



Government of the Republic of Trinidad and Tobago
Office of the Attorney General and Ministry of Legal Affairs

OFFICE OF THE CHIEF STATE SOLICITOR

Level 16, Tower C
International Waterfront Centre
1A Wrightson Road
PORT-OF-SPAIN

TEL: 223-2452 ext. 2169
Fax: 226-5136
Email: sdass@ag.gov.tt

25th June, 2024.

Mr. Vishaal Siewasaran
Attorney-at-Law
Freedom Law Chambers
No. 3 Harris Street
San Fernando

Dear Sir,

Re: CA P351 of 2023 Terissa Dhoray v The Attorney General of Trinidad and Tobago

We refer to our letter to you dated 11th June 2024 in respect of the captioned matter.

We also note with concern that notwithstanding:

- (a) the repeated assurances of Senior Counsel Ramlogan to the Court of Appeal that the Appellant would file the Notice of Appeal and Record of Appeal as a matter of urgency and take all possible steps to have the matter listed for hearing before the Board in the last week of July 2024; and
- (b) our letter of 11th June 2024 calling on the Appellant to file and serve the Notice of Appeal and the Record of Appeal on us on or before the 12th June 2024 in accordance with the said assurances given to the Court of Appeal,

the Appellant has failed to serve on us any such Notice of Appeal or Record of Appeal and as far as we are aware no such Notice or Record has been filed to date. Given the fact that we are now in the last week of June and that the Privy Council, we are advised, will not take steps to list the matter until the notice of appeal is filed, it now appears highly unlikely that the appeal will be heard this side of the term. It seems quite clear to us that if in fact the Appellant ever intended to honour the said assurances given to the Court of Appeal with respect to taking all steps to expedite the hearing of her appeal to the Board, she no longer has any intention of doing so.

You will have noted from the recent email correspondence between the parties and the Court of Appeal regarding the Court's formal order made in respect of the Appellant's application for a stay, that the Court has confirmed that the formal order faithfully represents the decision and order of the Court pronounced at the hearing of the 4th June 2024.

Against this backdrop and in light of the fact that the Order made by the Court of Appeal does not prevent the implementation of section 18 of the Act, the Minister has decided to proceed with the implementation of section 18, and accordingly to extend to the 31st July 2024 the period within which eligible public officers may exercise one of the options under that section. It is the Minister's present intention that this will be the last such extension and that 31st July 2024 will be the final deadline for the exercise of such options. However, the Minister gives his undertaking that if it transpires that the Privy Council allows the Appellant's appeal and declares the Act to be unconstitutional, steps will be taken to ensure that the status quo ante the exercise of the options under section 18 will be restored in relation to each public officer who has exercised an option.

The Ministry of Finance has written to each public officer notifying him or her of these matters and in particular the final extension of the period for the exercise of options under section 18 to the 31st July 2024. A copy of one such letter is hereto attached.

Yours Respectfully,

Svetlana Dass
.....
Svetlana Dass
/f/ Chief State Solicitor



Government of the Republic of Trinidad and Tobago

MINISTRY OF FINANCE

OFFICE OF THE PERMANENT SECRETARY

F: (PS): 6/1/2

June 25, 2024

All Permanent and Temporary Employees of
The Inland Revenue and
Customs and Excise Divisions
Ministry of Finance

Dear Aaron Affan,

Re: The Selection of options under section 18(2) of the Trinidad and Tobago Revenue Authority Act, 2021

I refer to previous correspondence relating to the captioned matter issued to you by the Ministry of Finance ("the MOF") and in particular to the MOF's letter to you dated 8th December 2023. A copy of that letter is enclosed for your ease of reference.

As you may be aware, on the 19th July 2022, High Court proceedings challenging the constitutionality of the Trinidad and Tobago Revenue Authority Act were commenced. The challenge was unsuccessful with the Claim in those proceedings being dismissed by the High Court on 17th November 2023. On the 28th May 2024, an appeal to the Court of Appeal against the High Court's decision was also dismissed. Thus, to date both the High Court and the Court of Appeal have determined that the Act is constitutional, valid and lawful.

However, on the 29th May 2024, the party challenging the constitutionality of the Act ("the Appellant") applied to the Court of Appeal for permission to appeal to the Judicial Committee of the Privy Council against the Court of Appeal's decision upholding the constitutionality of the Act, and for an order preventing the Government from implementing the options under section 18 of the Act until the Appellant's appeal to the Privy Council is determined. After hearing that application, the Court of Appeal gave the Appellant permission to appeal to the Privy Council.

However, the MOF has been advised by Senior Counsel that contrary to what has been stated in many media reports, no order preventing the Government from implementing section 18 of the Act or any other statutory provision has been made by the Court of Appeal. What the Court ordered is a stay of its own decision and despite both the



(868) 612-9700
ext. 5132/5133



(868) 624-8886



Suzette.LeeChee@gov.tt



www.finance.gov.tt

Appellant and the Attorney General seeking clarification as to whether the Court intended to stay the implementation of the options under section 18, the Court has made clear that only its own order has been stayed. The Minister of Finance has therefore been advised by Senior Counsel that he is free to fix a deadline date for the exercise of the options ("the Options") under s. 18 of the Act by public officers who are eligible to do so ("the eligible public officers").

Notwithstanding the fact that the Appellant obtained final permission to appeal to the Privy Council against the Court of Appeal's decision on the 7th June 2024, and despite repeated assurances given by the Claimant's Attorneys to the Court of Appeal that they would file such an appeal as soon as final permission was granted, as well as take all steps to expedite the hearing of that appeal by the Privy Council, the Appellant's Attorneys have not to date served the Ministry's Attorneys with a Notice of Appeal and as far as the MOF is aware, no such appeal has as yet been filed on behalf of the Appellant. The Minister has been informed that no steps will be taken by the Privy Council to list the Appeal until a Notice of Appeal had been filed. As such, whether intentionally or not, it now does not appear likely that the appeal before the Privy Council will be heard in July 2024 as had been originally suggested by attorneys for the Appellant.

The Minister of Finance has on several occasions extended the period during which under section 18 the Act the eligible public officers are to exercise one of the Options ("the Option period"). The last such extension extended that period to the 3rd June 2024. In the circumstances, and in particular given:

- i. the determination of the High Court and the Court of Appeal that the Act is constitutional;
- ii. the absence of any order of the Court of Appeal or other Court preventing the implementation of section 18 of the Act;
- iii. the inordinate and continuing delay of the Appellant and/or her Attorneys in filing and/or serving the relevant Notice of Appeal and the Record of Appeal with the Privy Council (in breach of the repeated assurances given by the Claimant's Attorneys to the Court of Appeal to do so as soon as permission to appeal was given),

the Minister of Finance has decided to effect one further and final extension of the Option period to the 31st July 2024. The Government does not intend to extend that period any further and accordingly we urge you to exercise one of the Options on or before 31st July 2024 in order to ensure that your right to do so is not lost.

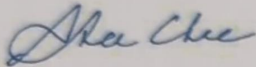
Further, mindful of the fact that the Appellant has obtained permission to appeal to the Privy Council, the Government undertakes that should the Appellant pursue such an appeal and the Privy Council were to find that the Act is unconstitutional, the Government will take all required action to restore all public officers to the position they were in prior to their exercise of one of the Options. So, for example, in the case of those public officers who exercise the option of transferring to the TTRA, those officers will, if they so wish, be able to return to their previous positions at the Customs and Excise Division or Inland Revenue Division (as the case may be) without any loss of status or benefits.

If you have already stated an option in response to the MOF's letter to you dated 8th December 2023, you are not required to take any further action.

Should you require further clarification on any matter, you can contact via email: ttra-transition@gov.tt or via the following mobile numbers:

1. Number 1: 431-6163
2. Number 2: 431-6164
3. Number 3: 431-6165
4. Number 4: 431-6166

Yours Sincerely,



**Permanent Secretary
Ministry of Finance**



Government of the Republic of Trinidad and Tobago

MINISTRY OF FINANCE

OFFICE OF THE PERMANENT SECRETARY

F: (PS): 6/1/2

December 08, 2023

All Permanent and Temporary Employees of
The Inland Revenue and
Customs and Excise Divisions
Ministry of Finance

Dear Aaron Affan,

Previous correspondence on the transitioning of Public Service Staff from the Customs and Excise and Inland Revenue Divisions are relevant.

The Trinidad and Tobago Revenue Authority Act, 2021 ('the Act') established the Trinidad and Tobago Revenue Authority ('TTRA') to replace the Board of Inland Revenue and the Customs and Excise Division. On May 1, 2023, Section 18 and other provisions of the Act became law.

This letter serves to provide you with information as to the various options afforded under Section 18 of the Act, an explanation of what these options mean, and an opportunity for you to consider which of the options you wish to select.

Section 18(2) of the Act, as quoted below, provides options ('the options') available to public officers ('qualifying officers') falling within section 18(1) thereof: -

18. (1) This section applies to an officer who, on the date of the coming into force of this Act—
- Options available to public officers
- (a) holds a permanent appointment to; or
 - (b) holds a temporary appointment to, and has served at least two continuous years in, an office in the Public Service on the establishment of the Inland Revenue Division or Customs and Excise Division.



(868) 612-9700
ext. 1813 - 1814



(868) 627-6108



Suzette.LeeChee@gov.tt



www.finance.gov.tt

- (2) A person to whom this section applies may, within three months of the coming into force of this Act, or within such extended period as the Minister may, by Order subject to negative resolution of Parliament allow, exercise one of the following options:
- (a) voluntarily retire from the Public Service on terms and conditions agreed between him or his appropriate recognised association and the Chief Personnel Officer;
 - (b) transfer to the Authority with the approval of the appropriate Service Commission on terms and conditions which, taken as a whole, are no less favourable than those enjoyed by him in the Public Service;
 - (c) be appointed on transfer by the Public Service Commission to a suitable public office in the Enforcement Division on terms and conditions which, taken as a whole, are no less favourable than those enjoyed by him in the Public Service on the date of the coming into force of this Act; or
 - (d) remain in the Public Service provided that an office commensurate with the office held by him in the Public Service prior to the date of the coming into force of this Act, is available.

The Minister of Finance has extended the period for the exercise of options to **February 29, 2024**.

Details on Section 18 options

- Option under s.18(2)(a) of the Act - "*voluntarily retire from the Public Service...*"

With regard to this option, the Chief Personnel Officer (CPO) is offering to qualifying officers who choose this option, a termination package calculated in accordance with section 15(4) of the Pensions Act, Chapter 23:52 and Regulation 12(1) of the Pensions Regulations (see excerpt at **Appendix 1**) save that the package will include an enhancement of 20% of the sum payable under those provisions. Such offer from the CPO will be conveyed to the appropriate recognised association in accordance with s.18(2)(a) of the Act. By choosing this option, a qualifying officer will indicate his or her acceptance of the CPO's offer and will voluntarily retire from the Public Service on those agreed terms.

- Option under s.18(2)(b) - “transfer to the Authority on terms and conditions which, taken as a whole, are no less favourable than those enjoyed by him in the Public Service” (emphasis added)

The TTRA has conducted a 'mapping' exercise to identify for each position in the Inland Revenue Division and the Customs and Excise Division, a similar position in the TTRA in terms of scope of duties and responsibilities. The TTRA will offer each qualifying officer a permanent position in the TTRA that has been mapped (i.e. identified as being similar) to the officer's substantive position in the Inland Revenue Division or Customs and Excise Division.

Where an officer (either permanent or temporary) as at January 31, 2024, has been acting continuously in a position of one (1) or more years, the TTRA will offer such an employee, a permanent position in the TTRA that has been mapped (i.e. identified as being similar) to the position in which the officer is currently acting.

An attractive compensation package has been designed for the staff of the TTRA. You currently hold the position of Field Auditor III in the Inland Revenue Division and will be offered an equivalent position in the TTRA. The salary band is identified below. Please note that your final monthly base salary will be either a minimum of 10% more than your existing base salary or the minimum of the band (outlined below); whichever is higher.

Min	Max
19827.20	29740.80

The TTRA will also offer several benefits some of which may include:

- Health plan
- Life insurance plan
- Pension plan
- Vacation leave
- Sick leave
- Personal leave
- Transport facility
- Car allowance
- Mobile
- Mobile data/internet
- Professional membership/subscription
- Overtime

Once the approval of the appropriate Service Commission is obtained, a qualifying officer who exercises this option will be released from the Ministry to take up a permanent position in the TTRA that has been mapped (i.e. identified as being equivalent) to the officer's position in the public service (whether acting or substantive as described above).

Further, in accordance with Section 19 of the Act, government pension benefits will be preserved and accrued until the qualifying officer selecting this option reaches the age of retirement. **Appendix 1** refers.

Qualifying officers who select this option will subsequently receive an offer letter from the TTRA with the full list of benefits, terms and conditions. It must be noted that benefits when taken as a whole, as required by the Act, will be no less favourable than those currently being received.

- Option under s.18 (2)(c) *“be appointed on transfer by the Public Service Commission to a suitable public office in the Enforcement Division...”*

This option is available to qualifying officers who may for the purposes of the enforcement of the Customs Laws, the Excise Act or other Revenue Laws, exercise the powers, authorities and privileges conferred by those revenue laws in the performance of their duties. Those officers who transfer to the Enforcement Division will remain in the Public Service as public officers under that Division of the TTRA. They will, for administrative purposes, fall under the Ministry of Finance and for operational purposes, report to the Deputy Director General Enforcement of the TTRA. A list of the titles and number of positions available in the Enforcement Division of the TTRA is attached in **Appendix 2**.

With this option, the Public Service Commission, if it agrees, will transfer you to the Enforcement Division in your substantive position provided such a position is available in that Division.

In the event that the number of qualifying officers applying for a particular position in the Enforcement Division exceeds the number of vacancies for that position, the selection of officers for the position will be based on seniority.

All of the benefits to which you are currently entitled will continue to apply.

Should a position not be available for you in the Enforcement Division, you will be informed accordingly of your right to select another option within a specified timeframe.

- Option 18(2)(d) *“remain in the Public Service provided that an office commensurate with the office held by him in the Public Service.... is available.”*

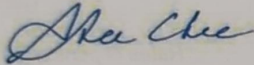
This option equates to a transfer request to a Ministry or Department in your substantive office, but the grant of that request is dependent on the availability of a suitable vacancy. A request to remain in the Public Service under this option will be submitted to the Service Commissions Department (SCD) for the consideration of the Public Service Commission or Judicial and Legal Services Commission as appropriate. Should a position not be available, you may re-consider and select any of the other options. You will be informed if there is no commensurate position and of your right to choose another option and the time within which you may do so.

I wish to assure you that every effort is being made and will continue to be made by the Ministry to address all outstanding Human Resource matters, including acting approvals and the award of increments so that no one will be disadvantaged by the closure of the Divisions of the Inland Revenue and Customs and Excise.

Should you require further clarification on any matter, you can contact via email: ttra-transition@gov.tt or via the following mobile numbers:

1. Number 1: 431-6163
2. Number 2: 431-6164
3. Number 3: 431-6165
4. Number 4: 431-6166

Yours faithfully,



.....
Permanent Secretary
Ministry of Finance

Excerpt from the Pensions Regulations of the Pensions Act, Chapter 23:52

2. ...every officer holding a pensionable office in the service of Trinidad and Tobago who has been in such service for ten years or upwards may be granted on his retirement a pension at the rate of 1/600ths of his pensionable emoluments in respect of each complete month of service.

12. (1) In the case of an officer who retires, or is removed from office, in circumstances contemplated by section 15(4) of the Act, and who is otherwise eligible for pension, his pension may be increased at the rate of the number of 720ths of his pensionable emoluments exceeding the pension allowed under regulation 2 by the numbers following:

- In the case of an officer who has served—
- (a) 20 years and upwards60
 - (b) less than 20 years, but not less than 17 years...48
 - (c) less than 17 years, but not less than 15 years...36
 - (d) less than 15 years, but not less than 12 years...24
 - (e) less than 12 years, but not less than 10 years...12.

*Rates of pension
or gratuity when
office abolished.*

(2) No additional pension shall be granted under subregulation (1) so as to entitle an officer to a higher total pension than the maximum of two-thirds of his pensionable emoluments at the date he ceased to be in the service of Trinidad and Tobago or than the pension for which he would have qualified by length of service on reaching the age of sixty years whichever shall be the lower amount.

(3) If the officer has been in the service of Trinidad and Tobago for less than the qualifying period of ten years, he may be granted a pension calculated in accordance with regulation 2 as if there had been no qualifying period.

Appendix 2

POSITIONS IN THE ENFORCEMENT DIVISION -TTRA (INTELLIGENCE)

Positions	No. of Positions	Remarks
Customs & Excise Supervisor (Post Clearance Audit)	1	
Customs & Excise Officer III (Post Clearance Audit)	2	
Customs & Excise Officer II (Post Clearance Audit)	10	
Customs & Excise Collector (Intelligence)	1	
Customs & Excise Officer III (Intelligence)	2	
Customs & Excise Officer I (Intelligence)	7	
Customs & Excise Officer III (Risk Management Unit)	1	
Customs & Excise Officer II (Risk Management Unit)	2	
Customs and Excise Guard II	2	
Total	28	

POSITIONS IN THE ENFORCEMENT DIVISION – TTRA (ENFORCEMENT OPERATIONS)

Positions	No. of Positions	Remarks
Customs & Excise Officer III (Marine Interdiction)	4	
Customs & Excise Officer II (Marine Interdiction)	10	
Customs & Excise Officer I (Marine Interdiction)	22	
Customs & Excise Officer I (Canine Enforcement)	7	
Customs & Excise Guard II (Canine Enforcement)	6	
Customs & Excise Collector (Investigations for C&E & Tax)	1	
Customs & Excise Supervisor (Investigations for C&E & Tax)	2	
Customs & Excise Officer III (Investigations for C&E & Tax)	1	
Customs & Excise Officer II (Investigations for C&E & Tax)	9	
Customs & Excise Officer I (Investigations for C&E & Tax)	6	
Total	68	

GRAND TOTAL: 96

Permanent Secretary
Ministry of Finance
Eric Williams Financial Complex

**Election of Option under Section 18(2) of the Trinidad and Tobago Revenue Authority ("TTRA")
Act 17 of 2021**

Dear Madam,

I have perused Section 18(2) of the TTRA Act which presents four (4) options available to public officers.

I have considered all of the options available to me and would like to select the option indicated:

- 18(2)(a) voluntarily retire from the Public Service
 - 18(2)(b) transfer to the Authority with the approval of the appropriate Service Commission
 - 18(2)(c) be appointed on transfer by the Public Service Commission to a suitable public office in the Enforcement Division
 - 18(2)(d) remain in the Public Service
-

Particulars relevant to processing my application are as follows:

Name:

Date of birth: Age:

Employment status: Permanent Temporary

Date of first appointment/Entry in the Public Service:

Length of service:

Current substantive position:

Current acting appointment:

Date of current acting appointment:

Respectfully

.....
Signature

.....
Date

Boxes will be placed at Head Offices of Inland Revenue Division, Customs and Excise Division and the Ministry of Finance where these letters can be deposited.

Should there be any incorrect information on the letter you would have received which makes it difficult to choose an option or should you require further clarification on any matter, you can contact us via email: **Transition-Support@ra.gov.tt** or any of the following mobile numbers: 431-6163; 431-6164; 431-6165; 431-6166;