitated by the Caribbean Ombudsman Association (CAROA) of which I am a member.

Participants at the Seminar included Ombudsmen and officials of the following countries: Antigua and Barbuda, Barbados, Bermuda, Guyana, Haiti, Jamaica, Puerto Rico and Saint Lucia.

The objectives of the Seminar/Workshop were:

- 1) To provide the Ombudsman Offices with a framework for the application of human rights to reproductive and sexual health;
- 2) To discuss critical reproductive health/rights issues within the region;
- 3) To assess obstacles and opportunities that women and men face in the exercise of reproductive rights;
- 4) To examine the existing structures and/or mechanisms within the Ombudsman Offices to promote and protect reproductive rights within the region;
- 5) To encourage the development of action plans by the Ombudsman Offices for the promotion and protection of reproductive rights.

Among the recommendations made were the following:

- a) The Office of the Ombudsman should be involved in any ongoing review of legislation which deals with Human Rights and Reproductive Rights.
- b) The Ombudsman should prepare reports to Parliament on specific areas of abuse which need urgent and immediate redress and try to have the matter prioritized.



I presented a paper at the Seminar which is included in this Report as an appendix at page 28.

**National Institute for the Protection of
Human Rights in the Americas**

Under the auspices of the United Nations High Commissioner for Human Rights, the Canadian Human Rights Commission and the Mexican National Commission for Human Rights, the Network of National Institutions for the Protection of Human Rights in the Americas held a workshop in San Jose, Costa Rica from March 26 – 27, 2003 which was attended by Mrs. Yvette Hall, Senior Investigator.

The main objective of the workshop was the development of a uniform practical approach to be used by members of the Network in dealing with issues related to persons with disabilities.

The workshop was attended by 40 participants from Argentina, Bolivia, Columbia, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Panama, Paraguay, Peru, the Dominican Republic and Haiti.

Among the conclusions arrived at by the workshop were the following:

- a) A recognition of the important role of national human rights institutions in the Americas in establishing and promoting a culture of peace and human rights in the region.
- b) The need to encourage governments to recognize the importance of the work that national institutions carry out in building societies with greater justice, freedom, democracy, solidarity and respect for human rights and to guarantee the material and political conditions necessary for national institutions to comply with their responsibilities.



Personnel and Training

Personnel

The Organisational Chart appended to this Report at page 48 shows the present staff position.

During the year under review, the Public Management Consulting Division (PMCD) of the Ministry of Public Administration and Information conducted a manpower audit, at our request, for the purpose of determining the staffing needs of the Investigations Unit. After collecting data from workload statistics, holding discussions with the relevant personnel and perusing our Strategic Plan, the PMCD agreed that there had been a steady increase in the number of complaints to the Office over the last three (3) years. This growth resulted from the nationwide awareness of the role and functions of the Ombudsman, easier access to our head office, which was relocated to downtown Port of Spain, and monthly visits to other regions of the country.

The PMCD also confirmed that the Investigations Unit needed to be strengthened in order to undertake investigations with a high standard of professionalism, timeliness and efficiency, as outlined in the Strategic Plan.

The PMCD therefore recommended the creation of the following additional positions to strengthen the Investigations Unit to which Cabinet agreed:

- 1 Director, Investigations and Complaints Resolution
- 1 Senior Investigator
- 3 Investigators

It is anticipated that those posts will be filled by October, 2004 and that a permanent Office will be established in San Fernando to handle the substantial number of complaints which emanate from the southern region of the country.

Training

The staff continued to receive specialized training to assist them to discharge their functions with a high degree of professionalism and efficiency in keeping with the strategic goals identified for the period 2001 to 2003.

During the period under review, investigative, administrative, clerical and secretarial staff were trained in one or more of the following Computer Applications: Microsoft Excel, Word Access and Power Point with the objective to improve effectiveness and efficiency in office operations.

The manipulative staff were also trained in one of the following Computer courses: Computer Literacy, Word, Computer Technician Programme and Repairs and Networking.



The Network Technician who was appointed during the year received Oracle training in order to maintain the Complaints Management Database for faster access to information on complaints and continues to conduct training of staff on the Complaints Management Database.

The Institute of Business conducted an In-House Workshop in Mediation which was attended by Investigators to assist them in the resolution of complaints.

The staff attended two (2) other In-House training programmes: **The Telephone Challenge** and **Improved Business Communication** so as to ensure that professional standards are maintained when employees interact with members of the public and Government Officials.

Two (2) Investigators received training in Administrative Law and Constitutional Law with a view to improving their knowledge of the operation of public sector agencies.



Area of Concern

The Water and Sewerage Authority

Section 16(1) of the Fourth Schedule of the Water and Sewerage Act, Chap.54:40 (the Act) prescribes the rates to be charged for the supply of water viz

“16(1) Where undertakers supply water to any premises for domestic purposes or where the Authority erects, maintains, and keeps supplied with water any public standpipe, they or it, as the case may be, may charge in respect thereof a water rate, which shall be calculated at a rate not exceeding the prescribed rate –

- a) in the case of a house or of any premises not used solely for business, trade or manufacturing purposes or for the exercise of functions by any public authority, on the annual value thereof; and
- b) in the case of any other premises, on such proportion of the annual value thereof as may be prescribed.

In 1993, and subsequently, the Public Utilities Commission (PUC) made the following orders, contrary to the rating provision referred to above. These Orders which are still in force have been the source of many complaints to the Ombudsman’s Office since they were proclaimed.

Order 78 prescribed a rate of \$711.00 per month for supply of water to dual-use premises which were used partly for residential and partly for business purposes. One half of these rates was prescribed for sewage service where applicable in the Cities of Port of Spain and San Fernando resulting in a total of over \$1,000.00 per month. By subsequent Order, (Order 83), the rate was reduced to \$300.00 per month.

The criteria used for imposing these rates, was that the business had been registered for the payment of value added tax. These rates had a great effect on small businesses such as parlours and kiosks whose consumption of water was negligible. Many such businesses went out of operation on the imposition of these rates.

The reason given by the PUC for an increase in rates was that the Authority was short of cash required to meet basic liabilities such as its weekly and monthly payrolls and to equip its crews.

By Order 79, the PUC prescribed an increase of 20% on bills of all metered customers and unmetered non-domestic customers. The effect of Orders 78 and 79 was to increase the rates of these two categories of customers on an average between 600 percent and 900 percent. These Orders which had retroactive effect from 15th August,



1992 were subsequently reduced to one year by the then Minister of Public Utilities.

Order 78 also prescribed rates for separate parts of premises in the following terms:

“Where the Annual Taxable Value of the separate parts of a building or of the separate covered buildings within a common boundary can be disaggregated, each part shall be classified and billed separately in accordance with these rules.

The PUC left the duty of disaggregation to the Authority which, in some cases, refused to accept the rateable value fixed by the rating Authority.

By Order 83 which applied to dual-use premises, the PUC relented and fix a flat rate of \$395.00 per month which applied to some dual-use premises. These rates are defined as “Cottage Service” rates which were intermediate between domestic and non-domestic rates.

When the Act was passed in 1965, the rates prescribed could have been justified on the ground that there may have been an adequate supply of water to satisfy the existing population.

At the present time, there are few areas in the country which have an adequate supply of water. Numerous complaints are received of an inadequate supply or no supplies at all. Even the rates prescribed under the Act cannot stand up to justification, far less are the rates prescribed by the PUC in 1993 and thereafter.

When the application of these rates are left to the discretion of the Authority’s officers, the decisions result in great injustice and hardship to customers as the following selected cases culled from previous Annual Reports illustrate.

Case No. 1 (1995)

The Complainant’s uncle transferred ownership of a parcel of agricultural land in Tobago to him in 1993. In that same year he received a bill from the Authority representing arrears for the period January, 01 1986 to April 30, 1993, in a substantial sum. He was advised by his uncle that the latter had requested the Authority to disconnect the service some ten years previously. In fact, the property was in a state of abandon during this period. On investigation of the matter, the Regional Engineer reported that voluntary disconnection required the payment of all outstanding charges and a disconnection fee. Since these requirements were not met, disconnection had not been effected at that time. The supply was eventually disconnected on June 14, 1993, for non-payment of arrears. *The Commercial Manager indicated that it was the policy of the Authority to disconnect water service once the account was in arrears of at least one quarter.*

[Common sense would indicate that if a customer is in arrears



and makes no effort to liquidate the arrears, the Authority would, as a matter of principle, disconnect the water supply and add the disconnection fees to his bill. The result was that the Complainant was required to sign an agreement to liquidate the arrears].

Case No. 2 (1997)

The Complainant was the owner of a small business enterprise in the City of Port of Spain. He fell within the provisions of Order 83 which prescribed a rate of \$711.00 per month for a domestic supply and one-half of that rate for sewage services. His bill, with retroactive effect amounted to \$38,627.13.

In his complaint of discrimination and unfair treatment, he furnished a table which showed a comparison in billings and service consumption as they related to his property and to other value-added tax properties.

These were larger businesses with more employees. They had more toilets, face basins, external faucets, showers, kitchen sinks and urinals than his business enterprise. Their bills were considerably less than his as they had a metered supply.

He was subsequently furnished with a meter on condition that he would be liable for the outstanding arrears. He decided that on the question of the arrears, he would take the matter to Court.

Case No. 3 (1999)

The Complainant, a property owner in San Fernando, complained that the Authority had been sending her four sets of bills each quarter for service to one building which was fitted with a single connection.

On investigation of the matter, the Authority's Customer Accounting Manager pointed out that the Authority was mandated by the PUC to levy rates on unmetered premises on the basis of the assessed value fixed by the relevant Authority. He claimed that the records held by the San Fernando Corporation showed that there were four assessments based on occupation by tenants.

The rateable value fixed by the Corporation was \$8,700.00 in respect of the whole premises which was in conformity with the provision in the Water and Sewerage Act. In order to justify the charges, the Authority extracted the information from the House Rate Book of the Corporation in order to open separate accounts in respect of each occupier and proceeded to bill the owner of the premises. The House Rate Book was, however, used by the Corporation for the purpose of arriving at the taxable value of the premises.

[The Authority referred to Order 78 of the PUC to the effect that where the annual taxable value of the separate parts of a



building can be disaggregated, each part can be classified and billed separately. This Order gave rise to numerous complaints at the time it was passed. The PUC subsequently stated that the Order applied to self-contained units such as condominiums for which an annual taxable value in respect of each unit can be applied].

Case No. 4 (2003)

The Complainants were owners of a property in the City of San Fernando which was unoccupied and abandoned since 1997. They had been residing in Canada for upwards of twenty years previously. The agent of the owners had been requesting the Authority to disconnect the water supply but the Authority failed to do so with the result that the charges kept mounting and at the time of complaint, amounted to a considerable sum.

On investigating the matter, the Manager, Customer Business Service stated that she was satisfied that the house was dilapidated and unoccupied without any internal plumbing but that the water line was connected to a water tank on the premises. (The water tank, however, was erected by the owner of the adjoining premises and supplied water to those premises). She decided that the class of account be changed from A3 (internally serviced) to A2 (externally serviced) and adjusted the account from \$397.25 to \$67.50 per quarter leaving a substantial balance to be paid by the owners. It was stipulated that in order to have the water service disconnected, it was necessary to pay the outstanding balance in full.

[This case is similar to case 3 in that the Authority should have disconnected the supply and added the disconnection fee to the bill. In this case also, the Authority was satisfied that the house was dilapidated and unoccupied, yet proceeded to fix a charge of \$67.50 per quarter. The process of reasoning is difficult to understand. The charge of \$67.50 per quarter related to externally serviced premises where the occupants have access to a standpipe situate within a quarter-mile radius].

What is apparent from the above is that many customers of the Authority pay for water which they neither receive nor consume. The rating provision in the Act has lost its validity. The rates fixed by the PUC has aggravated the situation and the attempts by the Officers of the Authority to bring customers within these two pieces of legislation have only worsened the situation.

When this matter was first reported in the 1995 Annual Report, I suggested that in order to comply with the provision of Section 31 of the Act (which states that the Authority should not show undue preference as between persons similarly situated or exercise undue discrimination between persons similarly situated having regard to place



and time of supply, quantity of water supplied and regularity of supply) it was incumbent upon the Authority to provide a metered supply to all its customers. The PUC then stated that this was not feasible in the short term but as a long term goal extending well into the next century. It appears that the Authority has abandoned this project for few premises have been metered since then and these relate mainly to business premises.

As has been stated above, it is evident that a great many customers of the Authority are required to pay substantial sums for water which they neither receive nor consume.

Unless the whole regime of charges for water is changed and more equitable principles are applied, the customers of the Authority will continue to complain and to suffer hardship and injustice.



PART II

1. STATISTICAL REVIEW
2. SELECTED CASE SUMMARIES
3. SUMMARY OF OTHER COMPLAINTS RECEIVED IN 2003

STATISTICAL REVIEW – 2003

It would be meaningful to review the year's performance in the context of the period during which the Office operated, a time span of twenty-five (25) years.

From the beginning of operations in 1976 to the end of the year 2003, 30,025 persons had recourse to the services provided by the Ombudsman. During this period a total of 21,094 complaints were investigated. Of these matters 18,681 were concluded by December, 2003.

In the year 2003 a total number of 1,304 written complaints were made to my Office which exceeded the annual average of the preceding years. Of these 393 or 30% were made against private agencies. In all instances where complaints were made against private bodies I referred the complainants to the relevant authorities or advised them on the appropriate action which they should take towards having their complaints resolved.

I commenced investigation on 911 complaints which fell within my jurisdiction. This figure represents 70% of the new complaints received. At the close of the year 2003, investigations were concluded on 197 or 20% of these complaints. A remainder of 732 complaints or 80% are still under investigation.

Table 1 shows the number of new complaints received in 2003 and the manner of their disposal.

TABLE 1

STATISTICS ON NEW COMPLAINTS RECEIVED DURING THE PERIOD JANUARY – DECEMBER 2003

	NUMBERS	PERCENTAGE
Total number of complaints received	1304	100
Total number against private Institutions	393	30
Total number preceded with	911	70
Total number concluded	179	20
Sustained/Rectified	66	7
Not Sustained	22	3
Withdrawn/Discontinued	12	1
Advised/Referred	79	9
Total number under investigation	732	80



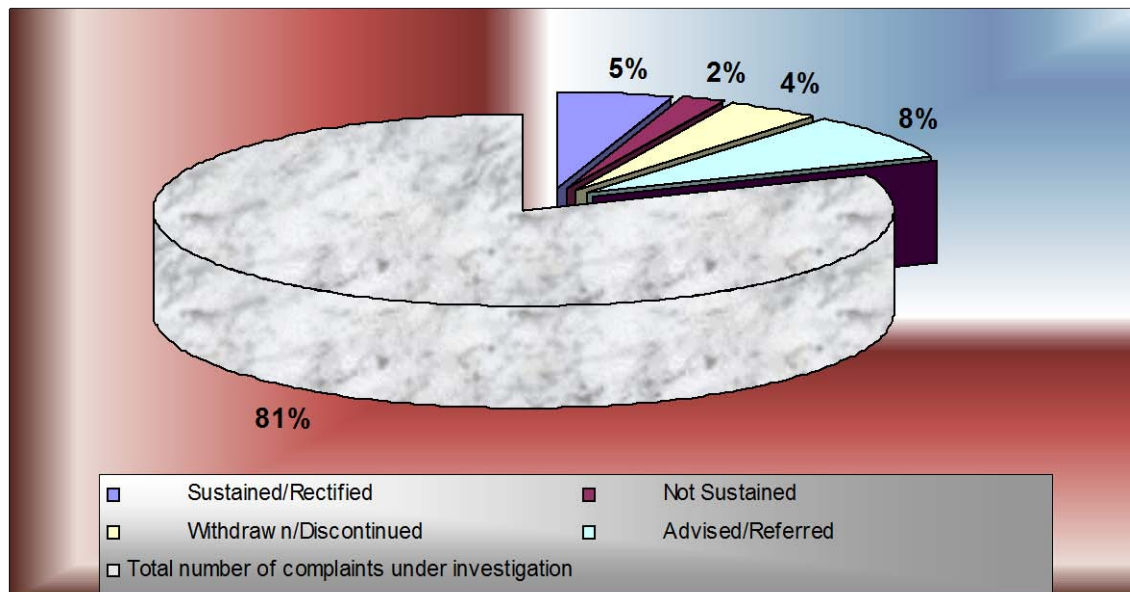
Table II and Figure I show the number of complaints brought over from previous years, the number received for the year under review and the manner of their disposal.

TABLE 11

STATISTICS ON COMPLAINTS RECEIVED DURING THIS REPORTING PERIOD AND THOSE BROUGHT FORWARD FROM PREVIOUS YEARS

	NUMBERS	PERCENTAGE
Total number of complaints brought forward from previous years	2413	
Total number of complaints received in 2003	1304	
TOTAL	3717	
Total number of complaints without jurisdiction	393	11
Total number of complaints proceeded with	3324	89
Total number of complaints concluded	660	19
Sustained/Rectified	184	5
Not Sustained	72	2
Withdrawn/Discontinued	122	4
Advised/Referred	282	8
Total number of complaints under investigation	2664	81

FIGURE 1



It is to be noted that the workload for the year under review comprised of 3,717 complaints of which 660 were resolved.



Table III shows the distribution of new complaints received against the various ministries and other state agencies and the manner of their disposal.

TABLE 111
DISTRIBUTION OF NEW COMPLAINTS IN RESPECT OF
MINISTRIES/DEPARTMENTS

Ministry/Authority/Agency	Total No. of Complaints	Sustained/ Rectified	Not Sustained	Withdrawn/ Discontinued	Advised/ Referred	Under Investiga- tion
Agricultural Development Bank	2	0	0	0	1	1
Agriculture, Land, and Marine Resources	34	0	2	0	0	32
Attorney General	7	0	0	0	1	6
BWIA	1	0	0	0	0	1
Central Administrative Services Tobago (CAST)	6	2	0	0	0	4
Caroni (1975) Limited	4	0	0	0	1	3
Chief Personnel Officer	2	0	0	0	0	2
Community Development and Gender Affairs	6	0	0	0	0	6
Consumer Affairs	1	0	0	0	0	1
Culture and Tourism	1	0	0	0	0	1
Education	22	0	0	0	0	22
Elections and Boundaries Commission	2	1	0	0	0	1
Energy and Energy Industries	1	0	0	0	0	1
Environmental Management Authority	5	0	0	0	0	5
Finance	31	4	1	1	3	22
Foreign Affairs	1	0	0	0	0	1
Health	55	0	0	1	3	51
Housing	46	1	0	0	1	44
Judiciary	12	0	0	1	3	8
Labour and Small and Micro Enterprise Development	10	0	0	0	2	8
Legal Affairs	7	0	0	0	2	5
Legal Aid and Advisory Authority	7	0	0	0	1	6
Local Government	5	0	3	0	1	1
Borough Corporations	11	1	0	0	1	9
City Corporations	9	1	1	0	0	7
Regional Corporations	99	3	3	0	7	86
Unemployment Relief Programme	1	0	0	0	0	1
Magistracy	11	0	0	0	1	10
National Maintenance Training and Security Company Limited (MTS)	1	0	0	0	0	1
National Insurance Board	24	2	0	1	1	20
National Security	7	1	0	0	1	5
Defence Force	4		0	0	0	4
Fire Services	6	0	0	0	0	6
Immigration	2	0	0	0	0	2
Police	44	2	0	2	13	27



Prisons	42	2	0	1	10	29
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Ministry/Authority/Agency	Total No. of Complaints	Sustained /Rectified	Not Sustained	Withdrawn /Discontinued	Advised/ Referred	Under Investiga-tion
Office of the Prime Minister -						
Social Services Delivery	0	0	0	0	0	
Social Welfare	51	8	1	0	0	42
Petrotrin	3	0	0	0	0	3
Planning and Development	1	0	0	0	0	1
Port Authority	7	0	0	0	0	7
Public Administration and Information	6	1	0	0	0	5
TSTT	26	10	1	0	1	14
Public Transport Service Corporation	1	0	0	0	0	1
Public Utilities and Environment	3	0	0	0	0	3
Forestry, National Parks and Wild Life	1	0	0	0	0	1
Meteorological Services	1	0	0	0	0	1
T&TEC	48	9	1	1	7	30
TTPost	8	0	0	0	4	4
WASA	58	4	0	1	7	46
Science, Technology and Tertiary Education	2	0	0	0	0	2
Service Commissions Department	15	0	0	0	2	13
Sport and Youth Affairs	2	0	0	0	0	2
Tobago House of Assembly	97	7	3	0	0	87
Unit Trust Corporation	1	0	0	0	0	1
Works and Transport	41	4	6	1	5	25
Freedom of Information Act	10	3	0	2	0	5
TOTAL	911	66	22	12	79	732
Private	393	0	0	0	0	0
GRAND TOTAL	1304	66	22	12	79	732

The distribution of complaints followed a similar pattern to what has emerged in recent years. The ministries/agencies which recorded the highest number of complaints received were the Ministry of Health, Ministry of Housing, Ministry of Social Welfare, Ministry of Works and Transport, Ministry of National Security (Police and Prisons Services), Ministry of Local Government (Regional Corporations), Ministry of Public Utilities (WASA and T&TEC) and the Tobago House of Assembly.

The Freedom of Information Act which came into force in November, 1999 provides individuals with a legal right to access information held by public bodies subject to certain exceptions e.g. cabinet documents, defence and security documents, internal working documents and documents relating to trade secrets.



In cases where access to information is refused, delayed or curtailed the legislation provides recourse to my Office by persons aggrieved. In 2003 a total of 10 complaints were filed. Table 111, referred to above, shows the manner of their disposal.

Table 1V and Figure 11 show the distribution of complaints lodged against the Regional and Borough Corporations over the years 1999 – 2003. A total of 120 complaints were received in 2003.

TABLE 1V

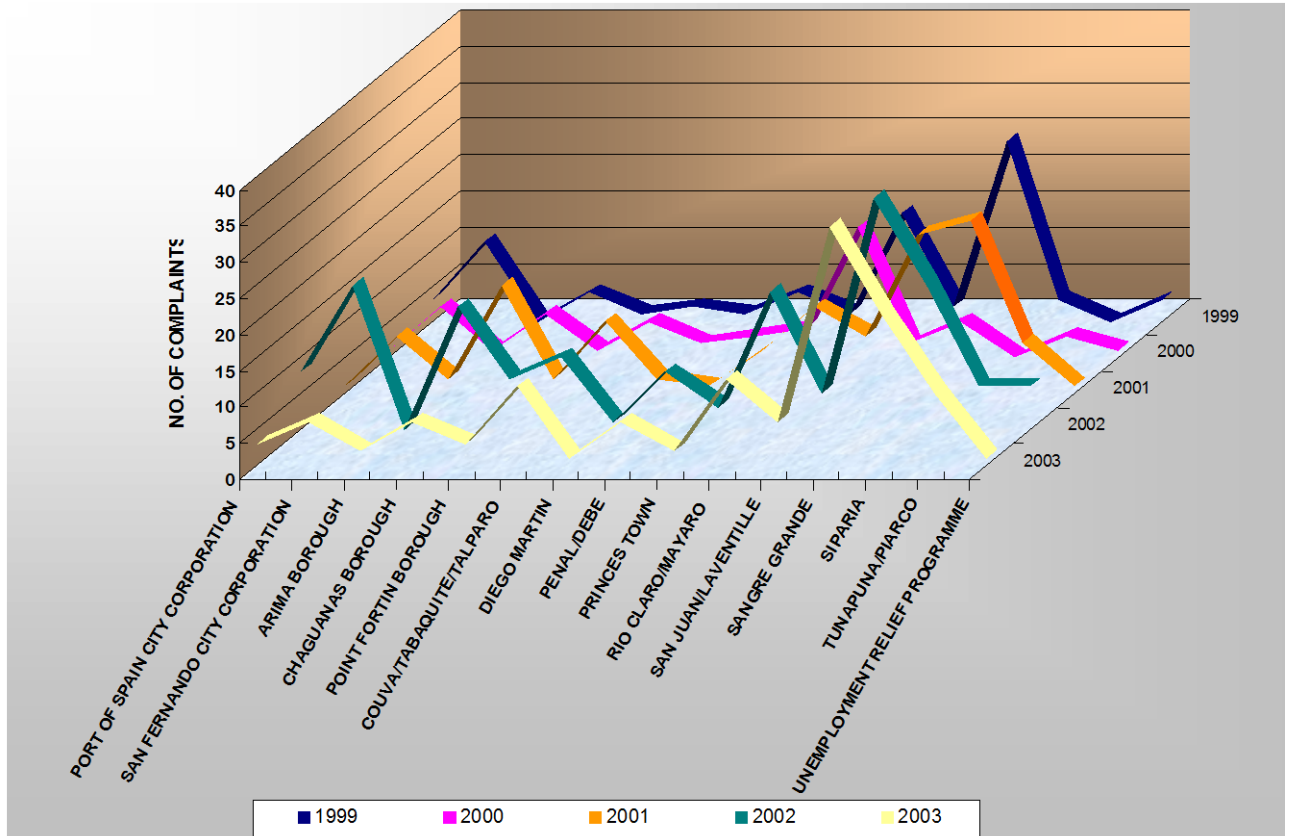
LOCAL GOVERNMENT – CITY, BOROUGH AND REGIONAL CORPORATION

CORPORATION	TOTAL NUMBER OF COMPLAINTS RECEIVED				
	1999	2000	2001	2002	2003
PORT OF SPAIN CITY CORPORATION	3	1	1	8	3
SAN FERNANDO CITY CORPORATION	11	7	8	20	6
ARIMA BOROUGH	0	1	2	0	2
CHAGUANAS BOROUGH	4	6	15	17	6
POINT FORTIN BOROUGH	1	1	2	7	3
COUVA/TABAQUITE/TALPARO	2	5	10	10	11
DIEGO MARTIN	1	2	2	1	1
PENAL/DEBE	4	3	1	8	6
PRINCES TOWN	1	4	6	3	2
RIO CLARO/MAYARO	15	18	12	19	12
SAN JUAN/LAVENTILLE	2	2	8	5	6
SANGRE GRANDE	25	5	22	32	30
SIPARIA	3	0	24	20	21
TUNAPUNA/PIARCO	0	3	7	6	10
UNEMPLOYMENT RELIEF PROGRAMME	3	1	1	6	1
TOTAL	75	59	121	162	120



FIGURE 11

COMPLAINTS AGAINST LOCAL GOVERNMENT BODIES FROM 1999-2003



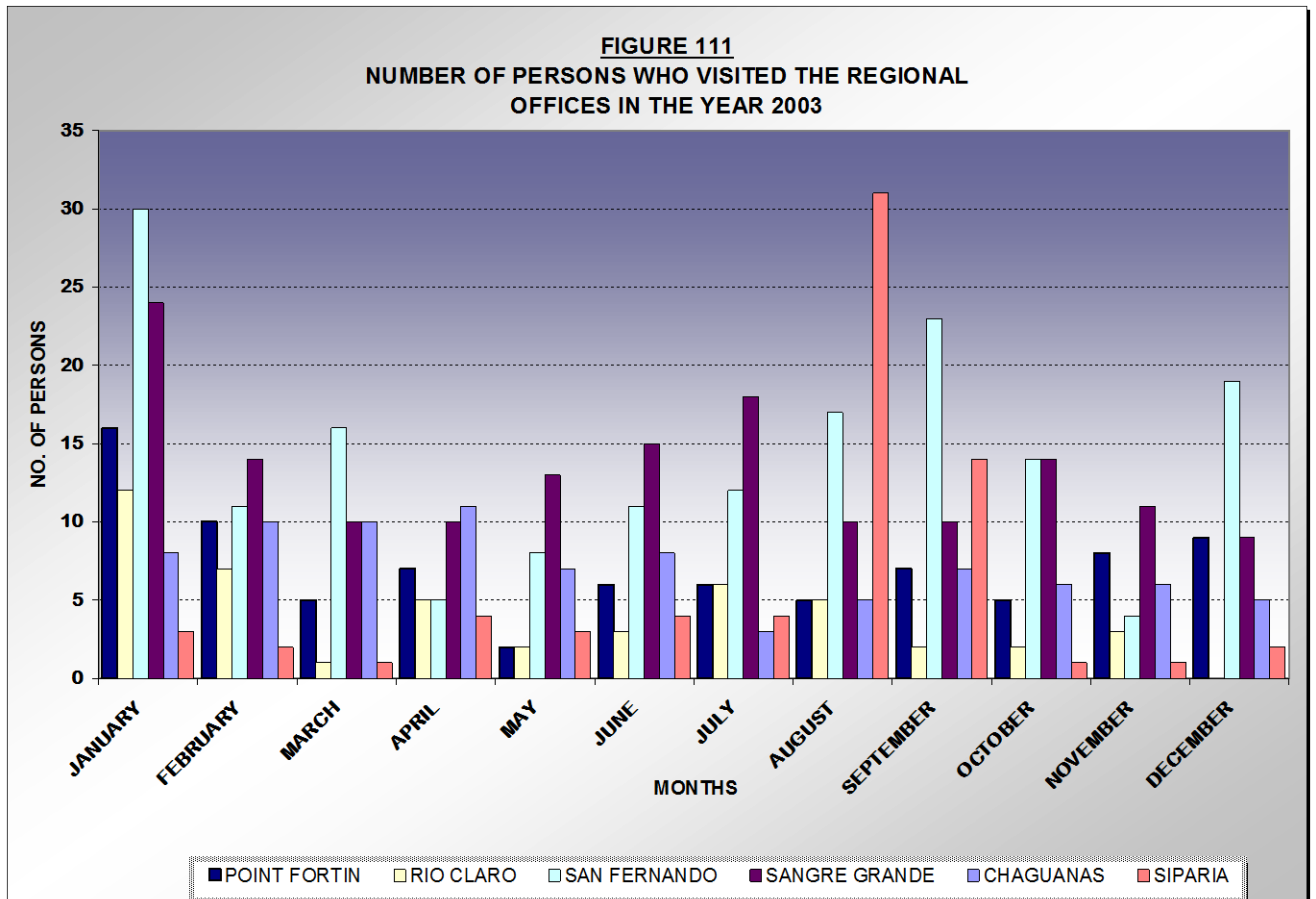
A total of 618 persons visited the regional offices during the year 2003.

Table V and Figure 111 show the distribution of visits.

TABLE V

**NUMBER OF PERSONS WHO VISITED THE REGIONAL OFFICES
IN THE YEAR 2003**

MONTHS	POINT FORTIN	RIO CLARO	SAN FERNANDO	CHAGUANAS	SANGRE GRANDE	SIPARIA	TOTAL
JANUARY	16	12	30	8	24	3	93
FEBRUARY	10	7	11	10	14	2	54
MARCH	5	1	16	10	10	1	43
APRIL	7	5	5	11	10	4	42
MAY	2	2	8	7	13	3	35
JUNE	6	3	11	8	15	4	47
JULY	6	6	12	3	18	4	49
AUGUST	5	5	17	5	10	31	73
SEPTEMBER	7	2	23	7	10	14	63
OCTOBER	5	2	14	6	14	1	42
NOVEMBER	8	3	4	6	11	1	33
DECEMBER	9		19	5	9	2	44
TOTAL	86	48	170	86	158	70	618



OMB: 0824/1998

MINISTRY OF EDUCATION

The Complainants were co-ordinators of evening programmes run by the Polytechnic Institute located at St. James in the City of Port of Spain. They complained that they were currently being paid at the rate of \$15.00 per evening while co-ordinators in other Institutes were being paid at a much higher rate.

The complaint was referred to the Chief Personnel Officer who replied that in order to provide an informed response, it was necessary to receive the comments of the Ministry of Education on the matter. The Ministry of Education subsequently advised that an increase in rates was currently receiving active consideration.

In a further reply by the Chief Personnel Officer it was intimated that the Principal of the Polytechnic Institute had recommended that the rate should be increased to \$50.00 per evening and that this proposal was being considered by the Director of Educational Services of the Ministry. As a result, the Personnel Department had provided the Ministry with a relevant Personnel Department Circular (No. 10 of 1982) which stipulated the method to be employed in calculating the pay to part-time monthly-paid employees. The Ministry was also advised that prior to their seeking the approval of Cabinet for an increase in rates, the comments of the Chief Personnel Officer should be sought.

Finally, by a memorandum dated May 14, 2003, the Chief Personnel Officer advised that the matter had been determined and that approval had been given for the rate of pay to be increased from \$15.00 per night to \$50.00 per night with effect from January 1, 2001 and that the Ministry was so advised.

OMB: 0122/2000

MINISTRY OF HEALTH

The Complainant who was appointed by the Public Service Commission as Maid I in the Public Service with effect from 1st April, 1997 claimed that she had been performing the duties of Wardsmaid since 1994 at the Port of Spain General Hospital. She also claimed that she had not been given shoes and uniform allowances and that she had not seen staff reports on her work and performance.

A reply by the Hospital Administrator, however, disclosed that she had been paid uniform allowances for the period 1996 to 1999 but was ineligible for the payment of a meal allowance. Further enquiries revealed that she had been performing the duties of Maid I and not those of a Wardsmaid.



The Complainant's insistence that she had performed the duties of Wardsmaid and not that of Maid I at the St. Ann's Hospital was referred to the Chief Personnel Officer.

In a reply dated 10th April, 2003, the Chief Personnel Officer informed that the Complainant had performed the duties of the higher office of Wardsmaid at St. Ann's Hospital over the period 1st March, 1995 to 31st March, 1996 and should be paid an acting allowance for that period.

The Complainant subsequently received the sum of \$6,139.16 as acting allowance in respect of the recommendation made by the Chief Personnel Officer.

OMB: 0494/2002

MINISTRY OF HEALTH

The Complainant was employed as a Staff Nurse at the Caura Chest Hospital and had served for the period 1972 to 1975. In 1975, she proceeded on no-pay leave. On her return in 1976, she was employed as a Staff Nurse at the Port of Spain General Hospital from 1976 to 1981 and subsequently, at the Mt. Hope Maternity Hospital from 1981 to 1990.

In 1990, she applied to the Public Service Commission for permission to retire on the grounds of marriage with effect from the 1st October, 1990. On 9th August, 1991, she received a letter from the Director of Personnel Administration informing her that she was "*not eligible to do so since you were married on re-entry into the Public Service.*"

Her complaint which was submitted to this Office in July, 2002, was referred to the Director of Personnel Administration. It was pointed out that the Complainant was in fact, eligible to retire under the provision of Section 15(6) of the Pensions Act Chap. 23:52 and Regulation 4 of the Pensions Regulations and should be paid a gratuity on her retirement. Reference was made to an advice from the Solicitor General which reads as follows:

"...Section 15(6) and Regulations 4(ibid) are unambiguous and apply to married female officers whether or not the marriage predated their entry into the Public Service."

A reply was subsequently received from the Director of Personnel Administration to the effect that the Public Service Commission had decided to give the Complainant permission to retire from the Public Service on grounds of marriage with effect from 10th October, 1990.

Steps are being taken by the Ministry to complete the Complainant's pension and leave record for submission to the Comptroller of Accounts so that she will be able to access the gratuity due to her.



OMB:0619/2001

OMB:0054/2002

MINISTRY OF HOUSING AND SETTLEMENTS

The complaints in this matter relate to the grant of a parcel of land by the State to Complainant No. 1 and a boundary dispute which subsequently developed between Complainant No. 2 and Complainant No. 1.

On the 23rd July, 2001, Complainant No. 1 complained that she was granted approval by the National Housing Authority for the lease of a parcel of land at Majuba, La Brea and had not received her deed of lease. She made mention of the fact that she was in the process of securing the land with a chain link wire fence and that the boundary line had been disputed by her next-door neighbour.

Subsequently, another complainant (Complainant No. 2) complained that he had been for over 35 years, the tenant of the State in respect of a lot of land bounding Complainant No. 1's parcel and that complainant No. 1 had erected a fence across the road reserve blocking access to him and to other residents who were also unable to gain access to their lands.

With respect to Complaint No. 1, the National Housing Authority (NHA) indicated that the Complainant should direct her enquiries to the Director of Surveys since the lease related to State lands. The NHA subsequently indicated to the Director that it was brought to his attention that Complainant No. 1 had encroached on lands of the adjoining property creating major hardships and problems with respect to access to the owner of the adjoining property.

The matter has not yet been resolved and is being pursued.

OMB: 0638/2002

MINISTRY OF LABOUR AND CO-OPERATIVES (Department of Friendly Societies)

A number of members of the Chaguanas Star Lodge, a friendly society registered under the provisions of the Friendly Societies Act Chap: 32:50 complained that the Society had been dissolved and the building which housed the Lodge had been sold; and that, as members, they were entitled to a percentage of the assets of the Society.

The matter was referred to the Registrar of Friendly Societies, appointed under the Act. In a reply received from the department, I was informed that a buyer had made a down-payment for the purchase of the Lodge and that the department had accepted the bid. As a consequence the buyer or his agent was given permission to enter the premises and make adjustments.



In a subsequent reply, I was informed that a Registrar of Friendly Societies had been appointed; that the deed of conveyance was executed on 10th September, 2003 and that the funds had been deposited in the Treasury.

The department indicated that on the finalization of audit reports for the period 1992-2003, a distribution of the assets will be made to the members.

The matter is being followed up.

OMB: 0059/2003

**MINISTRY OF NATIONAL SECURITY
(Police Service)**

The Complainant performed duties as an Estate Constable from 15th January, 1972 to 26th September, 1976 prior to his entry into the Police Service on 27th September, 1976. He retired as a Corporal of Police on 10th November, 2000 but his service as an Estate Constable was not taken into account in the computation of his retirement benefits.

On investigating the matter, I was informed by the Commissioner of Police that the Complainant had performed duties as an Estate Constable from 1st January, 1972 to 26th September, 1976 but was not appointed to that position by the Public Service commission prior to his entry into the Police Service.

However, by a Notice published in the Trinidad and Tobago Gazette (No. 222 dated 23rd August, 1984) the Public Service Commission had appointed the then existing members of the Anti-Squatting Brigade (of whom the Complainant was one) as Estate Constables in the Public Service with effect from January 15, 1972.

Having served continuously as an Estate Constable prior to his entry into the Police Service, the Complainant was advised to apply to the Director of Personnel Administration to have those years of service counted for pension purposes.

OMB: 0124/2003

**MINISTRY OF NATIONAL SECURITY
(Prison Services)**

The Complainant who was employed as a Prison Service Driver complained that on 7th March, 1998, he wrote the qualifying examination for recruitment as a Prison Officer; that he was interviewed in the year 2000 and was given the assurance that he would be included in the next batch of trainees for that year. One week before the commencement of training he was informed that his application had been rescinded. He filed a complaint alleging that he was being discriminated against.



On investigation of the matter the Commissioner of Prisons confirmed that the Complainant had written the examination and was successful and as a result was called for a final interview. The particulars of his age (he was 36 at the time), his interview marks and other information were submitted to the Director of Personnel Administration so that his name could be included on an Order of Merit list.

The Commission was subsequently informed by the Director of Personnel Administration that where a candidate had passed the maximum recruitment age of 35 years prior to the compilation of the Order of Merit List, his name would not be included. It was also indicated that if the Complainant was already on an Order of Merit List he would have been considered for training and subsequently moved from the post of Prison Service Driver to that of Prison Officer despite being over the age of 35 years. Such movement would have been considered a promotion. This was in accordance with the guidelines set by the Public Service Commissions.

The Complainant's name not having been included in a previous Order of Merit List, he was denied training for appointment as Prison Officer.

OMB: 0253/2002

**MINISTRY OF NATIONAL SECURITY
(Prison Services)**

The Complainant, a Prison Officer, complained that on his retirement from the Prison Service, his previous service as a Student Nurse was not taken into account in the computation of his retirement benefits. He produced a memorandum from the Commissioner of Prisons which stated that the Comptroller of Accounts had granted approval that his service as a Student Nurse in the Ministry of Health during the period January 6, 1969 to July 3, 1975 would be reckoned for pension purposes upon his retirement in pensionable circumstances.

Upon investigation, I was informed by the Commissioner of Prisons that the notification of the Complainant's service as a Student Nurse together with his service as a Prison Officer was forwarded to the Comptroller of Accounts for computation of his retirement benefits and that the Comptroller had indicated that the recently passed Prison Service (Amendment) Act, 2000 had introduced an enhanced pension arrangement for prison officers but had made no provision for the recognition of pensionable Office.

In reply to the Commissioner of Prisons, I indicated that the Prison Service Act, 2000 was mainly concerned with the age of retirement of prison officers and the computation of their retirement pensions and not to the linking of their services. Reference was also made to the memorandum of approval from the Comptroller of Accounts for the Complainant's services as a Student Nurse to be taken into account and to a previous advice from the Solicitor General stating that the State was bound by assurances given in circumstances similar to that given to the Complainant by the Comptroller of Accounts.

The matter is being pursued.



OMB: 0363/2003

**MINISTRY OF PUBLIC UTILITIES
(Water and Sewerage Authority)**

The Complainant was the tenant of a house at Diamond Vale in the Ward of Diego Martin for upwards of thirty years. The premises had been supplied with water by the Water and Sewerage Authority since that time and the Complainant stated she was responsible for the payment of the water rates and had been paying same since that time.

She stated that owing to a dispute which she had with respect to the purchase of the property, the landlady as owner of the premises instructed the Authority to disconnect the water supply.

On investigation of the matter, the authority confirmed that the Complainant had been paying the water rates for the premises but that the Authority had to abide by the wishes of the owner and that they were unable to reconnect the water supply without the written authorization of the owner.

The attention of the Authority was drawn to the provision of Section 17 of the Water and Sewerage Act Ch. 54:40 which states that the Authority may agree with any person requiring a supply of water for domestic purposes to supply such water on such terms and conditions as may be agreed.

As a result the Authority entered into a contract with the Complainant and her supply was restored soon afterwards.

OMB: T070/2002

**TOBAGO HOUSE OF ASSEMBLY
(Division of Education, Youth and Sports)**

The Complainant accepted the Voluntary Separation of Employment Package (VSEP) offered by the Water and Sewerage Authority (WASA) and later applied for and received employment with the Division of Education, Youth and Sports as a Labourer.

After having served for a period of four months, his service was terminated. He then made representations to the Head of Division that he was being discriminated against claiming that he was aware of other officers who were also recipients of Voluntary Separation of Employment Package (VSEP) and being still employed by the Division.

The Division took the decision to reinstate the Complainant but he claimed compensation for his loss of earnings during the period of his unemployment and sought the assistance of the Ombudsman.



The matter was referred to the Administrator, Division of Education, Youth and Sports.

In response the Administrator advised that the Division did not have authority to effect such payments and the matter was referred to the Chief Personnel Officer for a ruling.

Upon investigating the matter, it was intimated by the Chief Personnel Officer that there was no existing policy regarding the re-employment of such officers and that the issue was currently engaging the attention of that Department.

The matter is being pursued.

OMB: T006/2002

**TOBAGO HOUSE OF ASSEMBLY
(Division of Education, Youth and Sports)**

The Complainant received a Diploma in Food and Nutrition from the National Examination Council after attending the John Donaldson Technical Institute. She later applied for the position of Technical Vocational Teacher II at the Division of Education. She claimed that in spite of an existing vacancy and her qualifications for the position, her name did not appear on the list of interviewees and that the selection process for employment was biased and unfair.

The Administrator, Division of Education, Youth and Sport Affairs was asked to submit a report on the matter. In response, the Division refuted the argument of being biased and having unfair employment practices and advised that there was no vacancy against which the Complainant could be employed. The Complainant was also advised that the Teaching Service Commission was the agency responsible for all interviews.

The matter was referred to the Teaching Service Commission asking for reasons for the omission of the Complainant's name from the list of interviewees.

According to the Chief Personnel Officer, documents on behalf of the Complainant were submitted by the Tobago House of Assembly after the interviews were held in Tobago but it was intimated that the situation would soon be rectified. There was also an undertaking to review the Complainant's records to determine her qualifications for the position.

The Complainant was later assessed and appointed as a Technical Vocational/Teacher II in the Division of Education.



SUMMARY OF OTHER COMPLAINTS RECEIVED IN 2003

- Denied payment of monthly public assistance allowance for disabled daughter.
- Denied access to medical treatment at the General Hospital by Prison Authority.
- Failure of the National Lotteries Board to honour payment of winning lottery tickets.
- Dissatisfied with the quantum of water rate changes being billed by the Water and Sewerage Authority for service to his property.
- Failure of the Water and Sewerage Authority to pay him compensation for the damage to his vehicle when he drove through a trench on the road which was left uncovered and unmarked by the Authority.
- Delay in obtaining a refund of contributions made to the Tunapuna Rising Star Friendly Society.
- Delay in the renewal of standard agricultural lease by the Ministry of Agriculture.
- Difficulty in obtaining a copy of mother's certificate.
- Failure of the Regional Corporation to maintain and repair roads in the area.
- Inquest into son's death cannot proceed due to missing police records.
- Assistance in continuation of public assistance payments which had ceased.
- Assistance in having Regional Corporation construct a box drain on roadway in front of her home. Her premises continually flooded because the existing public drain is in a state of disrepair.
- Being billed by TSTT for unknown overseas calls to Chile.
- Assistance to obtain a rebate of charges for rental during the period for which no telephone service was provided.
- Delay on the part of WASA to repair burst water main which has resulted in continuous flooding of premises for an extended period of time.
- Failure of the National Housing Authority to undertake the necessary refurbishment works to alleviate the nuisance caused by malfunctioning sewer system.
- Failure of the Regional Corporation to construct slipper drain and curb wall to curtail the resultant flooding of complainant's premises.

- Delay in obtaining payment of compensation from T&TEC for damaged household appliances arising from fluctuations in the supply of electricity.
- Delay in obtaining a refund of VAT from the Board of Inland Revenue for the year of income 2001.
- Assistance in obtaining standard agricultural lease for parcel of land which had been occupied for the past fifty-three (53) years.
- Unable to obtain payment of Widows and Orphans benefit upon death of husband due to an oversight by the department in ensuring that the requirement of a medical examination for appointment was fulfilled.
- Delay in obtaining judgment with respect to High Court action which was concluded three (3) years ago.
- Assistance to obtain copy of record from the Magistrate's Extract book which shows the dismissal of charges against the complainant.
- Undue delay in obtaining telephone service connection.

[This list is not exhaustive of the complaints receive during the year 2003.]



APPENDICES

The Ombudsman and Reproductive Rights

Trinidad and Tobago is a sovereign democratic state which is situated at the southern end of the archipelago stretching from Jamaica in the west and coursing through the islands of the Caribbean culminating in the islands of Trinidad and Tobago. The State of Trinidad and Tobago is in close proximity to the Republic of Venezuela.

The population is estimated at approximately 1.3 million. Mid-year estimates in 1999 recorded figures of an almost even division between males and females, with females having a slightly higher majority than males. The population occupies a land space of approximately 4,820 square kilometres.

The Country has a rich ethnic and cultural diversity. The mid-year estimates of 1996 categorized the nation as follows: 40.3% East Indian; 39.6% African, 0.6% White, 0.4% Chinese, 0.1% Syrian/Lebanese, 18.6% mixed and 0.6% "other" or "not stated".

The indigenous Carib and Arawak Indians who inhabited these lands at the time of 'discovery' have, long ago, been assimilated into the general population and no longer exist as separate entities.

The Country has inherited a system of Government based on the British model characterized by a separation of powers between the Judiciary, the Executive and Parliament.

Entrenched in the Constitution is a provision recognizing and protecting the fundamental rights and freedoms of the individual against discrimination by reason of race, origin, colour, religion or sex.

Among the rights protected are the rights to life, liberty and security of the person; to equality before the law; to respect for private and family life and to equality of treatment from any public authority in the exercise of any functions. For the protection of such rights there are prohibitions against arbitrary detention, imprisonment or exile.

Trinidad and Tobago is a party to all the international human right conventions including the Covenant on Civil and Political Rights, the Covenant on Economic, Social and Cultural Rights and the Covenant on the Elimination of All Forms of Discrimination Against Women. Many of the provisions of these covenants have been incorporated into the domestic law.

The Ombudsman of Trinidad and Tobago is not a Human Rights Commissioner although he performs functions similar to these performed by human rights bodies. His primary function is to investigate maladministration in Government departments and authorities. He is given authority in the Constitution to investigate violation of fundamental rights and freedoms as outlined in the Constitution and referred to above.



During the twenty-five years of its existence, the Office of the Ombudsman has investigated many complaints of violation of civil and political rights as well as violations of economic, social and cultural rights including rights protected in the Convention on the Elimination of All Forms of Discrimination Against Women.

A Human Rights Unit has been established in the Office of the Attorney General headed by a Director. The primary function of the Human Rights Unit is to keep under review the various Human Rights conventions and ensure compliance of their provisions by Government departments and authorities.

In the context of the promotion and protection of reproductive rights men and women enjoy the same rights to decide freely and responsibly on the number and spacing of their children and to have access to information, education and means to exercise these rights. Women are provided with the opportunity to access information necessary for making informed decisions about safe and reliable contraceptives. Women can also access sex education and family planning services through a number of Governmental and non-governmental agencies and organizations, including the National Family Services Division and the Family Planning Association. To provide effective health care services, the Government has provided ten public hospitals and over 100 health care centers under the control of the Ministry of Health. Of significance in the promotion and protection of reproductive rights, the following are worthy of consideration:

- 1) The Population Policy for Trinidad and Tobago provides a framework for a national policy on family planning. Within this framework, the Ministry of Health is committed to providing accessible reproductive health care services while ensuring absolute freedom of choice. Government-operated family planning clinics are available at health centers to provide family planning counseling and supplies to clients during clinic hours.
- 2) The Family Planning Association of Trinidad and Tobago is a non-governmental organization with offices located in Port of Spain, San Fernando and Scarborough (Tobago). The Association provides *inter alia* contraceptive services, voluntary sterilization, infertility examinations, family life education programmes and peer counseling training.
- 3) The Gender Affairs Division of the Ministry of Culture and Gender Affairs is instrumental in the improvement of the status of women and in the implementation of programmes and measures that promote and supervise the advancement of women. The central areas of focus within the Division are the following:
 - Gender sensitization and gender mainstreaming;
 - The economic empowerment of women;
 - The effective protection of the human rights of women, predominantly the prevention of violence against women.



- 4) The Maternity Protection Act, No. 4 of 1998 was implemented to prevent discrimination against women by employers on the grounds of pregnancy. Under this Act, women are guaranteed paid maternity leave for 13 weeks, the protection against dismissal on the grounds of pregnancy, and the right to return to work on the same terms and conditions, or substantially similar terms and conditions after the conclusion of the maternity leave. The Act applies to public sector and private sector employees.
- 5) The work of non-governmental women rights organizations (N.G. O.s'), particularly the Caribbean Institute for Feminine Research and Action (CAFRA) which has been instrumental in the promotion, protection and education of women's rights.

Over the years, the Office of the Ombudsman has investigated complaints by women in respect of inadequacy of health care and negligence especially in cases of pregnancy and maternity-related matters.

With respect to abortion, it is an offence to procure a miscarriage which is punishable under the Offences Against the Person Act. In practice, however, medical practitioners can terminate a pregnancy prematurely on medical grounds, for example where the mother has contracted Rubella during the pregnancy. The general policy of the Ministry of Health is that abortion may be allowed only in the case where the life of the mother is endangered.

The Government of Trinidad and Tobago has appeared before the Committee on the Elimination of Discrimination Against Women at its 536th and 537th meetings on 21st January and its 547th meeting on 29th January, 2002 at which issues including women's reproductive rights were discussed. No recommendations were made with respect to this subject matter.

*[Paper presented by the Ombudsman at a seminar on
Reproductive Rights held in Jamaica from March, 18-20, 2003.]*



EXTRACTS FROM THE CONSTITUTION
OF
TRINIDAD AND TOBAGO
CHAPTER 1

The Recognition and Protection of Fundamental Human Rights
and Freedoms
Rights enshrined

**Recognition and
declaration of rights
and freedoms**

4. It is hereby recognized and declared that in Trinidad and Tobago there have existed and shall continue to exist, without discrimination by reason of race, origin, colour, religion or sex, the following fundamental human rights and freedoms, namely:-
- (a) the right of the individual to life, liberty, security of the person and enjoyment of property and the right not to be deprived thereof except by due process of law;
 - (b) the right of the individual to equality before the law and the protection of the law;
 - (c) the right of the individual to respect for his private and family life;
 - (d) the right of the individual to equality of treatment from any public authority in the exercise of any functions;
 - (e) the right to join political parties and to express political views;
 - (f) the right of a parent or guardian to provide a school of his own choice for the education of his child or ward;
 - (g) freedom of movement;
 - (h) freedom of conscience and religious belief and observance;
 - (i) freedom of thought and expression;
 - (j) freedom of association and assembly;
- and



**Protection of
rights and
freedoms**

- (k) freedom of the press.
- 5. (1) Except as is otherwise expressly provided in this Chapter and in Section 54, no law may abrogate, abridge or infringe or authorise the abrogation, abridgment or infringement of any of the rights and freedoms hereinbefore recognized and declared.
- (2) Without prejudice to subsection (1), but subject to this Chapter and to Section 54, Parliament may not -
 - (a) authorise or effect the arbitrary detention, imprisonment, or exile of any person;
 - (b) impose or authorise the imposition of cruel and unusual treatment or punishment;
 - (c) deprive a person who has been arrested or detained;
 - (i) of the right to be informed promptly and with sufficient particularity of the reason for his arrest or detention;
 - (ii) of the right to retain and instruct without delay a legal adviser of his own choice and to hold communication with him;
 - (iii) of the right to be brought promptly before an appropriate judicial authority;
 - (iv) of the remedy by way of habeas corpus for the determination of the validity of his detention and for his release if the detention is not lawful;
 - (d) authorise a court, tribunal commission, board or other authority to compel a person to give evidence unless he is afforded protection against self-incrimination and, where necessary to ensure such protection, the right to legal representation;



- (e) deprive a person of the right to a fair hearing in accordance with the principles of fundamental justice for the determination of his rights and obligations;
- (f) deprive a person charged with a criminal offence of the right -
 - (i) to be presumed innocent until proved guilty according to law, but this shall not invalidate a law by reason only that the law imposes on any such person the burden of proving particular facts;
 - (ii) to a fair and public hearing by an independent and impartial tribunal; or
 - (iii) to reasonable bail without just cause;
- (g) deprive a person of the right to the assistance of an interpreter in any proceedings in which he is involved or in which he is a party or a witness, before a court, commission, board or other tribunal, if he does not understand or speak English; or
- (h) deprive a person of the right to such procedural provisions as are necessary for the purpose of giving effect and protection to the aforesaid rights and freedoms.



EXTRACT FROM THE CONSTITUTION OF TRINIDAD AND TOBAGO

ACT NO. 4 OF 1976

PART 2

OMBUDSMAN

**Appointment
and conditions
of office**

91. (1) There shall be an Ombudsman for Trinidad and Tobago who shall be an officer of Parliament and who shall not hold any other office of emolument whether in the Public Service or otherwise nor engage in any occupation for reward other than the duties of his office.
- (2) The Ombudsman shall be appointed by the President after consultation with the Prime Minister and the Leader of the Opposition.
- (3) The Ombudsman shall hold Office for a term not exceeding five years and is eligible for re-appointment.
- (4) Subject to subsection (3) the Ombudsman shall hold office in accordance with Section 136.
- (5) Before entering upon the duties of his Office, the Ombudsman shall take and subscribe the oath of office before the Speaker of the House of Representatives.

**Appointment
of staff
of Ombudsman**

92. (1) The Ombudsman shall be provided with a staff adequate for the efficient discharge of his functions.
- (2) The staff of the Ombudsman shall be public officers appointed in accordance with Section 121(8).

**Functions of
Ombudsman**

93. (1) Subject to this section and to Sections 94 and 95, the principal function of the Ombudsman shall be to investigate any decision or recommendation made, including any advice given or recommendation made to a Minister, or any act done or omitted by any department of Government or any other authority to which this section applies, or by officers or members of such a department or authority, being action taken in exercise of the administrative functions of that department or authority.



- 2) The Ombudsman may investigate any such matter in any of the following circumstances -
 - (a) where a complaint is duly made to the Ombudsman by any person alleging that the complainant has sustained an injustice as a result of a fault in administration;
 - (b) where a member of the House of Representatives requests the Ombudsman to investigate the matter on the ground that a person or body of persons specified in the request has or may have sustained such injustice;
 - (c) in any other circumstances in which the Ombudsman considers that he ought to investigate the matter on the ground that some person or body of persons has or may have sustained such injustice.

- (3) The authorities other than departments of Government to which this section applies are -
 - (a) local authorities or other bodies established for purposes of the public service or of local Government;
 - (b) authorities or bodies the majority of whose members are appointed by the President or by a Minister or whose revenue consist wholly or mainly of monies provided out of public funds;
 - (c) any authority empowered to determine the person with whom any contract shall be entered into by or on behalf of Government;
 - (d) such other authorities as may be prescribed.

**Restrictions
on matters
for investigation**

94.

- (1) In investigating any matter leading to, resulting from or connected with the decision of a Minister, the Ombudsman shall not inquire into or question the policy of the Minister in accordance with which the decision was made.
- (2) The Ombudsman shall have power to investigate complaints of administrative injustice under



Section 93 notwithstanding that such complaints raise questions as to the integrity or corruption of the public service or any department or office of the public service, and may investigate any conditions resulting from, or calculated to facilitate or encourage corruption in the public service, but he shall not undertake any investigation into specific charges of corruption against individuals.

(3) Where in the course of an investigation it appears to the Ombudsman that there is evidence of any corrupt act by any public officer or by any person in connection with the public service, he shall report the matter to the appropriate authority with his recommendation as to any further investigation he may consider proper.

(4) The Ombudsman shall not investigate -

(a) any action in respect of which the Complainant has or had

(i) a remedy by way of proceedings in a court; or

(ii) a right of appeal, reference or review to or before an independent and impartial tribunal other than a court; or

(b) any such action, or actions taken with respect to any matter, as is described in the Third Schedule.

**Third
Schedule**

(5) Notwithstanding subsection (4) the Ombudsman

a) may investigate a matter notwithstanding that the Complainant has or had a remedy by way of proceedings in a court if satisfied that in the particular circumstances it is not reasonable to expect him to take or to have taken such proceedings;

(b) is not in any case precluded from investigating any matter by reason only that it is open to the Complainant to apply to the High Court for redress under Section 14 (which relates to



redress for contravention of the provisions for the protection of fundamental rights).

95. In determining whether to initiate, continue or discontinue an investigation, the Ombudsman shall, subject to Sections 93 and 94, act in his discretion, the Ombudsman may refuse to initiate or may discontinue an investigation where it appears to him that -

- (a) a complaint relates to action of which the Complainant has knowledge for more than twelve months before the complaint was received by the Ombudsman.
- (b) the subject matter of the complaint is trivial;
- (c) the complaint is frivolous or vexatious or is not made in good faith; or
- (d) the Complainant has not a sufficient interest in the subject matter of the complaint.

96. (1) Where a complaint or request for an investigation is duly made and the Ombudsman decides not to investigate the matter or where he decides to discontinue investigation of the matter, he shall inform the person who made the complaint or request of the reasons for his decision.

(2) Upon completion of an investigation the Ombudsman shall inform the department of government or the authority concerned of the results of the investigation and if he is of the opinion that any person has sustained an injustice in consequence of a fault in administration, he shall inform the department of government or the authority of the reasons for his opinion and make such recommendations as he sees fit. The Ombudsman may in his original recommendations, or at any later stage if he thinks fit, specify the time within which the injustice should be remedied.



- (3) Where the investigation is undertaken as a result of a complaint or request, the Ombudsman shall inform the person who made the complaint or request of his findings.
- (4) Where the matter is in the opinion of the Ombudsman of sufficient public importance or where the Ombudsman has made a recommendation under sub-section (2) and within the time specified by him no sufficient action has been taken to remedy the injustice, then, subject to such provision as may be made by Parliament, the Ombudsman shall lay a special report on the case before Parliament.
- (5) The Ombudsman shall make annual reports on the performance of his functions to Parliament which shall include statistics in such form and in such detail as may be prescribed of the complaints received by him and the results of his investigation.

Power to obtain Evidence

97. (1) The Ombudsman shall have the powers of the High Court to summon of the witnesses to appear before him and to compel them to give evidence on oath and to produce documents relevant to the proceedings before him and all persons giving evidence at those proceedings shall have the same duties and liabilities and enjoy the same privileges as in the High Court.
- (2) The Ombudsman shall have power to enter and inspect the premises of any department of government or any authority to which section 93 applies, to call for, examine and where necessary retain any document kept on such premises and there to carry out any investigation in pursuance of his functions.

Prescribed Matters concerning Ombudsman

98. (1) Subject to subsection (2), Parliament may make provision -
- (a) for regulating the procedure for the making of complaints and requests to the Ombudsman and for the exercise of the functions of the Ombudsman;
 - (b) for conferring such powers on the Ombudsman and imposing such duties on persons concerned as are necessary to facilitate the Ombudsman in the performance of his functions; and



- (c) generally for giving effect to the provisions of this Part.
- (2) The Ombudsman may not be empowered to summon a Minister or a Parliamentary Secretary to appear before him or to compel a Minister or a Parliamentary Secretary to answer any questions relating to any matter under investigation by the Ombudsman.
- (3) The Ombudsman may not be empowered to summon any witness to produce any Cabinet papers or to give any confidential income tax information.
- (4) No Complainant may be required to pay any fee in respect of his complaint or request or for any investigation to be made by the Ombudsman.
- (5) No proceedings, civil or criminal, may lie against the Ombudsman, or against any person holding an office or appointment under him for anything he may do or report or say in the course of the exercise or intended exercise of the functions of the Ombudsman under this Constitution, unless it is shown that he acted in bad faith.
- (6) The Ombudsman, and any person holding office or appointment under him may not be called to give evidence in any court, or in any proceedings of a judicial nature, in respect of anything coming to his knowledge in the exercise of his functions.
- (7) Anything said or any information supplied or any document, paper or thing produced by any person in the course of any enquiry by or proceedings before an Ombudsman under this Constitution is privileged in the same manner as if the enquiry or proceedings were proceedings in a Court.
- (8) No proceedings of the Ombudsman may be held bad for want of form and, except on the ground of lack of jurisdiction, no proceeding or decision of an Ombudsman is liable to be challenged, reviewed, quashed or called in question in any Court.



THIRD SCHEDULE
MATTERS NOT SUBJECT TO INVESTIGATION

1. Action taken in matters certified by the Attorney General to affect relations or dealings between the Government of Trinidad and Tobago and any other Government or any International Organization.
2. Action taken in any country or territory outside Trinidad and Tobago by or on behalf of any officer representing or acting under the authority of the Government of Trinidad and Tobago.
3. Action taken under any law relating to extradition or fugitive offenders.
4. Action taken for the purposes of investigating crime or of protecting the security of the State.
5. The commencement or conduct of civil or criminal proceedings before any court in Trinidad and Tobago or before any international court or tribunal.
6. Any exercise of the power of pardon.
7. Action taken in matters relating to contractual or other commercial transactions, being transactions of a department of government or an authority to which Section 93 applies not being transactions for or relating to –
 - (a) the acquisition of land compulsorily or in circumstances in which it could be acquired compulsorily;
 - (b) the disposal as surplus of land acquired compulsorily or in circumstances in which it could be acquired compulsorily.
8. Actions taken in respect of appointments or removals, pay, discipline, superannuation or other personnel matters in relation to service in any office or employment in the public service or under any authority as may be prescribed.
9. Any matter relating to any person who is or was a member of the armed forces of Trinidad and Tobago in so far as the matter relates to -
 - (a) the terms and conditions of service as such member; or
 - (b) any order, command, penalty or punishment given to or affecting him in his capacity as such member.



10. Any action which by virtue of any provision of this Constitution may not be enquired into by any Court.



LAWS OF TRINIDAD AND TOBAGO
CHAPTER 2:52
OMBUDSMAN ACT

**An Act to make provision for giving effect to
Part 2 of Chapter 6 of the Constitution**

(Assented to 24th May, 1977)

Enactment

ENACTED by the Parliament of Trinidad and Tobago as follows:

**Short Title
Mode of
Complaint**

1. This Act may be cited as the Ombudsman Act.
2. (1) All complaints to the Ombudsman and requests for investigation by him shall be made in writing.

(2) Notwithstanding anything provided by or under any enactment, where any letter written by any person detained on a charge or after conviction of any offence is addressed to the Ombudsman, it shall be immediately forwarded, unopened to the Ombudsman by the person for the time being in charge of the place where the writer is detained.

**Procedure
in respect
of investigation**

3. (1) Where the Ombudsman proposes to conduct an investigation under Section 93 (1) of the Constitution he shall afford to the principal officer of the department or authority concerned, an opportunity to make, orally or in writing as the Ombudsman thinks fit, representations which are relevant to the matter in question and the Ombudsman shall not, as a result of such an investigation, make any report or recommendation which may adversely affect any person without his having had an opportunity to make such representations.

(2) Every such investigation shall be conducted in private.

(3) It shall not be necessary for the Ombudsman to hold any hearing and, subject as hereinbefore provided, no person shall be entitled as of right to be heard by the Ombudsman. The Ombudsman may obtain information from such persons and in such manner, and make such inquiries as he thinks fit.

(4) Where, during or after any investigation, the Ombudsman is of the opinion that there is evidence of any breach of duty, misconduct or criminal offence on the part of any officer or employee of any department or authority to which Section 93 of the Constitution



applies, the Ombudsman may refer the matter to the Authority competent to take such disciplinary or other proceedings against him as may be appropriate.

- (5) Subject to this Act, the Ombudsman may regulate his procedure in such manner as he considers appropriate in the circumstances of the case.
- (6) Where any person is required under this Act by the Ombudsman to attend before him for the purposes of an investigation, the Ombudsman shall cause to be paid to such person out of money provided by Parliament for the purpose, the fees, allowances and expenses, subject to qualifications and exceptions corresponding to those, that are for the time being prescribed for attendance in the High Court, so, however, that the like functions as are so prescribed and assigned to the Registrar of the Supreme Court of Judicature shall, for the purposes of this sub-section, be exercisable by the Ombudsman and he may, if he thinks fit, disallow, in whole or in part, the payment of any amount under this subsection.
- (7) For the purposes of Section 93 (2) of the Constitution a complaint may be made by a person aggrieved himself or, if he is dead or for any reason unable to act for himself, by any person duly authorized to represent him.
- (8) Any question whether a complaint or a request for an investigation is duly made under this Act or under Part 2 of Chapter 6 of the Constitution shall be determined by the Ombudsman.

Evidence

4. (1) The power of the Ombudsman under Section 97 of the Constitution to summon witnesses and to compel them to give evidence on oath and to produce documents shall apply whether or not the person is an officer; employee or member of any department or authority and whether or not such documents are in the custody or under the control of any department or authority.
- (2) The Ombudsman may summon before him and examine on oath:
 - (a) any person who is an officer or employee or member of any department or authority to which Section 93 of the Constitution applies or any authority referred to in the Schedule to this Act and who in the Ombudsman's opinion is able to give any relevant information;
 - (b) any complainant; or



- (c) any other person who in the Ombudsman's opinion is able to give any relevant information, and for that purpose may administer an oath. Every such examination by the Ombudsman shall be deemed to be a judicial proceeding for the purposes of the Perjury Ordinance.
 - (3) Subject to subsection (4) no person who is bound by the provisions of any enactment, other than the Official Secrets Act, 1911 to 1939 of the United Kingdom In so far as it forms part of the law of Trinidad and Tobago, to maintain secrecy in relation to, or not to disclose, any matter shall be required to supply any information to or answer any questions put by the Ombudsman in relation to that matter, or to produce to the Ombudsman any document or paper or thing relating to it, where compliance with that requirement would be in breach of the obligation of secrecy or non-disclosure.
 - (4) With the previous consent in writing of any complainant, any person to whom subsection (3) applies may be required by the Ombudsman to supply any information or answer any question or produce any document or paper or thing relating only to the complainant, and it shall be the duty of the person to comply with that requirement.
 - (5) Except on the trial of any person for an offence under the Perjury Act in respect of his sworn testimony, or for an offence under Section 10, no statement made or answer given by that or any other person in the course of any inquiry or any proceedings before the Ombudsman under the Constitution or this Act shall be admissible in evidence against any person in any court or at any inquiry or in any other proceedings and no evidence in respect of proceedings before the Ombudsman shall be given against any person.
 - (6) No person shall be liable to prosecution for an offence against the Official Secrets Act, 1911 to 1939 of the United Kingdom, or any written law other than this Act by reason of his compliance with any requirement of the Ombudsman under this section.
5. (1) Where the Attorney General certifies that the giving of any information or the answering of any question or the production of any document or paper or thing -
- (a) might prejudice the security, defence or international relations of Trinidad and Tobago



- (b) including Trinidad and Tobago relations with the Government of any other country or with any international organizations;
- (c) will involve the disclosure of the deliberations of Cabinet; or
- (d) will involve the disclosure of proceedings of Cabinet or any Committee of Cabinet, relating to matters of a secret or confidential nature, and would be injurious to the public interest, the Ombudsman shall not require the information or answer to be given or, as the case may be, the document or paper, or thing to be produced.

(2) Subject to subsection (1), no rule of law which authorises or requires the withholding of any document or paper, or the refusal to answer any question, on the ground that the disclosure of the document or paper or the answering of the question would be injurious to the public interest shall apply in respect of any investigation by or proceedings before the Ombudsman.

Secrecy of information

6. A person who performs the functions appertaining to the Office of the Ombudsman or any office or employment thereunder -
- (a) shall regard as secret and confidential all documents, information and things which have been disclosed to any such person in the execution of any provisions of Sections 93 and 96 of the Constitution, so, however, that no disclosure made by any such person in proceedings for an offence under Section 10, or under the Perjury Ordinance by virtue of Section 4(2) or which the Ombudsman considers it requisite to make in the discharge of any of his functions and for the purpose of executing any of the said provisions of Section 3(4) or Section 9, shall be deemed inconsistent with any duty imposed by this paragraph; and
 - (b) shall not be called upon to give evidence in respect of, or produce, any such documents, information or things in any proceedings, other than proceedings mentioned in the exception to paragraph (a).

Notice of entry on premises

7. Before entering upon any premises pursuant to Section 97(2) of the Constitution the Ombudsman shall notify the principal officer of the department or the authority which the premises are occupied.



**Delegation
of powers**

8. (1) With the prior approval in each case of the Prime Minister, functions hereinbefore assigned to the Ombudsman may from time to time, by direction under his hand, be delegated to any person who is appointed to any office or to perform any function referred to in Section 6.
- (2) No such delegation shall prevent the exercise of any power by the Ombudsman.
- (3) Any such delegation may be made subject to such restrictions and conditions as the Ombudsman may direct, and may be made either generally or in relation to any particular case or class of cases.
- (4) Any person purporting to perform any function of the Ombudsman by virtue of a delegation under this section shall, when required to do so, produce evidence of his authority to exercise the power.

Reports

9. (1) The Ombudsman may from time to time in the public interest publish reports relating generally to the exercise of his functions or to a particular case or cases investigated by him, whether or not the matters to be dealt with in such reports may have been the subject of a report to Parliament.
 - (2) The form of statistics of complaints received by the Ombudsman and the results of his investigation required by Section 96(5) of the Constitution to be included in the annual report to Parliament by the Ombudsman on the performance of his functions shall be prescribed by regulations made under Section 12.
10. A person is liable on summary conviction to a fine of one thousand dollars or to imprisonment for six months who -
- (a) without lawful justification or excuse, wilfully obstructs, hinders or resists the Ombudsman or any other person in the exercise of his powers under this Act;
 - (b) without lawful justification or excuse refuses or wilfully fails to comply with any lawful requirement of the Ombudsman or any other person under this Act;
 - (c) wilfully makes any false statement to or misleads or attempts to mislead the Ombudsman or any other person in the exercise of his powers under this Act; or



- (d) in a manner inconsistent with his duty under Section 6 (a), deals with any documents, information or things mentioned in that paragraph.

**Prescription
of authorities
subject to the
Ombudsman's
jurisdiction**

- 11. (1) The authorities mentioned in the Schedule are authorities to which Section 93(3)(d) of the Constitution applies.
- (2) The President may, by Order, amend the Schedule by the addition thereto or deletion therefrom of any authorities or the substitution therein, for any authorities of other authorities.

Regulations

- 12. The President may make regulations for the proper carrying into effect of this Act, including in particular, for prescribing anything required or authorised to be prescribed.



