

MINISTERIAL RESPONSE TO THE SEVENTH REPORT OF
THE JOINT SELECT COMMITTEE OF PARLIAMENT ON MINISTRIES (GROUP 1),
AND ON STATUTORY AUTHORITIES AND STATE ENTERPRISES
ON THE
ADMINISTRATION AND OPERATIONS OF THE NATIONAL INSURANCE
APPEALS TRIBUNAL

Report Re Findings and Recommendations of Seventh Report of the Joint Select Committee of Parliament on Ministries (Group I), and on the Statutory Authorities and State enterprises on the administration and operations of the National Insurance Appeals Tribunal

Staff Structure, Human Resources and Management

- A. The findings of the Joint Select Committee (JSC) indicate that *“there appears to be a difficulty in communication between the Registrar, National Insurance Appeals Tribunal (NIAT) and the Tribunal Chairman, which may be a contributory factor in the unsatisfactory delivery of service on the part of the Tribunal”*.
- The Tribunal Chairman had previously complained to the Ministry of Finance and the Economy (MOFE) about the performance of the Registrar and the latter was not in agreement with the adverse comments. This factor may have contributed to a strained working relationship between the two elements of the NIAT.
 - *The Registrar has since retired and interviews were conducted to appoint a new Registrar.*
- B. The Committee advocates that a review of the Tribunal’s operations be conducted to determine whether in fact reassigning it to the Ministry of Labour and Small and Micro Enterprise Development (MLSMED) would enhance its operations.
- This recommendation has been made on previous occasions but no decision was taken in that regard by the MOFE.
 - It should be noted that given all the other ongoing issues involving NIAT and the National Insurance Board of Trinidad and Tobago (NIB), there is no guarantee that reassigning NIAT to the MLSMED would enhance its operations.
 - The MOFE will review the situation as recommended by the JSC, taking into consideration the reason NIAT was reassigned from MLSMEF to MOFE.
- C. The JSC recommends that addressing the administrative capacity within NIAT in light of the recommendations proposed by the Tribunal and Mr. Ramcharitar, Consultant and ex-Registrar. Addressing the intractable problem of lack of leadership and management in the Secretariat was also recommended.
- In the interim the MOFE has assigned a Research Officer and an Administrative Officer II to facilitate the situation. In addition, an Administrative Officer IV was also recently assigned to NIAT, to target the backlog while the Registrar is dealing with the current appeals.

- The leadership and management problem at NIAT will be addressed when the new Registrar is appointed to the Unit.

D. The JSC endorsed the recommendation for training in the short term to be provided by local National Insurance Consultants while requests for subsequent training assistance are discussed/negotiated with the International Labour Organisation (ILO).

- Short term training to be provided by local National Insurance Consultants is the norm for new Registrars and will continue as recommended. It should be noted that on the last occasion supporting staff at NIAT were also given the relevant training but, were subsequently reassigned to other Departments. Since the post of Registrar was never deemed to be a specialist post in the Public Service there is always a flow of qualified persons who are willing to accept the job.

Accommodation

Having noted that NIAT's Office cannot accommodate its Tribunal hearings, the JSC recommends the procurement of suitable accommodation to meet the needs of the Tribunal and the staff

- It should be noted that that arrangements for additional office space commenced prior to the retirement of the Registrar, Mr. Lyman who was requested to submit a report for the MOFE in that regard. The MOFE has to follow-up on the matter.

APPEALS PROCESS

Submission of appeals and pre-hearings procedures

The JSC noted that the appeals process was seriously undermined by the failure of NIB to respond to the Tribunal as required under regulation 15. This time lag together with the delay in submission of Benefit Unit Files is mainly responsible for the existing backlog.

- The MOFE submitted proposed legislative amendments to NIB and held discussions with Board in that regard. NIB indicated that three weeks was insufficient to submit the relevant files and suggested a longer time frame. The matter was to be further addressed through legislative amendments.

The JSC considers the withholding files by NIB as being a contentious situation which is grossly inappropriate, and recognizes that effective measures must be instituted to obviate instances whereby delays by NIB result in a matter being declared *Out of Time* in accordance with Regulation 13.

The JSC also finds it unacceptable for the NIB, the entity against whom a claim is being made, to withhold information required by the dispute resolution body. It has been described as an affront

to the principles of Natural Justice and, the committee recommends a collaborative approach between NIAT, NIB with the MOFE as a potential mediator.

- The MOFE also submitted proposed legislative amendments to NIB with respect to Regulation 13. NIB advised that in order to change the Regulations the NI Act must first be changed.
- With respect to the determination of files to be submitted by NIB based on law and/or fact, the MOFE questioned whether the decision could be made by the Treasury Solicitor. The latter advised that the matter would have to be dealt with on a case by case basis.
- As regards delay in submission and/or verification of contributions owed to the Board by employers it was initially suggested that the relevant Ministry/ Department be held accountable.

Backlog of Appeals

- A. The MOFE has noted the JSC recommendation to appoint a Consultant to address the backlog of appeals which currently exceeds one thousand (1,000). In that regard, the MOFE is on the verge of requesting proposals to commence the process which has a proposed duration of six (6) months.
- B. The recommended hands-on training of staff by a consultant has also been taken into consideration.
- C. The dollar-value determination of the claims by the Tribunal with the assistance of the Board has to be further considered and discussed.

Appeals Management Conference

The MOFE has noted the JSC recommendation to implement a Case management System (CSM) or an Appeals Management Conference (AMC) to review all appeals, after which unresolved issues will be submitted to a Tribunal Hearing.

- The matter has to be given further consideration before implementation, particularly with respect to the legislative amendments that may be required.

Post Tribunal Determination of Appeals

The JSC recommends the appointment of a Commissioner of National Insurance to level the playing field in the determination of Post Tribunal appeals.

- The MOFE has noted that this approach would be more expeditious and cost effective in favour of the parties involved. The matter has to be further considered.

Member's Term of Appointment

The JSC recommends increasing the duration of the terms of appointment of the Chairman and members of NIAT by two and three years respectively to five (5) years.

- The matter has to be considered by Cabinet. If agreed upon the relevant legislative amendments will be implemented.

Ministerial Oversight

The JSC recommends the implementation of a system of reporting to the Permanent Secretary on a quarterly and annual basis.

- The MOFE has noted that such a system is already in operation. However, occasionally there are delays in the submission of information by NIAT.

Meetings of the Tribunal

- A. The recommendations to increase the number of members comprising each Tribunal from 3-4 and to create the post of Deputy Chairman has been noted and will be given further consideration.
- B. Increasing the number of matters to 15 per hearing has also to be further considered.

Meetings of Non-Statutory Committees

- A. The recommendation to reinstate the Administrative, Legislative Review and Public Information Committees will be addressed by the Chairman and relevant members of the Tribunal.
- B. The comprehensive review of the mandates of these committees will also be addressed by the Tribunal appointees referred to at A above.
- C. The MOFE will amend the status of the Committees on its website accordingly.

Amendments to Legislation

- A. The MOFE will institute the required amendments to the draft proposal of legislative amendments, pursuant to NIAT's review and submission based on proposals received from Mr. Ramcharitar, Consultant.

- B. The MOFE recognizes the significant improvement that could be achieved with the appointment of a Deputy Chairman, and three (3) additional members (Government, Business and Labour to be representing by one each). It should also be noted that each of the current members also represent either North, South (of Trinidad) or Tobago. It may be feasible to leave the location neutral for the new appointees.

The need to make provisions to allow the Chief Medical Officer to nominate a substitute to tender advice to the Tribunal has also been noted and will be addressed.

The MOFE also recognizes that video conferencing and other suitable Information and Communication can facilitate the conduct of hearings. Therefore, the matter will be given further consideration.

Ministry of Finance and the Economy
Investments Division
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