



PARLIAMENT
Republic of Trinidad and Tobago

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Information Brief

The 2015 Orders amending the procedure for the Appointments to the offices of the Commissioner of Police and the Deputy Commissioner of Police.

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Background

1. The responsibility for the appointment of a Commissioner of Police lies exclusively with the Police Service Commission (PSC). According to Section 123 (1) of the Constitution of the Republic of Trinidad and Tobago, the Police Service Commission is empowered to appoint the Commissioner and Deputy Commissioners of Police (through a selective process determined by Parliament).¹
2. The Police Service Commission is an independent body established under Section 122 (1) and was developed to manage the monitoring, appointments, disciplinary, and appeal functions of the Police Service. The Police Service Commission consists of a Chairman and four (4) other members, appointed by the President after consultation with the Prime Minister and Leader of the Opposition.
3. Section 123 (1) (a) provides that in appointing persons to hold or act in the office of Commissioner and Deputy Commissioner of Police, the Police Service Commission is guided by:
 - The Appointment of the Commissioner of Police and Deputy Commissioner of Police (Qualification and Selection Criteria) Order, 2009;
 - The Commissioner of Police and Deputy Commissioner of Police (Selection Process) Order, 2009; and
 - The Commissioner of Police and Deputy Commissioner of Police (Acting Appointments) (Selection Process) (No.2) Order, 2009.

Procedure for the Appointment of Commissioner and Deputy Commissioner of Police

4. At present, according to the above orders, with respect to the substantive appointment to the offices of the Commissioner of Police and Deputy Commissioner of Police, candidates must first go through a rigorous assessment process conducted by a firm experienced in conducting assessment of senior police managers.

¹ <http://www.scd.org.tt/index.php/en/the-service-commissions/171-police-service-commission-polsec/141-police-service-commission>

5. The name of the highest graded candidate is then submitted by the PSC to the President who then forwards that name to the Parliament. This is done as the candidate must first be approved by the Parliament, before an appointment can be made by the PSC to either the office of Commissioner of Police or Deputy Commissioner of Police.
6. It means therefore that any officer from the second division of the Police Service, for example a Sergeant or even an Inspector, once the officer satisfies the qualification and selection criteria as set out in the Appointment of the Commissioner of Police and Deputy Commissioner of Police (Qualification and Selection Criteria) Order, 2009, is eligible to apply for consideration to be selected.
7. In cases of an acting appointment, it is the PSC in its sole discretion that can appoint a person to act in the office of Commissioner of Police or Deputy Commissioner of Police. However, its discretion is limited only with respect to the pool of candidates from which to choose an appropriate person to act as the Commissioner of Police and Deputy Commissioner of Police (Acting Appointments) (Selection Process) (No.2) Order, 2009, states that only officers who hold the rank of Deputy Commissioner of Police can act as Commissioner of Police and only officers who hold the rank of Assistant Commissioner of Police can act as Deputy Commissioner of Police.

The Negative Resolution Procedure

- Section 123(2) of the Constitution, under which the Orders are made, states that:
“The Police Service Commission shall nominate persons for appointment to the offices specified in subsection (1)(a) and section 22(1) of the Police Service Act in accordance with the criteria and procedure prescribed by Order of the President, subject to negative resolution of Parliament.”
- In relation to the negative resolution procedure, Section 75 (7) of the Interpretation Act Chap 3:01 states that the expression “subject to the negative resolution of Parliament” when used in relation to any statutory instruments or statutory documents means that those instruments or documents shall, as soon as may be after they are made, but within the prescribed period, be laid before each House of Parliament. Where either House within the prescribed period of forty (40) days, resolves that any of those instruments or documents shall be annulled, that instrument or document is void as from the date of the resolution, but without prejudice to the validity of anything done thereunder or to the making of a new instrument or document.
- As it relates to Trinidad and Tobago every statutory instrument shall be published in the Gazette and shall come into effect on the date of said publication (Section 12 (1) Statutes Act Chap 3:02 Laws of Trinidad and Tobago).

- Therefore, a statutory instrument comes into effect on the date of publication in the Trinidad and Tobago Gazette. Further, Section 75(7) Interpretation Act states that said instruments must be “made” before they are laid before each House. Section 75 (1) states that the word “make”, used in relation to written law includes “enact or issue”.

Proposed Changes to the Current Procedure for Appointment

Qualification and Selection Criteria

- Proposed Amendment- The Appointment of the Commissioner of Police and Deputy Commissioner of Police (Qualification and Selection Criteria) Order 2015- Legal Notice 219/2015
- Previous Version- The Appointment of the Commissioner of Police and Deputy Commissioner of Police (Qualification and Selection Criteria) Order 2015- Legal Notice 101/2009
- Clauses 1, 2(1), 2(2) (a), 5 and 6 remain unchanged in the proposed order. Clauses 2(2)(b), 3 and 4 are amended as follows:

| Previous Version | Proposed Amendment |
|---|---|
| <p>2. (1) A candidate for the office of Commissioner of Police shall have—</p> <p>(a) a degree from a University recognized by the Ministry responsible for higher education in any of the following:</p> <p>(i) law;</p> <p>(ii) criminal justice;</p> <p>(iii) criminology;</p> <p>(iv) police service management; or</p> <p>(v) any other relevant degree; and</p> <p>(b) no less than fifteen years experience of increasing responsibility in law enforcement.</p> | <p>2. (1) A candidate for the office of Deputy Commissioner of Police shall be a national of Trinidad and Tobago and shall have –</p> <p>(a) a degree from a University recognized by the Ministry responsible for higher education in any of the following:</p> <p>(i) law;</p> <p>(ii) criminal justice;</p> <p>(iii) criminology;</p> <p>(iv) police service management; or</p> <p>(v) any other relevant degree; and</p> <p>(b) no less than fifteen years experience of increasing responsibility in law enforcement.</p> |
| <p>2. (2) A candidate for the office of Deputy Commissioner of Police shall have- ...</p> <p>(b) no less than twelve years experience of increasing responsibility in law enforcement.</p> | <p>2. (2) A candidate for the office of Deputy Commissioner of Police shall be a national of Trinidad and Tobago and have- ...</p> <p>(b)no less than ten years experience of increasing responsibility in law enforcement.</p> |
| <p>3. A candidate for the office of Commissioner of Police or Deputy Commissioner of Police shall meet the following core criteria:</p> <p>(a) leadership skills which enable him to motivate, inspire and engender trust and confidence in the members of the Police Service;</p> <p>(b) management skills, which include the ability to—</p> <p>(i) plan and organize operations;</p> <p>(ii) monitor and implement such plans; and</p> <p>(iii) identify and rectify problems;</p> <p>(c) communications skills, both written and oral, which enable him to deal effectively with the media and community groups;</p> <p>(d) commitment to the cause of the organization;</p> <p>(e) the requisite vision which will enable him to guide the Police Service in the specific direction that will serve the best interest of the organization and the nation; and</p> <p>(f) integrity, having the courage of his convictions and known among his peers for doing the right thing regardless of consequences to self and others.</p> | Deleted |
| <p>4. Where a candidate does not hold the qualifications stipulated under clause 2(1) (a) but meets the core criteria listed in clause 3 and has no less than twenty years experience with increasing responsibility in law enforcement, he shall nonetheless be considered as a candidate for appointment.</p> | Deleted |

Selection Process

- Proposed Amendment- The Commissioner of Police and Deputy Commissioner of Police (Selection Process) Order 2015- Legal Notice 218/2015
- Previous Version- The Commissioner of Police and Deputy Commissioner of Police (Selection Process) Order 2015- Legal Notice 102/2009
- Clauses 1, 2, 4, 5, 6 and 7 remain unchanged in the proposed order. Clause 3 is amended as follows:

| Previous Version | Proposed Amendment |
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| <p>3. The selection process for appointment to the offices of Commissioner of Police and Deputy Commissioner of Police shall be conducted in the following manner:</p> <p>(a) the Director of Personnel Administration shall, in accordance with section 20A(1)(c) of the Central Tenders Board Act,² contract a firm experienced in conducting assessments of senior police managers to conduct an assessment process and the firm so contracted (hereinafter referred to as "the Firm") shall consult with the Commission upon the completion of each stage of the process;</p> | <p>3. The selection process for appointment to the offices of Commissioner of Police and Deputy Commissioner of Police shall be conducted in the following manner:</p> <p>(a) the Commission on request of the Minister of National Security shall, in accordance with section 20A(1)(c) of the Central Tenders Board Act, contract an appropriate local firm (hereinafter referred to as "the Firm") to conduct a recruitment process including inviting applications for the positions;</p> |
| <p>3. (b) the Firm shall advertise each vacancy for a period to be determined by the Commission, of not less than seven days, utilizing—</p> <p>(i) effective information communication technology; and</p> <p>(ii) local, regional and international print media;</p> | Deleted |
| <p>3. (c) an applicant shall apply in the form specified by the Firm and shall submit to the Firm his application accompanied by—</p> <p>(i) his biography or his résumé;</p> <p>(ii) references in the number to be determined by the Firm, with current contact information of each referee; and (iii) any other relevant information which the Firm thinks appropriate;</p> | Deleted |
| <p>3. (d) (d) the Firm shall indicate in every advertisement where the following may be found:</p> <p>(i) written guidelines for the assessment process;</p> <p>(ii) a copy of the Appointment of the Commissioner of Police and Deputy Commissioner of Police (Selection Process) Order, 2009 and the Appointment of the Commissioner of Police and Deputy Commissioner of Police (Qualification and Selection Criteria) Order, 2009; and (iii) a written prospectus of the Police Service, compiled by the Firm</p> | Deleted |
| <p>3. (e) the Firm shall select, from the applications received, the most suitable candidates for the assessment process;</p> | Now 3.(b) |
| <p>3. (f) the Firm shall ensure that the candidates referred to in paragraph (b) are subjected to the best practice security vetting and recent professional vetting;</p> | Now 3.(c) |
| <p>3. (g) at least one of the persons serving on the assessment panel shall be of an equivalent or higher rank or in an equivalent or higher office than the candidate;</p> | Deleted |
| <p>3. (h) the Firm shall submit to the Commission—</p> <p>(i) the results of its assessment process in the form of a short list of candidates;</p> <p>(ii) a report on its assessment of the entire assessment process; and</p> <p>(iii) in respect of the candidates referred to in subparagraph (i), the following documents:</p> <p>(A) application of the candidate;</p> <p>(B) biography or résumé of the candidate;</p> <p>(C) assessor's scores;</p> | Now 3.(d) |

² **Central Tenders Board Act Cap71:91 Section 20 A (1) (c)**

Notwithstanding the provisions of section 20(1), the Government may act on its own behalf where— it enters into a contract with the National Insurance Property Development Company Limited or a company which is wholly owned by the State, for the supply of articles or for the undertaking of works or services in connection therewith;

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| (D) assessor's feedback; (E) medical examination report; and (F) Security and Professional Vetting Report; | |
| 3. (i) the Commission shall conduct its own assessment of not more than the five highest graded candidates on the short list; | Deleted |
| 3. (j) the Commission may gather such other information on each candidate as it considers necessary and appropriate to determine the merits of his application and suitability for the office for which he is being considered; | Deleted |
| 3. (k) where enquiries by the Commission result in an adverse report of a criminal, legal, professional or ethical nature— (i) the Commission shall notify the candidate concerned of the report; (ii) the candidate may make representation to the Commission within a period not exceeding two weeks from the date on which he is notified of the report; and (iii) the Commission may disqualify the candidate on the basis of the adverse report; | Deleted |
| 3. (l) the Commission shall then take into account all information on the candidates and thereafter establish an Order of Merit List; and | Now 3.(e) |
| 3. (m) the Commission shall select the highest graded candidate on the Order of Merit List and submit that candidate's name to the President in accordance with the procedure set out in section 123 of the Constitution. | Now 3.(f) |

Past Commissioners of Police

Acting Commissioner of Police Stephen Williams assumed duty in 2012. Prior to his appointment Canadian born Dwayne Gibbs served as Commissioner from 2010-2012. Mr Gibbs resigned as Police Commissioner on July 26, 2012.

- 1931-1938 Col A.S Mavrogodato
- 1938-1948 Col WA Muller
- 1949-1962 Col. EHF Beaden
- 1962-1966 George Thomas W. Carr
- 1966-1970 James P. Reid
- 1970-1973 Francis Eustace Bernard
- 1973-1973 Claud A. May
- 1978-1987 Randolph U. Burroughs
- 1987-1990 Louis Jim Rodriguez
- 1990-1996 Jules Bernard
- 1996-1998 Noor K. Mohammed
- 1998-2003 Hilton Guy
- 2003-2004 Everalld Snaggs
- 2004-2007 Trevor Paul
- 2007– 2010 James Philbert (Ag)
- 2010-2012 Dwayne Gibbs
- 2012-present Stephen Williams (Ag) ³

³<http://www.policesservicecommission.org.tt/Publications/Office%20of%20the%20Commissioner%20of%20Police.pdf>

Appointment Process in Other Jurisdictions

| New Zealand Policing Act 2008 | Canada- Revised Statutes of Alberta 2000- Police Act | United Kingdom - Police Reform and Social Responsibility Act 2011 |
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| <p>Appointment of Commissioner</p> <p>(1) The Governor-General may, on the recommendation of the Prime Minister, appoint a fit and proper person as the Commissioner of Police for a term not exceeding 5 years.</p> <p>(2) The Commissioner holds office at the pleasure of the Governor-General.</p> <p>(3) A person who holds office as a constable when appointed Commissioner continues to hold the office of constable while he or she is Commissioner.</p> <p>13 Appointment of Deputy Commissioners</p> <p>(1) The Governor-General may, on the recommendation of the Prime Minister, appoint 1 or more fit and proper people as Deputy Commissioners of Police for a term not exceeding 5 years.</p> <p>(2) A Deputy Commissioner holds office at the pleasure of the Governor-General.</p> <p>(3) A person who holds office as a constable when appointed a Deputy Commissioner continues to hold the office of constable while he or she is a Deputy Commissioner.</p> <p>14 Appointment process The State Services Commissioner—</p> <p>(a) is responsible for managing the process for the appointment of the Commissioner and any Deputy Commissioners;</p> <p>(b) must provide advice on nominations for Commissioner and any Deputy Commissioners to the Prime Minister and the Minister.</p> <p>15 Appointment of acting Commissioner</p> <p>(1) In the event of the Commissioner's incapacity because of illness, absence, or any other cause,—</p> <p>(a) the Governor-General may, on the recommendation of the Prime Minister, appoint an acting Commissioner for any specified period; and</p> <p>(b) until that appointment, the longest serving Deputy Commissioner is deemed to be appointed acting Commissioner.</p> <p>(2) The acting Commissioner has all the powers, functions, duties, and responsibilities of the Commissioner.</p> <p>(3) No appointment under subsection (1), and no act by a person appointed under subsection (1), may be questioned on the ground that the occasion for the person's appointment had not arisen or had ceased.</p> | <p>Appointments of chiefs of police and police officers</p> <p>36(1) The commission shall, for a police service, (a) appoint the chief of police, subject to subsection (1.1), and (b) appoint police officers. (1.1) The initial appointment of any individual as chief of police must be ratified by council.</p> <p>(2) Notwithstanding subsection (1), the commission may delegate the power to appoint police officers other than a chief of police to the chief of police.</p> <p>3) Each police officer appointed under this section shall, before commencing his or her duties, take the oath set out in Schedule 3. (4) Subject to the regulations, the commission may establish a probationary period of service for a person who is (a) appointed to the police service as a police officer, or (b) appointed to or promoted to a position or a higher rank within the police service.</p> | <p>Election to fill vacancy in office of commissioner</p> <p>(1) This section applies where a vacancy occurs in the office of police and crime commissioner for a police area.</p> <p>(2) An election must be held to fill the vacancy.</p> <p>(3) The police area returning officer must fix the date of the poll at the election.</p> <p>(4) The date fixed must be not more than 35 days after the relevant event (computed in accordance with section 73).</p> <p>(5) For the purposes of subsection (4), "the relevant event" means—</p> <p>(a) in a case where the High Court or the appropriate officer has declared the office to be vacant, the making of that declaration;</p> <p>(b) in any other case, the giving of notice of the vacancy to the appropriate officer by two or more relevant electors.</p> <p>(6) For this purpose "relevant elector" means a person who is registered in a register of local government electors in respect of an address within the police area.</p> <p>(7) If the vacancy occurs within the period of six months ending with the day of the poll at the next ordinary election of police and crime commissioners—</p> <p>(a) no election is to be held under subsection (2) in respect of the vacancy, and</p> <p>(b) accordingly, the office is to be left unfilled until that ordinary election.</p> <p>(8) The term of office of a person elected as a police and crime commissioner for a police area at an election to fill a vacancy in the office—</p> <p>(a) begins immediately the person is declared to be elected as police and crime commissioner for the area;</p> <p>(b) ends at the time when it would have ended had the person been elected at the most recent ordinary election of police and crime commissioners.</p> <p>(9) In the case of a vacancy occurring in consequence of the failure of, or other irregularity in relation to, an election, subsections (3) and (4) have effect subject to any provision made by an order under section 58.</p> |

References

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Only Trinis need apply (Trinidad Express 10 December 2015)- <http://www.trinidadexpress.com/20151210/news/only-trinis-need-apply>

Canada, Revised Statutes of Alberta 2000, Police Act- <http://www.qp.alberta.ca/documents/Acts/P17.pdf>

New Zealand, Policing Act 2008- <http://www.legislation.govt.nz/act/public/2008/0072/latest/whole.html#DLM1102191>

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Trinidad and Tobago, Interpretation Act- http://rgd.legalaffairs.gov.tt/laws2/alphabetical_list/lawspdfs/3.01.pdf

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