

# **STATUTE OF THE CARIBBEAN COMMUNITY**

## **ADMINISTRATIVE TRIBUNAL**

adopted by the Conference of Heads of Government  
of the Caribbean Community on 27 February 2019

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### **PREAMBLE**

The Conference of Heads of Government:

*Conscious* of the fact that staff members of the Caribbean Community Secretariat and Institutions should have access to appropriate and effective judicial mechanisms for the settlement of disputes regarding their terms and conditions of employment;

*Recalling* the right of these staff members to be treated with fairness and equity;

*Affirming* that the Administrative Tribunal established under this Statute shall be impartial and independent and bound by international principles of due process of law, and that its decisions shall be consistent with the principles of fundamental human rights and taken in accordance with international administrative law;

Has adopted the following Statute.

### **PART I**

#### **ESTABLISHMENT**

##### **ARTICLE I**

There is hereby established the Administrative Tribunal of the Caribbean Community to be known as the Caribbean Community Administrative Tribunal.

**PART II**  
**DEFINITIONS**

**ARTICLE II**

For the purpose of this Statute:

“Caribbean Community” or “CARICOM” or “the Community” means the Caribbean Community established by Article 2 of the Revised Treaty.

“Caribbean Court of Justice” means the Court established by Article III of the Agreement Establishing the Caribbean Court of Justice, done at St. Michael, Barbados, on February 14, 2001

“Conference of Heads of Government” or “the Conference” means the Organ of the Community so named in paragraph 1(a) of Article 10 of the Revised Treaty.

“CARICOM Secretariat” means the Secretariat of the Community referred to in Article 23 of the Revised Treaty.

“CARICOM State” has the same meaning as ‘Member State’ defined in Article I of the Revised Treaty.

“contract of employment” and “terms of appointment” include all relevant Rules and Regulations in force at the time of the alleged non-observance and include the provisions relating to staff gratuity, pension, retirement and end of contract benefits.

“eligible CARICOM institution” or “eligible institution” means the CARICOM Secretariat and any entity:

- (a) that is established by or under the auspices of the Community; or
- (b) that enjoys important functional relationships with the Community and contributes to the achievement of the objectives of the Community; and
- (c) that agrees to participate in the Tribunal and therefore is -
  - (i) subject to the jurisdiction of the Tribunal; and
  - (ii) subject to contributing to the budget of the Tribunal; and
- (d) is listed in Annex A.

“Legal Affairs Committee” means the CARICOM Body established and so named by Article 18(1) of the Revised Treaty.

“member of staff” means:

- (a) any person subject to the Staff Rules and Regulations of an eligible CARICOM Institution including a current or former member of the staff of an eligible CARICOM Institution; or
- (b) the legal representative of a deceased member of staff;

but does not include a person employed by a staff member or a consultant employed to work under a contract of services by an entity external to the eligible CARICOM Institution.

“Regional Judicial and Legal Services Commission” or “the RJLSC” means the body established by and so named in Article V of the Agreement Establishing the Caribbean Court of Justice, done at St. Michael, Barbados, on February 14, 2001.

“Registrar” means the person appointed by the RJLSC pursuant to Article VII of this Statute.

“Revised Treaty” means the Revised Treaty of Chaguaramas Establishing the Caribbean Community including the CARICOM Single Market and Economy done at Nassau, The Bahamas, on July 5, 2001.

### **PART III**

## **JURISDICTION**

### **ARTICLE III**

1. (1) The Tribunal shall be competent to adjudicate upon any grievance or complaint by which a member of the staff of an eligible institution alleges the breach of, or otherwise failure to observe, the contract of employment or terms of appointment of such staff member or of such provisions of the Staff Rules and Regulations as are applicable to the case.

(2) The Tribunal shall be competent to hear grievances or complaints made in respect of any institution meeting the criteria of an eligible institution set out in Article II of this Statute and which has addressed to the Registrar a declaration recognising, in accordance with that institution’s Constitution or internal administrative rules, the jurisdiction of the Tribunal and which declaration is approved at a plenary meeting of the eligible institutions.

2. (1) Subject to sub-paragraph (2), no such grievance or complaint shall be considered by the Tribunal, unless:

- (a) the cause of action arose after the establishment of the Tribunal and after the date on which the eligible institution became subject to the jurisdiction of the Tribunal;
- (b) the complainant has exhausted all remedies available within the eligible institution; and
- (c) the complaint is filed within ninety days after:
  - (i) receipt of notice that the relief asked for or recommended will not be granted; or
  - (ii) receipt of notice that the relief asked for or recommended will be granted, if such relief shall not have been granted within thirty days after receipt of such notice.

(2) Notwithstanding the provisions of sub-paragraph (1), the Tribunal may extend the time for the filing of a complaint in exceptional circumstances where the interests of justice so require. Any such extension of time shall not exceed a further sixty (60) days, and no extension shall ever apply to a decision (or a failure to take a decision) which pre-dated the date on which the eligible institution became subject to the jurisdiction of the Tribunal.

3. Where the eligible institution fails to take a decision upon receipt of a claim by a staff member within sixty days of the notification of the claim to it, the staff member may file a complaint with the Tribunal and his or her complaint shall be treated in the same manner as a complainant who had exhausted all remedies available within the eligible institution. The period of ninety days provided for in paragraph 2, subparagraph (1) (c), above shall run from the expiration of the sixty days allowed for the taking of a decision by the eligible institution.

4. The filing of a complaint shall not operate to suspend the execution of the decision challenged or contested.

#### **ARTICLE IV**

Subject to Article XIV in the event of a dispute as to whether the Tribunal has jurisdiction the matter shall be settled by the Tribunal.

## **PART IV**

### **MEMBERSHIP, APPOINTMENTS AND TENURE**

#### **ARTICLE V**

1. The Tribunal shall consist of five members.
2. The members of the Tribunal shall be of high moral character, intellectual and analytical ability, sound judgment, integrity and must:
  - (a) have held, hold or be qualified to hold high judicial office in a CARICOM State ; or
  - (b) be jurisconsults of recognised competence with experience as such for a period of not less than ten years; or
  - (c) be jurisconsults of recognised competence with particular experience in the field of labour relations for a period of not less than ten years.
3. The members of the Tribunal shall be selected by the Regional Judicial and Legal Services Commission (“RJLSC”) on the basis of equitable geographical distribution with an appropriate gender balance.
4. The members of the Tribunal shall be appointed for a four year term; and shall be eligible for appointment for one further term of four years.
5. The members of the Tribunal shall be paid such allowances and honoraria as are decided by the RJLSC and provided for in the annual operating budget of the Tribunal.

#### **ARTICLE VI**

1. The members of the Tribunal shall elect its first president for a term of two years; thereafter the presidency shall be held on rotation every two years on the basis of the order of seniority of its members according to their order of appointment. In the absence of the President the next most senior member shall serve as President of the Tribunal.
2. The Tribunal hearing a complaint shall be composed of three members empanelled by the President. Unless the President decides otherwise, he or she shall be a member of the panel and shall preside over the proceedings.
3. A member of the Tribunal shall have security of tenure and shall remain in office until the end of his or her term of appointment unless the member resigns, dies or is removed from office for cause. A member may only be removed on the ground of manifest

unsuitability or inability to perform the duties of a member of the Tribunal following a recommendation of the majority of the other members of the Tribunal and approved by the RJLSC. A member of the Tribunal, including the President, may at any time resign from the Tribunal by writing under the hand of that member addressed to the Chairman of the RJLSC.

## **ARTICLE VII**

1. The RJLSC shall appoint as Registrar of the Tribunal an Attorney-at-Law qualified to practice law for a period of not less than seven years in at least one CARICOM State.
2. In the discharge of his or her duties, the Registrar shall be answerable only to the Tribunal and, subject to the Tribunal Rules, shall keep confidential any information or material related to any matter coming before the Tribunal.
3. The costs of the administrative arrangements for the Tribunal shall be satisfied from the annual operating budget of the Tribunal.

## **PART V**

### **PROCEDURE**

## **ARTICLE VIII**

Subject to the provisions of this Part, the Tribunal shall draw up its Rules and shall determine its procedure.

## **ARTICLE IX**

1. The Tribunal shall hold sessions at dates to be fixed in accordance with its Rules.
2. The Tribunal shall hold its sessions at the Seat of the Tribunal unless, upon an application, it considers that the efficient conduct of the proceedings necessitates holding sessions elsewhere.

## **ARTICLE X**

1. In its determination of rights and obligations under the contract of employment or in respect of claims of discrimination, the Tribunal shall apply the principles of

international administrative law to the exclusion of the national laws of individual staff members or host countries.

2. The Tribunal shall take all its decisions by consensus or, if consensus cannot be achieved, by majority vote.
3. The Tribunal shall state the reasons for its judgment. The judgment shall be communicated in writing to the eligible institution and to the complainant.
4. Subject to Articles XII and XIV, the judgment of the Tribunal shall be final and binding on the parties and shall not be subject to appeal.

#### **ARTICLE XI**

The judgments of the Tribunal shall be executed promptly and the parties involved shall comply with its decision without delay.

#### **ARTICLE XII**

1. A party to a case in which judgment has been delivered may, in the event of the discovery of a fact which by its nature might have had a decisive influence on the judgment of the Tribunal and which at the time the judgment was delivered was unknown both to the Tribunal and to that party, apply to the Tribunal, within a period of ninety days after the judgment was delivered, to revise the judgment.
2. The application for revision shall not operate to suspend the execution of the judgment.

### **PART VI**

#### **REMEDIES**

#### **ARTICLE XIII**

1. Where the Tribunal finds that the complaint is well founded it shall order the rescission of the decision contested or the specific performance of the obligation invoked. In the event that specific performance is not available or practicable, the Tribunal shall, instead, order the institution to pay compensation to the complainant for the loss, injury or damage sustained provided that such compensation shall not normally exceed the equivalent of one year's net remuneration of the complainant.



2. Where the Tribunal finds that the internal grievance procedure prescribed in the Staff Rules and Regulations of the eligible institution has not been fully observed, it may, at the request of the institution and prior to a determination on the merits, order that the case be remitted to the eligible institution.

3. Where a case is remitted, the Tribunal may order the payment of compensation, not exceeding the equivalent of three months' net remuneration, to the complainant for such loss as may have been caused by the procedural defect.

#### **ARTICLE XIV**

1. There will be a Review Committee which will consist of five Judges drawn from the Caribbean Court of Justice.

2. A party to a case in which judgment has been delivered may with the leave of the Review Committee appeal to the Review Committee on the ground that the Tribunal has exceeded or failed to exercise its jurisdiction, or has erred on a question of fact or law or both.

3. An application for leave shall be made within a period of sixty days after the judgment was delivered.

4. The Review Committee shall grant leave to appeal only in exceptional cases in the interest of justice or the international functioning of the eligible CARICOM Institutions.

5. An application for leave shall be made pursuant, *mutatis mutandis*, to the original jurisdiction rules of the Caribbean Court of Justice.

6. An application for leave shall not automatically operate to suspend the execution of the judgment.

#### **PART VII**

#### **FINANCIAL ARRANGEMENTS**

#### **ARTICLE XV**

The operating costs of the Tribunal shall be borne by the eligible institutions of the Caribbean Community in accordance with the terms stated in Annex B.

## **PART VIII**

### **MISCELLANEOUS**

#### **ARTICLE XVI**

1. An original copy of each judgment shall be filed in the archives of the Tribunal.
2. The Statute, Rules and Judgments of the Tribunal shall be published on the official website of the Tribunal.

#### **ARTICLE XVII**

Neither the President nor any other member or alternate of the Tribunal nor the Registrar and other staff of the Tribunal nor an expert witness called by the Tribunal shall be liable to any person for any act or omission in connection with adjudication under this Statute.

#### **ARTICLE XVIII**

This Statute shall enter into force upon the submission to the jurisdiction of the Tribunal of at least ten (10) eligible institutions cumulatively representing not less than seven hundred and fifty (750) employees in accordance with the terms set out in Annex B.

#### **ARTICLE XIX**

1. Any eligible institution may withdraw from the jurisdiction of the Tribunal upon giving three (3) years' notice in writing to the Registrar.
2. Notwithstanding paragraph 1, the eligible institutions may by an affirmative vote of not less than three quarters (3/4) of all eligible institutions permit an eligible institution to withdraw by giving not less than one (1) year's notice in writing to the Registrar.
3. The Registrar, upon receipt of any notice under paragraph 1 or 2, shall bring same to the attention of the Chairman of the plenary of eligible institutions as soon as practicable.
4. An eligible institution that withdraws from the jurisdiction of the Tribunal shall honour any financial or other obligations duly assumed during the period that the

institution was subject to the jurisdiction of the Tribunal, including any obligations relating to any matters filed before the withdrawal becomes effective.

## **ARTICLE XX**

1. The eligible CARICOM institutions shall hold plenary meetings to deal with matters affecting the administration or operation of the Tribunal, whether upon the recommendation of the relevant committee or otherwise, including, but not limited to:

- (a) the formation of committees to deal with matters as the institutions shall deem fit;
- (b) the consideration and approval of the operating budget of the Tribunal upon the recommendation of the relevant committee such budget to be reviewed at regular intervals but at least once every four (4) years;
- (c) the consideration and approval of the withdrawal of an eligible institution pursuant to Article XIX of this Statute;
- (d) the consideration of proposals for the amendment of the arrangements for the financing of the Tribunal as set out in Annex B of this Statute;
- (e) the consideration of proposals for amendment of this Statute made by any eligible institution;
- (f) the recommendation and tabling of proposals for amendment to the Legal Affairs Committee for its consideration and referral to the Conference for approval; or
- (g) any other related matter.

2. (1) Plenary meetings of the eligible institutions shall be convened at least once every year by the Chairman.

(2) The first Chairman shall be elected at the first plenary meeting of the eligible CARICOM institutions for a term of one (1) year; thereafter, the chairmanship shall be held for a term of one (1) year by the Head of one of the eligible institutions on rotation to be determined in alphabetical order of the roster of institutions.

(3) Two-thirds of the total number of eligible institutions under the Tribunal's jurisdiction shall constitute a quorum for plenary meetings.

3. (1) The eligible CARICOM institutions at their first meeting shall decide upon the committees necessary to support the operation of the Tribunal and shall decide on the institutions that shall comprise such committees.

(2) The administrative arrangements necessary for the functioning of the Tribunal shall be undertaken by the Registrar or by such other person or committee as may be designated by the plenary of eligible institutions.

4. The eligible institutions in plenary shall take all decisions by consensus or, if consensus cannot be achieved, by majority vote of two-thirds.

5. Notwithstanding the provisions of this Article, no decision shall be made which shall impair the independence of the Tribunal or its members.

6. Notwithstanding paragraph 4, nothing in this Article affects the majority required to carry a vote pursuant to paragraph 2 of Article XIX of this Statute.

7. The plenary of the eligible institutions shall draw up its Rules and shall determine its procedure.

#### **ARTICLE XXI**

1. This Statute may be amended by the Conference of Heads of Government, upon the recommendation of the Legal Affairs Committee of proposals for amendment made pursuant to Article XX of this Statute.

2. Notwithstanding paragraph 1, the plenary of institutions may amend the list of eligible institutions set out in Annex A of this Statute as it considers necessary.

#### **ARTICLE XXII**

1. The Tribunal shall have full juridical personality.

2. The President of the Tribunal shall represent the Tribunal for the purpose of concluding agreements with international organizations or with States.

3. The Registrar of the Tribunal shall represent the Tribunal for the purpose of concluding commercial agreements on behalf of the Tribunal.

#### **ARTICLE XXIII**

1. In the discharge of their duties the members and Registrar of the Tribunal shall enjoy the following privileges and immunities extended to them under the Protocol on Privileges and Immunities of the Caribbean Community namely –

- (a) immunity from legal process in respect of words spoken or written and all acts done by them in the course of the performance of official duties, which

immunity shall continue notwithstanding that the person concerned has ceased to be a member of the Tribunal or the Registrar;

- (b) inviolability of their official papers and documents related to the work of the Tribunal; and
- (c) exemption from any form of direct taxation on allowances and emoluments.

#### **ARTICLE XXIV**

The official language of the Tribunal shall be English, the official language of the Caribbean Community.

#### **ARTICLE XXV**

The Seat of the Tribunal shall be Port-of-Spain, Trinidad and Tobago.

**ANNEX A**

**ELIGIBLE INSTITUTIONS**

The following entities, having met the relevant requirements set forth in the definition of ‘eligible CARICOM Institutions in Article II’ are hereby listed as ‘eligible CARICOM Institutions’ for the purposes of Article II of the Statute.

<b>NAME OF ELIGIBLE INSTITUTION</b>	<b>DATE OF ACCEPTANCE</b>
CARIBBEAN AGRICULTURAL HEALTH AND FOOD SAFETY AGENCY (CAHFSA)	
CARIBBEAN AGRICULTURAL RESEARCH AND DEVELOPMENT INSTITUTE (CARDI)	
CARIBBEAN AVIATION SAFETY AND SECURITY OVERSIGHT SYSTEM (CASSOS)	
CARIBBEAN CENTRE FOR DEVELOPMENT ADMINISTRATION (CARICAD)	
CARIBBEAN CENTRE FOR RENEWABLE ENERGY AND ENERGY EFFICIENCY	
CARIBBEAN COMMUNITY CLIMATE CHANGE CENTRE (CCCCC)	
CARIBBEAN DISASTER EMERGENCY MANAGEMENT AGENCY (CDEMA)	
CARIBBEAN EXAMINATIONS COUNCIL (CXC)	
CARIBBEAN INSTITUTE FOR METEOROLOGY AND HYDROLOGY (CIMH)	
CARIBBEAN METEOROLOGICAL ORGANISATION (CMO)	
CARIBBEAN PUBLIC HEALTH AGENCY (CARPHA)	
CARIBBEAN REGIONAL FISHERIES MECHANISM (CRFM)	
CARIBBEAN TELECOMMUNICATIONS UNION (CTU)	
CARICOM COMPETITION COMMISSION (CCC)	
CARICOM DEVELOPMENT FUND (CDF)	
CARICOM IMPLEMENTATION AGENCY FOR CRIME AND SECURITY (IMPACS)	
CARICOM REGIONAL ORGANISATION FOR STANDARDS AND QUALITY (CROSQ)	
CARIBBEAN COURT OF JUSTICE	

**ANNEX B**

**Annual contributions are set out in the cost schedule below for the individual institutions.**

<b>NAME OF INSTITUTION</b>	<b>No of Employees</b>	<b>100% Recurrent Costs and 20% Variable Costs divided equally among institutions</b>		<b>Variable Costs distributed among Institutions based on the total number of staff employed at each institution multiplied by \$7.</b>	<b>Annual Total Cost per institution</b>
CARIBBEAN AGRICULTURAL HEALTH AND FOOD SAFETY AGENCY (CAHFSA)		\$448	\$102.60		
CARIBBEAN AGRICULTURAL RESEARCH AND DEVELOPMENT INSTITUTE (CARDI)		\$448	\$102.60		
CARIBBEAN AVIATION SAFETY AND SECURITY OVERSIGHT SYSTEM (CASSOS)		\$448	\$102.60		
CARIBBEAN CENTRE FOR DEVELOPMENT ADMINISTRATION (CARICAD)		\$448	\$102.60		
CARIBBEAN CENTRE FOR RENEWABLE ENERGY AND ENERGY EFFICIENCY		\$448	\$102.60		
CARIBBEAN COMMUNITY CLIMATE CHANGE CENTRE (CCCCC)		\$448	\$102.60		
CARIBBEAN DISASTER EMERGENCY MANAGEMENT AGENCY (CDEMA)		\$448	\$102.60		
CARIBBEAN EXAMINATIONS COUNCIL (CXC)		\$448	\$102.60		
CARIBBEAN INSTITUTE FOR METEOROLOGY AND HYDROLOGY (CIMH)		\$448	\$102.60		
CARIBBEAN METEOROLOGICAL ORGANISATION (CMO)		\$448	\$102.60		
CARIBBEAN PUBLIC HEALTH AGENCY (CARPHA)		\$448	\$102.60		
CARIBBEAN REGIONAL FISHERIES MECHANISM (CRFM)		\$448	\$102.60		
CARIBBEAN TELECOMMUNICATIONS UNION (CTU)		\$448	\$102.60		

CARICOM COMPETITION COMMISSION (CCC)		\$448	\$102.60		
CARICOM DEVELOPMENT FUND (CDF)		\$448	\$102.60		
CARICOM IMPLEMENTATION AGENCY FOR CRIME AND SECURITY (IMPACS)		\$448	\$102.60		
CARICOM REGIONAL ORGANISATION FOR STANDARDS AND QUALITY (CROSQ)		\$448	\$102.60		
CARIBBEAN COURT OF JUSTICE (CCJ)		\$448	\$102.60		
CARICOM SECRETARIAT		\$448	\$102.60		