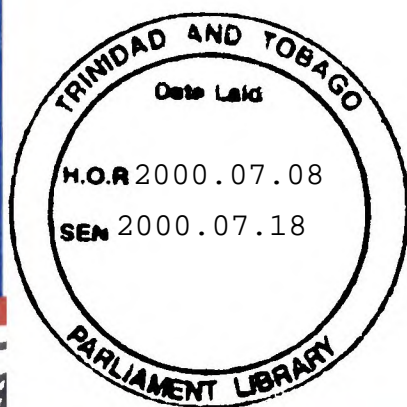




# THE REPUBLIC OF TRINIDAD AND TOBAGO

## THE OMBUDSMAN **22<sup>nd</sup>** ANNUAL REPORT



JANUARY 1ST, 1999 TO DECEMBER 31, 1999

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OFFICE OF THE OMBUDSMAN OF TRINIDAD AND TOBAGO

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**28<sup>th</sup> June, 2000**

**The Honourable Speaker  
Parliament  
Red House  
St Vincent Street  
PORT OF SPAIN**

**Dear Mr Speaker**

**I have the honour to present the Twenty-Second Annual Report of the Ombudsman for the period January 01, 1999 to December 31, 1999.**

**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 cursive script, reading 'G. A. Edoo'.

**George A. Edoo  
Ombudsman  
Republic of Trinidad and Tobago**

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# ***PART I***

## ***INTRODUCTION***



## GENERAL

In the 21<sup>st</sup> Annual Report, I reported that a consistent pattern had emerged with little variation in respect of complaints received, complaints sustained and/or rectified and complaints of a private nature. The Report covered the period 1978 to 1997. The graph provided, however, did not indicate the workload in respect of each specific year. The workload consisted of complaints brought over from preceding years and complaints received in the specific year of the Report.

The Table hereunder indicates the position with respect to these matters:

	Complaints Received	Complaints b/f from preceding years	Total	Number of Complaints proceeded with	Number of Complaints Concluded	%
1978	1098	-	1098	846	438	51.8
1979	966	408	1374	1185	620	52.3
1980	1102	565	1667	1218	749	61.5
1981	977	469	1446	1087	609	56.0
1982	1088	478	1566	1160	493	42.5
1983	1290	667	1957	1482	521	31.3
1984	1152	961	2113	1764	852	48.3
1985	1340	912	2252	1708	918	53.7
1986	1538	790	2328	1774	618	34.8
1987	1347	1156	2503	1981	555	28.0
1988	1241	1426	2667	2259	485	21.5
1989	1304	1774	3078	2575	233	09.0
1990	1223	2342	3565	3034	445	14.7
1991	967	2589	3556	3290	2405	73.1
1992	1053	885	1938	1791	839	46.8
1993	880	482	1362	1179	518	44.0
1994	897	661	1558	1376	782	56.8
1995	938	394	1532	1257	815	65.0
1996	1373	387	1760	1463	748	50.0
1997	1266	719	1982	1741	845	49.0
1998	1016	896	1912	1718	938	35.0
1999	991	780	1771	1549	639	41.0

Of the complaints received for the year 1999, the highest numbers were recorded against:

- **Ministry of Local Government (82)** - Dissatisfaction with respect to maintenance of roads, bridges and drainage systems.
- **Ministry of National Security (Prison) (63)** - Delays experienced by prisoners in having their matters determined before the Courts.
- **Ministry of National Security (Police) (56)** - allegations of dereliction of duty and violence by the Police (these were referred to the Police Complaints Authority).
- **Ministry of Social Development (54)** - applications for old age pension and social assistance.
- **Ministry of Health (44)** - the eradication of public health nuisances/hazards.

#### **PUBLIC SERVICE REFORM**

During the year under review, the Ministry of Public Administration embarked on an on-going exercise to improve effective service delivery and overall efficient management of all government agencies. Although the Office of the Ombudsman is not a public service department it is staffed by public officers; hence this Office's participation in the exercise.

#### **ACCOMMODATION**

Previous reports drew attention to the fact that the Office had outgrown its physical accommodation and that it was not easily accessible to the public. Suitable accommodation has now been found: and it is anticipated that the Office will be relocated in the near future.

#### **TOBAGO**

From the time of inception of the Office of the Ombudsman, a temporary office had been established in Tobago for the purpose of receiving complaints and advising complainants with respect to such complaints. Visits have been paid once per month or as often as the necessity arises.

Cabinet has recently approved the establishment of a permanent office in Tobago with supporting staff as the existing arrangements have been less than satisfactory.

In accordance with Section 26(3) of the Tobago House of Assembly Act which provides that government shall promote the delivery in Tobago of services to the public in relation to the matters set out in the Seventh Schedule, Cabinet has recently approved the appointment of an investigator and supporting staff.

It is anticipated that the permanent office will be established in Tobago, in the year 2000.

## ***PART II***

### *AREAS OF CONCERN*

## **AREA OF CONCERN**

### **LAND AND BUILDING TAXES**

The Lands and Buildings Taxes Act Chap. 76:04 authorises the levy by Government of taxes on lands and buildings outside the limits of municipal areas. These taxes are due and payable at district revenue offices.

The Municipal Corporations Act, 1990, authorises the levy of land and building taxes by municipal corporations which include city and borough corporations. These taxes are due and payable directly to the municipal corporations.

Taxes are levied in accordance with provisions of the Land and Building Taxes Act Chap. 76:04 and the Municipal Corporations Act, No. 21 of 1990, respectively.

From time to time, complaints have been filed mainly with respect to the rateable values fixed by the rating authorities on residential and business premises. The rateable values are used as a basis for calculating the percentage of tax payable.

Both District Revenue Offices and municipal corporations are required to assess property values on an ongoing basis in order to ensure that up to date and current values are maintained on the assessment rolls. Failure to do so, however, has resulted in a wide disparity of rateable values in any given area; not only with respect to areas controlled by the district revenue services but also with respect to areas controlled by the municipal corporations.

Taxes levied by the municipal corporations are considerably higher than those levied by the District Revenue Offices since different considerations apply in the assessment of such taxes. The assessment of taxes levied by Municipal Corporations are under the direction of the Commissioner of Valuations. Criteria such as zone, size, condition and age of the property are used to arrive at rateable values as well as matters such as whether property has been classified as commercial, residential or industrial premises.

A further dimension has been added to the problem, particularly in cases where there is an extension of the boundaries of the municipal corporations. This is illustrated by the example of the City of San Fernando.

In 1994, the limits of the City of San Fernando were extended to encompass Marabella East and West, Cocoyea, Pleasantville and Gulfview.

With effect from 1994, ratepayers were required to pay their taxes to the City Corporation but due to administrative bungling the District Revenue Offices continued to receive the taxes of ratepayers in the extended areas.

The transition had a more serious effect. The rates were increased to more than double the rates which were paid previously. When taxpayers went to the Corporation to pay their taxes, they were faced with having to pay arrears on the shortfall of the increased taxes together with compound interest. In some cases, considerable sums were involved.

As a result of numerous complaints, the situation was defused to some extent by a decision of the Council of the Corporation. The Council decided to waive interest payments for the year 1994 and granted a waiver of 20% of the tax on residential properties in the extended areas.

Taxpayers in the extended areas had other causes for complaint. They pointed to the fact that they received less services from the Corporation than they were receiving from the Regional Corporations. In particular they complained about the maintenance of roads and drains and other services which were previously provided by the Regional Corporations. They pointed to the fact that where streets and other natural boundaries such as watercourses separated municipal areas, residents and business owners who were on the opposite side of the dividing line continued to pay rates which were a fraction of the rates imposed by the Municipal Corporation.

Taking all these matters into consideration, they concluded that it was a high price to pay for the dubious honor of being considered as citizens of the City of San Fernando.

There is no doubt that unless there is uniformity throughout the country in the evaluation and imposition of land and building taxes, injustice will continue to occur and citizens will continue to complain of injustice and hardships.

<p style="text-align: center;"><b>AREA OF CONCERN</b> <b>Ministry of National Security</b> <b>Illegal Immigrants</b></p>
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From time to time I have received complaints from illegal immigrants who have been arrested by the Immigration Authorities and lodged in the Country's prisons pending their deportation.

In most cases, the accredited representatives of their respective countries have facilitated their deportation by providing air or sea passages for their return.

In a few cases, however, illegal immigrants languish in prison since the accredited representatives of their home countries refuse to take steps to



facilitate their return. This has happened in the case of citizens of Nigeria and Liberia. In the case of prisoners who claim to be Liberian nationals some of them have no form of identification and can provide no evidence of their country of domicile.

Another cause of complaint is that illegal immigrants are being housed in prisons where they come into contact with hardened criminals.

My predecessor in his Fifth Annual Report (December 6, 1981 to December 5, 1982) had commented on the issue of detention of illegal immigrants as follows:-

Illegal immigrants are being housed in the Golden Grove Remand Prison pending deportation proceedings against them. Such a situation is contributing to the serious over-crowding situations at that prison and putting a further strain on human resources of the Prison authorities.

I am opposed to the detention of illegal immigrants in the prison environment where they are needlessly and unreasonably brought into contact with hardened criminals. I will be recommending to the Ministry of National Security that illegal immigrants be detained apart from the prison population and provided with proper facilities.

The situation has not changed. At present there are ten prisoners awaiting deportation, some of whom have been in prison for a long period of time.

Some of these cases have been referred to the Ministry of Foreign Affairs especially where there are no accredited representatives of the country of the prisoner's domicile in this country. The Ministry has, in the past, contacted Liberian and Ghanaian accredited representatives through their missions in Washington and Caracas respectively and arrangements were made for the prisoners' return to their homeland.

In cases where no assistance is being given by accredited representatives, it may be desirable that the matter be taken up with the United Nations through the Commissioner for Refugees.

<p style="text-align: center;"><b>AREA OF CONCERN</b> <b>TRINIDAD AND TOBAGO ELECTRICITY COMMISSION</b> <b>DENIAL OF ELECTRICITY SUPPLY</b></p>
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Under Section 48 of the Trinidad and Tobago Electricity Commission Act, Chapter 54:70, the Commission is under a legal obligation to give and maintain a supply of electrical energy upon being required to do so, by the owner or occupier of any premises within 50 yards of any distributing main.

The Commission had, prior to 1988, complied with this requirement of the law even to the extent of supplying squatters on State and private lands with an electricity supply. In that year, following a High Court Judgment in Action 140/88 Furness Industries Limited v. Trinidad and Tobago Electricity Commission, the Commission embarked on a "policy" of denying an electricity supply to anyone who was unable to produce a deed showing ownership of the land on which the supply was required or in the case where the occupier was not the owner, the consent of the owner. Contrary to the interpretation of the said judgment by the Commission the Certificate of inspection is the only requirement necessary for the Commission to fulfill its legal obligation to supply electricity. There is no stipulation in any law which requires a lawful occupier to obtain the consent of the landlord or owner or to produce a deed of title before a supply can be effected.

While the policy of the law is to protect all tenants, including land tenants and this is reflected in legislation such as the Landlord and Tenant Act, the Land Tenants (Security of Tenure) Act and the Rent Restriction (Dwelling Houses) Act, the "policy" of the Commission has the effect of conferring upon a landlord or owner a "*locus standi*" which the law does not confer upon him and imposing upon the tenant a requirement which is not contained in any legislation. Landlords and owners have been using "this imposition" of the Commission in withholding consent to tenants whom they consider undesirable in an effort to have their tenancies terminated.

Matters relating to tenancy and occupation are matters for a Court of law to decide and there is no requirement in the law that the Commission should determine an applicant's status before electricity is supplied to him.

In most cases, if not all, the electricity is supplied from a pole which is outside the premises, directly to the house owned by the applicant. This is a simple operation in which the integrity of the land is in no way affected.

Even where the integrity of the land is concerned, it is the duty of the Commission to take such steps as are necessary to furnish an occupier with an electricity supply. Section 48(1) of the Act stipulates that "...that (the Commission) shall furnish and lay any electric lines that may be necessary for the purposes of supplying the maximum power with which any such owner or occupier may be entitled to be supplied...".

The Furness Industries case was an exceptional case in which the Commission, despite protests from the owners of the land, was in the process of laying poles, guy lines and other equipment for the purpose of supplying squatters with an electricity supply. It was evident that the owners were complaining about the damage to the land by the Commission, not objecting to the occupation by the squatters who had been in occupation for some considerable time.

The certificate by the Electrical Inspectorate is the only requirement necessary in order that the Commission should fulfill its obligation. The Commission is not under any obligation to protect the owner of the land.

These reasons have been advanced to the Commission. However, the Commission still adheres to its policy of denying lawful occupiers an electricity supply. The result is that a number of applicants have been subjected to hardship and injustice by the refusal of the Commission to furnish them with an electricity supply. This applies particularly to members of the lower strata of the society. It is therefore, not in the public interest that this "policy" of the Commission be continued.

# ***PART    III***

- 1. STATISTICAL OVERVIEW*
- 2. SELECTED CASE SUMMARIES*

## STATISTICAL OVERVIEW

During the year 1999, I received a total of 991 complaints; of these, 222 or 22% were made against private organizations. In all instances where complaints were made against private organizations, I referred the complaints to the relevant authority or agency or advised the complainants on the proper course of action to be followed in having their complaints resolved.

I commenced investigation on 769 complaints which fell within my jurisdiction. This represents 78% of the new complaints received. At the close of the year, investigation was concluded on 241 or 31% of these complaints. A total of 528 or 69% remained under investigation.

Table I shows the number of new complaints which were received during the period under review and the manner of their disposal.

**TABLE I**  
**STATISTICS ON NEW COMPLAINTS**  
**RECEIVED DURING THE PERIOD**  
**JANUARY – DECEMBER 1999**

	Number	Percentage
Total number of complaints received	991	100
Total number of complaints against Private Institutions	222	22
Total number of complaints proceeded with	769	78
Total number of complaints concluded	241	31
Sustained / Rectified	62	8
Not sustained	47	6
Withdrawn / Discontinued	19	2
Advised / Referred	113	15
Total number under investigation	528	69



**TABLE II**  
**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 Investigation
1. E.M.A.	4	0	0	0	2	2
2. Elections & Boundaries Commission	1	0	0	0	0	1
3. T & T Medical Association	1	0	0	0	0	1
4. Judiciary	47	1	0	0	9	37
5. Magistracy	18	2	0	0	6	10
6. Ministry of Agriculture, Land and Marine Resources	16	0	1	0	1	14
Caroni (1975) Ltd	4	0	0	0	1	3
7. Ministry of the Attorney General	2	0	0	0	1	1
8. Ministry of Community Development, Culture & Women's Affairs	2	0	1	0	0	1
9. Ministry of Education	20	2	1	0	4	13
10. Ministry of Finance	31	7	3	0	4	17
11. Ministry of Health	44	1	4	2	8	29
12. Ministry of Housing and Settlements	43	0	0	1	3	39
13. Ministry of Labour and Co-operatives	17	2	-	0	6	9
14. Ministry of Legal Affairs	13	0	0	1	5	7
15. Ministry of Local Government	82	0	12	3	6	61
16. Ministry of National Security	6	0	0	0	1	5
Defence Force	3	0	0	0	1	2
Fire Services	8	3	0	0	0	5
Immigration	3	0	0	0	0	3
Police	56	7	0	6	11	32
Prison	63	3	0	1	1	58
17. Ministry of Public Utilities	2	0	0	0	0	2
Postal Services	7	1	0	0	1	5
T.S.T.T.	6	2	0	0	1	3
T.&T.E.C.	29	8	0	0	6	15
W.A.S.A.	35	8	0	0	8	19
18. Ministry of Social Development	54	4	7	2	7	34
19. Ministry of Sport and Youth Affairs	2	0	0	0	0	2
20. Ministry of Trade and Consumer Affairs	1	0	0	0	0	1
21. Ministry of Tourism – TIDCO	3	0	0	0	0	3
22. Ministry of Works and Transport	41	2	9	2	4	24
Airports Authority	1	0	0	0	0	1
Public Transport Service Corporation	5	0	0	1	0	4
National Maintenance Training and Security Company (MTS)	1	0	0	0	0	1
23. National Insurance Board	36	4	2	0	4	26
24. Petrotrin	1	0	0	0	1	0
25. Plipdeco	1	0	0	0	0	1
26. Port Authority	9	0	2	0	2	5
27. Public Administration and Information	1	0	0	0	0	1
Chief Personnel Officer	1	0	1	0	0	0
28. Service Commissions Department	22	0	1	0	6	15
29. Statutory Authorities Service Commission	1	0	0	0	0	1
30. Tobago House of Assembly	25	5	3	0	3	14
31. University Of The West Indies (UWI)	1	0	0	0	0	1
TOTAL	769	62	47	19	113	528
Private	222					
<b>GRAND TOTAL</b>	<b>991</b>					

Some marked changes were observed in the distribution of new complaints as reflected in Table II. The highest number of complaints was recorded against the Ministry of Local Government. Previously the Water and Sewerage Authority attracted the largest number of complaints. With the implementation of the new billing policy which limits retroactive billing of customers accounts to a period of one (1) year, complaints against the Authority have abated to some extent.

The complaints against the Ministry of Local Government relate to dissatisfaction with respect to the repair and maintenance of drainage systems and roads and to the eradication of health nuisances in residential areas. The second highest number of complaints was registered against the Prison Authority. Predominantly, the complaints which are made by prisoners are in respect of the delays experienced in having their matters determined by the Courts.

In addition to the new complaints received this year, investigations were undertaken on **780** complaints which were brought forward from the preceding year. Of these, a total of 382 complaints remained under investigation at the end of the year. Table III shows the manner of their disposal.

**TABLE III**  
**STATISTICS ON COMPLAINTS BROUGHT**  
**FORWARD FROM PRECEDING YEARS**

Total number of complaints brought forward from previous years		780
Total number of complaints concluded		398
Sustained/Rectified	131	
Not Sustained	46	
Withdrawn/Discontinued	75	
Advised/Referred	146	
Number of complaints still under investigation		382

The total number of complaints dealt with by the office for the year 1999 was **1771** which represents the number of new complaints received plus those brought forward from the preceding years. Table IV shows the manner of their disposal.

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

	<b>NO.</b>	<b>%</b>
Total number of complaints brought forward from preceding years	780	
Total number of complaints received in 1999	991	
Total	1771	
Total number of complaints without jurisdiction	222	12
Total number of complaints proceeded with	1549	88
Total number of complaints concluded	639	41
Sustained/Rectified	193	12
Not Sustained	93	6
Withdrawn/Discontinued	94	6
Advised/Referred	259	17
Total number of complaints under investigation	<b>910</b>	<b>59</b>

On a daily basis the Office receives numerous telephone calls from citizens seeking advice and immediate attention to their problems. These matters are dealt with conclusively within the course of the day. A record of these telephone contacts is however not maintained. As a result, the information provided in the tables does not adequately reflect the work done in this area which comprises an important element in the information and referral service of the Office.

<p><b>MINISTRY OF AGRICULTURE FORESTRY DIVISION</b></p>
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The Complainant, a Police Officer , prior to entering the Police Service, was employed with Brickfield Industries, a subsidiary of the Forestry Division of the Ministry of Agriculture from the 12<sup>th</sup> January 1955 to 31<sup>st</sup> May, 1972. Wages were paid to him by the Treasury Division of the Ministry of Finance. This was confirmed by the Director of Forestry and subsequently confirmed by the Comptroller of Accounts.

On his retirement on medical grounds from the Police Service in 1991, he sought to have his service at Brickfield Industries included in his record of service for the purpose of receiving retirement benefits.

On investigation of the matter, I was informed by the Comptroller of Accounts as follows:

**"An examination of our records reveals that workers at Brickfield were employees of the Forestry Division of the then Ministry of Agriculture, Lands and Fisheries. They were retrenched in 1978 and paid severance benefits following the take over of the operations by the Trinidad and Tobago Forest Products Company Limited (TANTEAK). The employees mentioned in your letter were among those retrenched.**

**Since the complainant resigned with effect from the 1<sup>st</sup> June, 1972 prior to the closure of Brickfield Forest Industries in 1978 he was not paid severance benefits. Nevertheless, Section 12 of the Pensions Act Ch. 23:52 provides that a Police Officer, who had non-pensionable (daily paid) service prior to enlisting in the Police Service, is entitled, on his retirement from the Police Service on attaining age fifty (50) years, to the payment of benefits in respect of his daily paid service. The Complainant has satisfied the requirement in terms of age having been retired medically unfit from the Police Service at age fifty-two (52) years. However, an examination of the record of his daily paid service would be necessary in order to determine whether he qualifies for benefits in terms of effective years service."**

Steps are being taken to locate the records with respect to the complainant's service with Brickfield Industries for the purpose of enhancing his retirement benefits.

**MINISTRY OF FINANCE  
CUSTOMS AND EXCISE DIVISION**

The complainant who was appointed to the post of Clerk I in Salary Range 14 on 22<sup>nd</sup> November, 1985 had previously held an appointment as a Customs Guard I in Salary Range 22C for a period of ten (10) years. Since the salary he held at the time of his new appointment was greater than the minimum of the post of Clerk I, his salary was converted in accordance with the provisions of the Personnel Department's Circular No.5 of 1975. This Circular prescribes that any difference between the salary an officer received in his former office and that of the post to which he was promoted, should continue to be paid as a personal pensionable allowance until overtaken by salary increases to the new position by whatever means.

In keeping with this provision, he was paid salary at the maximum of Range 14 in addition to a pensionable allowance. However, upon implementation of an award of 2% by the Industrial Court on 1<sup>st</sup> March, 1992, his salary was adjusted to reflect the new increases without a corresponding reduction in his pensionable allowance which resulted in an overpayment of salary in the sum of twenty thousand and forty-eight dollars (\$20,048.00). The overpayment was only discovered in March 1998 when steps were being taken to increase the salaries of public officers in accordance with the Ministry of Finance's Circular No.13 of 1997.

The complainant who was unaware that he was being overpaid, sought my assistance when he received demand notices to repay the overpaid sum.

Relying on the belief that he was in fact in receipt of the correct rate of salary, he declined offers of acting appointments in higher positions. He viewed the Department's demand for repayment as harsh and unconscionable particularly since through their error, he suffered a loss of earnings in not having taken up the acting appointments. These earnings were estimated to be greater than the sum overpaid.

He further added that adjustments had been made to his pensionable allowance which reduced his monthly net income by three hundred and three dollars and sixty-three cents (\$303.63). In view of his financial commitments which were based on the expectation of a higher salary, he was unable to meet the repayment demands.



I consequently wrote to the Permanent Secretary, Ministry of Finance, pointing out that based on the facts presented it would seem that a genuine overpayment had occurred in which payments had been received in good faith.

I recommended that in the circumstances, it was only just and reasonable that Cabinet be approached to have the overpayment written off.

I have been informed by the Comptroller of Customs and Excise Division that a draft Note for Cabinet had been submitted to the Minister of Finance seeking a write-off of the overpayment of salary.

**Ref. OMB: 0293/99**

<p><b>MINISTRY OF FINANCE COMPTROLLER OF ACCOUNTS</b></p>
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The Complainant, employed by the Postal Services as a postal assistant, complained to me that she was unable to access her Third Tranche Bonds because the Ministry of Public Utilities was unwilling to consolidate her Liability Statements to include her employment by the Ministry of Legal Affairs as requested by the Comptroller of Accounts. She had already received Third Tranche Bonds in respect of her services at the Ministry of Public Utilities.

My investigations revealed that the Complainant was also employed as a clerical assistant through the Unemployment Levy Programme at the Registrar General's Department. It was discovered that the Complainant worked during the day with the Postal Services and during the night at the Registrar General's Department. On 3<sup>rd</sup> August, 1990 the Programme was terminated and she ceased to be employed at the Registrar General's Department.

The Chief Personnel Officer was approached for approval to consolidate the Statements with respect to her employment in the two departments. The Comptroller of Accounts requested further clarification from the Ministry of Legal Affairs about the Complainant's employment in the Registrar General's Department. It was discovered that her employment under the Unemployment Levy Programme should have lasted only for a six month period but the Complainant was allowed to work for approximately nine years. She did perform the duties assigned to her and was paid for her services. Therefore it was only just and reasonable that a consolidation of both sets of service be effected.

The Chief Personnel Officer is awaiting further information on the Complainant's employment status from the Ministry of Legal Affairs before approval is given for the consolidation.

The matter is being pursued.

<p><b>MINISTRY OF FINANCE</b> <b>NATIONAL INSURANCE BOARD</b></p>
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The complainant, the widow of a deceased public officer who was in receipt of National Insurance payments reported that, after her husband died in January, 1995 the National Insurance Board continued to remit monthly pension payments of Two Hundred and Fifty Dollars and Thirty-eight Cents, {\$250.38}, to his bank account. This resulted in an overpayment in the sum of Seven Thousand Five Hundred and Eleven Dollars and Forty Cents, {\$7,511.40}.

The Board decided to deduct the sum of One Hundred Dollars per month from her National Insurance Survivor's Benefits towards the liquidation of the overpayment.

She claimed that she was unaware that her husband's banking account was being credited with these payments since she had notified the Board of his death and had submitted documents with respect thereto.

On investigation of the matter, I requested her to produce her bank books covering the period 1995 to 1997. It was discovered that the National Insurance Board had, in fact, continued to remit retirement pension payments in favour of her deceased husband in the sum of Two Hundred and Fifty Dollars, {\$250.00}, monthly simultaneously with Survivor's Benefit due to her of One Hundred and Fourteen Dollars, {\$114.00} over the period February, 1995 to August, 1997.

I have written to the Board pointing out that it was unfair for the complainant to be left with a paltry sum of Fourteen Dollars, {\$14.00} per month after the deduction of One Hundred Dollars, {\$100.00}, per month towards the overpayment which occurred through no fault of her own.

I therefore recommended a waiver of the remainder of the debt.

At the time of writing this report I had not been furnished with a reply.

**MINISTRY OF HEALTH**

The Complainant, a private medical practitioner, was recruited by the Ministry to perform the duties of Medical Officer of Health, Nariva/Mayaro, during the period 2<sup>nd</sup> August, 1991 to 27<sup>th</sup> October, 1991 while the incumbent was on leave. At the time of his employment the Complainant was fifty-five years of age.

His complaint was that he had not been paid for his services. On investigation of the matter, it was pointed out that his temporary appointment could not have been approved by the Public Service Commission because of his age at the time of his recruitment.

I was informed by the Ministry that delay of payment for his services was caused by attempts over the years to clarify whether the Complainant should be remunerated on a full-time or part-time basis.

By letter dated 22<sup>nd</sup> March, 1999, I was informed that the issue had been resolved and that Cabinet would be approached for approval to remunerate the Complainant. To date the Complainant has not been remunerated and the matter is being pursued by this Office.

**MINISTRY OF HEALTH  
NORTH WEST REGIONAL HEALTH AUTHORITY**

The Complainant, a male nurse employed by the Ministry of Health, was found guilty of committing a criminal offence on 31<sup>st</sup> October, 1994 and fined. He had been on suspension from his post pending the hearing of the matter. On the 7<sup>th</sup> February, 1995, he was informed by the Permanent Secretary that his salary would cease to be paid as a result of his conviction.

On 1<sup>st</sup> August, 1998, while the Complainant was still on suspension without pay, the Regional Health Authority introduced a "Nursing Pool" in order to deal with a chronic shortage of nursing personnel.

On 2<sup>nd</sup> September, 1998, the Complainant having satisfied the criteria for employment in the Nursing Pool which stated 'inter alia' that applicants should be qualified nursing personnel registered with the Nursing Council of Trinidad and Tobago, was contracted to work. He performed one hundred and four (104) hours of work during the months of September and October, 1998. He was refused payment on the grounds that he accepted employment while he was on suspension. The complaint was brought to this Office soon thereafter.

In the course of my investigation, I pointed out to the Regional Health Authority that the Authority did enter into a contract with the Complainant despite the fact that he had been suspended and that he had performed the duties specified under the contract. The only consideration which was now open to them was whether he was in breach of the contract. There was no question of such breach. He was therefore, entitled to the monies due to him under the contract.

The matter is being pursued.

Ref. OMB: 0664/98

<p><b>MINISTRY OF HOUSING AND SETTLEMENT</b> <b>LAND SETTLEMENT AGENCY</b></p>
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The Complainant was assigned one lot of land under the Squatters Regularization Programme at North Eastern Settlement, Sangre Grande Road, since 1990. She constructed a two bedroom wooden structure which was destroyed by fire sometime in 1996. With the assistance of relatives, she was only able to put down a concrete foundation in order to rebuild her home. She subsequently abandoned the land because she was unable to obtain funds to complete her house.

In July, 1998, almost two years afterwards, the said lot was re-assigned to another Beneficiary since it is the policy of the Land Settlement Agency to reassign lots which have been unoccupied for over three months. The Complainant then sought compensation for the incomplete concrete foundation and requested that another lot be allocated to her. On investigation of the matter, I was informed by the Chairman of the Land Settlement Agency that the new Beneficiary had agreed to repay the Complainant for the expenses which she incurred in constructing the foundation and that another lot in the Phase II programme in the same area would be assigned to her.

The matter is being pursued.

**JUDICIARY  
MAGISTRACY**

The Complainant claimed that in 1996 her services as a Spanish interpreter were engaged by the Organised Crime and Narcotics Unit (OCNU). She performed such duties at the 4<sup>th</sup> Court, Port of Spain and at the San Fernando Magistrate's Court and submitted bills in respect of such services to the Magistracy. Her claim was not honoured and she subsequently made representations to senior judicial officers but the matter was not resolved.

In 1997 she reported the matter to my Office contending that she was only paid the sum of one thousand, two hundred dollars (\$1,200.00). This sum represented services rendered for the month of August, 1996. However, no payments were made for the periods July, 1996 – February, 1997 and she was experiencing extreme hardship because of the failure of the Magistracy to settle her claim. My investigations revealed that the Complainant's services as an interpreter were not recognized as such and that she was considered as a witness for the State on the occasions on which she attended Court to render her services.

At a meeting held by the Chief Magistrate in order to resolve the matter, her status as an interpreter rather than as a witness was clarified and the Chief Magistrate directed that all monies due to the Complainant for her services amounting to the sum of six thousand, seven hundred dollars (\$6,700.00) be paid to her.

The Complainant subsequently received a cheque for the sum of \$6,700.00 in settlement of her claim.

**MINISTRY OF LOCAL GOVERNMENT  
SAN FERNANDO CITY CORPORATION**

The complainant, resided at Mon Repos, in the city of San Fernando for a number of years and was in the habit of paying her annual land and building taxes in the sum of \$8.64 to the District Revenue Office, San Fernando. In 1996 she received notification from the San Fernando City Corporation that her rates had been increased from the sum of \$8.64 to \$120.00 with effect from the year 1994.



She sought clarification from the Corporation as to the reason for the sharp increase in rates but was unsuccessful in having the matter clarified.

In 1996 when she attended the Corporation's Office to pay the new rate, she was informed that the Corporation would not receive the required sum of \$120.00 for that year (1996) until she paid the arrears of rates for the years 1994 and 1995 in addition to accrued interest thereon. The arrears amounted to the sum of \$242.72 and the interest accrued to the sum of \$24.00 for each of the years 1994 and 1995.

On investigation of the matter, I was advised by the Corporation that the Council had taken a decision that as from 1st January, 1994 in giving effect to the Municipal Corporation Act, the approved minimum house rate on residential properties was fixed at the rate of 8% per annum on hereditaments not exceeding \$50,000.00 in value.

In her case the Annual Rateable Value was calculated at \$1,500.00 giving rise to a rate of \$120.00 per annum.

The Council had also taken the decision to waive interest payments on arrears for the year 1994 and allowed a 20% discount in rates for the years 1994, 1995 and 1996.

Note: I have received many complaints of a similar nature. The difficulties experienced by ratepayers are dealt with under "Areas of Concern".

Ref. OMB:917/96

<p style="text-align: center;"><b>MINISTRY OF LOCAL GOVERNMENT</b> <b>SAN JUAN/LAVENTILLE REGIONAL CORPORATION</b></p>
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The Complainants, residents of San Juan, brought a complaint against a sanitation company operating in the area.

The Company had entered into a contract with the San Juan/Laventille Regional Corporation for the removal and disposal of garbage and operated a number of garbage trucks. Their garage and other facilities were situated in a densely built-up area of San Juan.

Residents complained of nuisances which affected their health. These consisted of noise, smoke and noxious odours. Rats and other vermin were also found on the Company's Compound. The operation of company's trucks on the street in the vicinity of an elementary school also posed a traffic hazard.

At a site visit attended by Public Health Inspectors, representatives of the Ministry of Town and Country Planning and the San Juan/Laventille Regional Corporation, it was noted that the building in which the operations of the company were conducted was previously a residential building.

The County Medical Officer of Health recommended that the matter be referred to the Town and Country Planning Division in order to determine whether permission had been granted for a change of land use; that the question of noise and nuisance be referred to the Occupational Health and Safety Department with the aim that a diesel emission control system be provided. He further recommended that the Corporation with the approval of the Public Health Inspectorate should include a clause in the contract pertaining to the location, storage and washing of the trucks used in garbage disposal.

Subsequent information received from the Director, Town and Country Planning Division has indicated that enforcement proceedings cannot be taken as the matter had become statute-barred.

The complainants and residents of the area continue to complain as none of the recommendations made by the County Medical Officer of Health had been implemented.

I have referred the matter to the Environmental Management Authority who are in a better position to deal with the problem. The Authority has informed me of the apparent lack of concern displayed by the proprietor of the Company but that they are pursuing the matter.

**Note:** I have received complaints of a similar nature from all areas of the Country. There has been a proliferation of businesses in recent times in areas earmarked for residential use. Where residential buildings have been converted or used for business purposes, the Town and Country Planning Division of the Ministry of Planning are powerless to act in cases where the businesses have been conducted for more than four years.

**Ref. OMB: 0506/99**

<p style="text-align: center;"><b>MINISTRY OF NATIONAL SECURITY FIRE SERVICES DIVISION</b></p>
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The complainant, a fireman, reported to the Fire Services Division that while he was on approved sick leave from 5<sup>th</sup> February, 1999 for a period of 15 days, he was injured in a vehicular accident. The report of the accident was submitted to the San Juan Fire Station. His doctor recommended sick leave for a period of 24 days from 19<sup>th</sup> February, 1999 and a further extension of sick leave for 40 days from 16<sup>th</sup> March, 1999. The relevant medical certificates were taken to the Public Relations Department of the Fire Service at the time they were issued.

He assumed duty at the Piarco Fire Station on 26<sup>th</sup> April, 1999. When he reported for work the following day, 27<sup>th</sup> April, 1999, he was instructed to visit the Public Relations Department of the Fire Services where a letter terminating his services was handed to him.

Subsequently, by letter dated 16<sup>th</sup> June, 1999, the Permanent Secretary, Ministry of National Security requested that he explain, in writing, his absence from duty without leave since 14<sup>th</sup> February, 1999. He replied on 22<sup>nd</sup> June, 1999 and sought my assistance three months later when he still was not allowed to resume duty.

On 29<sup>th</sup> September, 1999, I wrote to the Director of Personnel Administration pointing out that the termination of the officer's services by the Chief Fire Officer on 5<sup>th</sup> February, 1999, was 'ultra vires' the Fire Services (Terms and Conditions of Employment) Regulations, 1998. Under Regulation 45(1)(b), the service of an officer who holds a permanent appointment can be terminated 'inter alia' for abandonment of office. However, such a course can only be taken by the Permanent Secretary after the officer has been given an opportunity to be heard. This was not done in this particular case. The complainant having reported for duty after the recommended sick leave had expired belied the accusation that he had abandoned his office.

The letter by the Chief Fire Officer terminating the services of the complainant had the disastrous effect of suspending the complainant from duty without pay for a period of eight months, resulting in tremendous hardship to him. I recommended his immediate reinstatement to his substantive post and the retroactive payment of full salary from 5<sup>th</sup> February, 1999.

The complainant was allowed to resume his duties in November, 1999.

**Ref. OMB: 764/98**

<p><b>MINISTRY OF NATIONAL SECURITY DEFENCE FORCE</b></p>
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The complainant, a lieutenant commander in the Trinidad and Tobago Defence Force (Coast Guard) had been seconded from the Teaching Service in 1963. Prior to his attaining the age of forty seven (47), the compulsory retirement age for a regular officer, he was required to state whether he wished to return to the teaching service, continue to serve in the Defence Force or retire. He opted to continue serving in the Defence Force and approval was granted for him to serve until sixty (60), which is the compulsory age of retirement in the teaching service.



On attaining the age of fifty five (55), he sought approval from the Minister of National Security to be retired at that age and to be contracted to continue service in the Defence Force until age sixty (60). Approval, if granted would have been more beneficial to the complainant because his retirement benefits would have been greatly enhanced. Similar terms and conditions of employment had previously been granted to former police officers who were seconded to the Trinidad and Tobago Defence Force (Coast Guard).

The Minister of National Security did not grant his request. The complainant then sought relief under "Redress of Complaint" from the Defence Council in accordance with Section 194(1) of the Defence Force Act. On 18<sup>th</sup> May, 1998, the Defence Council denied his request.

Thereafter, the complainant requested that the Defence Council forward a report to the President of the Republic in accordance with a provision under the Defence Act.

As a consequence of the delay by the Defence Council in complying with the Complainant's request, he brought his complaint to my attention on 2<sup>nd</sup> November, 1998.

After a number of requests to the Ministry of National Security, I was informed on 4<sup>th</sup> January, 2000 that the matter had been referred to the President.

**Note:** Under the Third Schedule to the Constitution, the Ombudsman cannot investigate any matter relating to remuneration and conditions of a member of the armed forces. However the complaint was investigated due to a fault in administration.

**Ref. OMB: 377/98**

<p style="text-align: center;"><b>MINISTRY OF NATIONAL SECURITY FORENSIC SCIENCE CENTRE</b></p>
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The Complainant, a Forensic Pathologist, recruited on contract from abroad, complained that there was a delay by the Ministry in settling several claims to which he was entitled under the terms of his respective contracts. These claims consisted of credit for service beyond the contracted periods, incidental expenses incurred with respect to his vacation leave, baggage allowance due to him for travel to his place of recruitment, allowances for sea freight, and the refund of expenses incurred in providing furniture and appliances and a security gate for his official quarters.

I considered it necessary that in order to have his complaint speedily settled that a meeting be convened with relevant Government departments. Consequently, I invited representatives from the Ministry of National Security and the Office of the Chief Personnel Officer to attend at my Office. The Complainant was also present.

It was decided then that the only claims which could be sustained were those related to working days beyond the contracted period and a refund of expenses incurred in installing the security gate.

I was subsequently informed by the Ministry that the Complainant had been credited with six working days in lieu of his vacation leave and that the amount expended on the security gate had been paid to him.

**Ref. OMB: 0259/99**

<p style="text-align: center;"><b>MINISTRY OF PUBLIC UTILITIES POSTAL SERVICES DIVISION</b></p>
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On 3<sup>rd</sup> August, 1978, Cabinet created the post of Statistical Officer II for the purpose of strengthening the Planning Unit of the Postal Services which had not been performing satisfactorily due to the lack of trained and qualified staff. On the recommendation of the Organization and Management Division, the post was placed on the establishment of the Central Statistical Office in order to avoid the consequences of rapid staff changes and also for the purpose of providing promotional opportunities.

The complainant was appointed to the position on 2<sup>nd</sup> January, 1979. He had worked exclusively with the Postal Services for a period of twenty (20) years and had never been promoted either in the Statistical Services or the Postal Services. He was however considered to be a "de facto" member of staff of the Postal Services although his post appeared on the establishment of the Central Statistical Office.

In July 1999 the Postal Services were privatized and a voluntary separation package was offered to all of its employees.

The complainant who had almost reached the age of retirement was not able, however, to access the separation package which contained enhanced benefits as he was not considered to be a member of staff of the Postal Services. He felt that he had sustained an injustice as a result of the failure of the Central Statistical Office to have his position of Statistical Officer II, transferred to the Post Office establishment so that he would have been able to access the Voluntary Separation package being offered to all postal workers.

Representations were made by the Ministry of Public Utilities to have the post transferred from the Central Statistical Office to the Postal Services but their request was resisted by the Central Statistical Office because they were apprehensive that the post would have been lost from their establishment.

In an effort to have the matter speedily resolved, I convened a meeting at my office with representatives from the Service Commissions Department, Chief Personnel Officer, Ministry of Public Utilities, the Postal Services and the Central Statistical Office. Following discussions, it was agreed that it was only fair and reasonable that the post be transferred to the establishment of the Postal Services.

I subsequently wrote to the Ministry of Public Utilities and recommended that steps be taken to seek Cabinet's approval to effect the transfer.

On 8<sup>th</sup> September, 1999, Cabinet having noted the special circumstances of the complainant's case, agreed that he be paid a 25% enhancement of his gratuity on the condition that he agree to retire from the Public Service within a period of three months.

Ref. OMB: 0127/99

<p style="text-align: center;"><b>MINISTRY OF PUBLIC UTILITIES</b> <b>TRINIDAD AND TOBAGO ELECTRICITY COMMISSION</b></p>
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The complainant, a seventy (70) year old pensioner, sought my assistance with respect to an unfair demand from the Trinidad and Tobago Electricity Commission for payment of a bill which purported to represent outstanding charges for an electricity account which had been closed six (6) years previously. The charges totalled ***Six Thousand Two Hundred and Seventy-seven Dollars and Twenty-three Cents, {\$6,277.23}***.

The account in question related to charges for electricity services incurred in respect of premises which, she had some considerable time before vacated. The charges were transferred to her account in respect of the residence which she currently occupied. Under threat of disconnection, she signed an agreement to repay the alleged debt and subsequently complained to my Office in order to have the matter resolved.

It was a matter of concern to me that action was only taken by the Commission to collect the outstanding charges after a period of more than five (5) years had elapsed having regard to the policy of the Commission to disconnect a consumer's electricity supply soon after a bill becomes due.

I consequently wrote to the Commission's Commercial Officer - South to point out that the limitation period for the recovery of the debt had run its course since the demand should have been brought within four (4) years of the accrual of the debt. I also indicated that the agreement which the complainant had signed did not revive the debt. The debt had expired more than a year before the demand for payment was made.

I recommended that in view of the circumstances the proper course was to have the alleged debt written off.

The Commercial Officer responded to the effect that the matter was referred to the Legal Department of the Commission for attention. The matter remains unresolved.



MINISTRY OF PUBLIC UTILITIES  
WATER AND SEWERAGE AUTHORITY

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

The property in question was purchased by her deceased husband in 1995. Bills were received and paid against one account. In 1996, without prior explanation or notice, she began receiving bills against four separate accounts.

When I enquired about the billings, the Authority's Customer Accounting Manager informed me that under the provisions of the Water and Sewerage Authority Act, Chapter 54:40 and the Orders of the Public Utilities Commission , the Authority was mandated to levy water 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 the property was assessed as follows:-

"1)	¾ Ground Floor	-	ARV - \$3,600.00
2)	¼ Ground Floor	-	ARV - \$ 400.00
3)	Top Floor (Rented)	-	ARV - \$4,200.00
4)	Top Floor (Owner)	-	ARV - \$ 420.00".

My investigations revealed, however, that the Corporation had fixed a rateable value of \$8,700.00 in respect of the property. It is a requirement of the law that the Corporation enter into the House Rate Book the rent paid by each occupier which is used as a basis for the purpose of arriving at the Annual Rateable Value which is defined in the Act as the **gross annual rental value** of a rateable hereditament.

The Authority extracted this 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.

I have pointed out to the Authority that the basis on which water rates should be calculated is on the rateable value fixed by the Corporation on the premises as a whole.

The matter is still to be resolved.

**Note:** By Section 16(1) of the Fourth Schedule to the Water and Sewerage Authority Act, the Authority is only entitled to levy a water rate in respect of a "house or of any premises" on the annual value thereof. By Section 16(4), the annual value of any premises shall be taken to be that value as appearing in the assessment roll which is used as a basis for the calculation of the house rate. This rate in accordance with the law, is used as a basis for the calculation of water rates.

The Public Utilities Commission by Order No.78 decreed that where the annual taxable value of the separate parts of a building can be disaggregated, each part shall be classified and billed separately.

This Order gave rise to numerous complaints, as a result of which the Commission decided that the Order was applicable to self-contained units such as condominiums for which an annual taxable value is fixed in respect of each unit.

Previous reports have drawn attention to the inequity and injustice of the present method of imposing water rates. Until the Authority provides a metered supply to all of its customers, this inequity and injustice will continue to prevail.

**Ref. OMB: 0732/98**

#### TOBAGO HOUSE OF ASSEMBLY

The Complainant was appointed to the post of Director of Planning, Tobago House of Assembly (THA), on 2<sup>nd</sup> October, 1989. He complained that prior to his appointment he had been acting in the post since 2<sup>nd</sup> May, 1988 and had received no acting allowances.

Investigations revealed that in May 1988, Cabinet approved the recommendation of the Organisation and Methods' Department to combine the Planning Unit of the Central Administrative Services with the one that existed in the THA. The new unit was to be headed by a Director of Planning to which the Complainant was assigned. He assumed duties in the post on May 2<sup>nd</sup>, 1988 and discharged the functions of Director up to the time of his retirement in July, 1995.

Under the Assembly's restructuring exercise the post of Director of Planning was created with effect from 23<sup>rd</sup> May, 1989. The complainant therefore did not receive any acting allowances for the period 2<sup>nd</sup> May, 1988 to 22<sup>nd</sup> May, 1989.

Representations were made on his behalf to the Chief Personnel Officer by the Tobago House of Assembly and they were advised that he should be paid an acting allowance equivalent to twenty five percent (25%) of the salary applicable to the office of the Director of Planning for the period 2<sup>nd</sup> May, 1988 to 1<sup>st</sup> October, 1989.

The matter is being pursued.

## SUMMARY OF OTHER COMPLAINTS RECEIVED DURING 1999

- ❖ Junior workers being preferred for appointments to higher grade positions before complainants.
- ❖ Assistance in having the Trinidad and Tobago Electricity Commission relocate low lying high tension electricity wire across complainant's property.
- ❖ Assistance in having Credit Unions refund share balance.
- ❖ Failure of the Trinidad and Tobago Electricity Commission to pay compensation for damaged household appliances as a result of an electrical power surge.
- ❖ Failure of Regional Corporations to clear drains and maintain and repair roads.
- ❖ Failure of the Service Commissions Department to correct an inaccurate date of promotion which was adversely affecting seniority status of complainant.
- ❖ Failure of the Regional Corporation to effect timely repair to roadway which was damaged by landslip.
- ❖ Unlawful seizure and detention of motor vehicles by the Police.
- ❖ Query against the Annual Rateable Value of property which complainant claimed was excessively increased by the District Revenue Office.
- ❖ Failure of the Water and Sewerage Authority to disconnect service to premises despite payment of the relevant fee.
- ❖ Assistance to obtain renewal of standard agricultural leases of State lands.
- ❖ Assistance to obtain payment of National Insurance Retirement benefits.
- ❖ Delay on the part of government to pay compensation for lands acquired by the State.
- ❖ Failure of the Ministry of Works to erect box drain on roadway to prevent erosion of property.
- ❖ Unreasonable delay on the part of the Customs and Excise Division in having shipment of nutritional products cleared.
- ❖ Assistance to obtain release of funds which were held on deposit with the Trinidad and Tobago Co-operative Development Bank.
- ❖ Assistance in having leaking fire hydrant repaired.
- ❖ Failure of Regional Corporation to undertake necessary works to divert drain which was causing a health nuisance.



- ❖ Assistance to obtain a refund of health surcharge from the Inland Revenue Department which had been outstanding since 1991.
- ❖ Failure of the Public Health Authority and Factory Inspectorate to address a nuisance caused by the operation of neighbour's industrial factory in a residential area.
- ❖ Assistance in receiving continued payment of Survivor's Benefits from the National Insurance Board after the death of husband.
- ❖ Failure of the Tobago House of Assembly to pay compensation for injuries sustained from a fall through an open manhole.
- ❖ Assistance to have complainant's son re-accepted by Secondary School following a one (1) year suspension by the School Principal.
- ❖ Discrimination in employment practices by Regional Corporations.
- ❖ Assistance in having National Housing Authority repair leaking roof of apartment building.
- ❖ Failure of the Environmental Management Authority to address complaint of noise pollution.
- ❖ Assistance to obtain employment in Public Service following redundancy after Postal Services were privatized.
- ❖ Failure of the National Housing Authority to issue deeds upon payment of all monies due under agreements.
- ❖ Failure of the Port of Spain City Corporation to pay compensation to butchers for losses incurred when their meat which was held at the Port of Spain Abattoir's Cold Storage Facility was spoilt and had to be destroyed.
- ❖ Assistance in having telephone company undertake appropriate repairs in order to restore telephone service which had stopped working for several months.
- ❖ Assistance in having the Trinidad and Tobago Electricity Commission reconnect the complainant's electricity service which was disconnected at the request of the Landlord.
- ❖ Unfair action to have overpayment of complainant's salary deducted from gratuity upon retirement.
- ❖ Failure on the part of the Port of Spain City Corporation to address alleged building violation and encroachment of complainant's property in Woodbrook.

**[This list is not exhaustive of the complaints received during the year 1999]**

*PART IV*

*APPENDICES*

**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
- (k) freedom of the press.



**Protection of  
rights and  
freedoms**

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 - **Discretion of Ombudsman**

(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. **Report on Investigation**

(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 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.

**Prescribed  
Matters  
concerning  
Ombudsman**

98.

- (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.
- (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, 1997)

**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 (including Trinidad and Tobago relations with the Government of any other country or with any international organizations);

- (b) will involve the disclosure of the deliberations of Cabinet; or

- (c) 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).
<b>Notice of entry on premises</b>	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.
<b>Delegation of powers</b>	8.	<p>(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.</p> <p>(2) No such delegation shall prevent the exercise of any power by the Ombudsman.</p> <p>(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.</p> <p>(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.</p>
<b>Reports</b>	9.	<p>(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.</p> <p>(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.</p>
	10.	<p>A person is liable on summary conviction to a fine of one thousand dollars or to imprisonment for six months who -</p> <p>(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;</p> <p>(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;</p>

- (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.

