

CHAPTER 6

THE STANDING COMMISSION

Background

6.1 Our Terms of Reference No. IX provides that we may consider whether changes in the Commission's composition or role are desirable.

6.2 The role and consultative procedures of the Standing Commission were evaluated in our 1980 review of the consultative machinery in the civil service. In our Report No. 4, we stated, inter alia, that : -

- (a) the Commission should not be involved in arbitrating disputes between the Government and the civil servants;
- (b) final stage consultation with staff before the Commission tenders its advice to the Governor would not be conducted; and
- (c) in the Commission's published reports, it is not possible to answer all the points made by staff, but all the points will be fully considered.

6.3 Although the Consultative Document does not contain a specific section to cover the Standing Commission, comments related to it have been made by some respondents. These comments are dealt with in the following paragraphs.

The Role of the Standing Commission

6.4 From time to time, different staff groups approach us to petition against a decision of the Administration on matters connected with pay or conditions of service or grade structure. The decision concerned may be based on either a specific recommendation by us, or a general principle established by us in the past. Occasionally departmental management defends its decision on the ground that it is based on a recommendation of the Standing Commission, and suggests to the staff group in dispute that we should first be approached to change the recommendation. In the former case, there appears to be a misconception on the part of the staff that we could serve as an adjudicator over their

dispute with the Administration. In the latter case, a wrong impression is conveyed that we take the ultimate decision on all issues which fall within our Terms of Reference.

6.5 These are unfortunate misconceptions of the role of the Standing Commission. We have already stated in Report Nos. 4, 5 and 6 that it would be improper for us to assume an arbitrator's role, especially when a dispute between the Administration and the staff arises out of our recommendation. Moreover, the Government, and not the Standing Commission, is the decision maker on all issues. The Government should therefore assume the responsibility to deal with any problems arising from the decision taken, and to initiate any changes if warranted.

6.6 The role of the Standing Commission, as we have stated in paragraph 1.7 of our Report No. 5, is to advise the Governor independently, after taking full account of the views expressed by concerned parties, and having regard to the civil service as a whole and to wider community interests. In practice, we will advise staff groups under normal circumstances to resolve their disputes directly with the Administration, although we are always ready to review earlier recommendations provided substantial new evidence is produced. We wish to reaffirm this basic position. In order that our role could be better understood by both management and staff, we recommend that the Administration should issue a general circular to the entire civil service along similar lines of the circular memorandum it issued to heads of department in 1981 for the same purpose. A copy of this circular memorandum is attached at Appendix VIII.

The Composition of the Standing Commission

6.7 Some respondents to the Consultative Document opine that the Standing Commission comprises too many members who are, or represent the interests of, private sector employers. They allege that the Commission cannot be truly impartial in its deliberations.

6.8 It is our understanding that all members of the Commission are appointed by the Governor in their personal capacity. Appointees are selected on the basis of the individuals' suitability as assessed by their knowledge, experience, status in the community and objectivity in the treatment of problems. To ensure objectivity in the Commission's deliberations, there are no direct representatives on the Standing Commission of either private sector employers, civil servants or the Administration. We

feel that the existing appointment system with these appointment criteria has ensured the impartiality of the Commission. Its retention is therefore recommended.

6.9 It has been suggested to us that the Commission Secretariat should be staffed, on a permanent basis, with experts in personnel management, statistics and economics. We doubt whether having experts on permanent establishment is the most appropriate approach in terms of cost-effectiveness and impartiality. The existing practice is to engage outside consultants to undertake studies of particular subjects whenever the Commission feels that a subject warrants detailed examination by experts and the resources on establishment are unsuited to deal with the subject. This arrangement appears to be working very well and we do not recommend any change.

Consultative Procedures

6.10 Some respondents allege that the views of staff have often been rejected by us without satisfactory explanation. They suggest that the detailed deliberations of the Commission should be made available to the staff for reference. The point is also made that the Commission should further consult with staff after formulating its views but before tendering its advice to the Governor.

6.11 We pointed out in the background section of this chapter that these points had been dealt with in our 1980 review of the subject. The main reasons for not engaging in final stage consultation with staff are that we are not a negotiating body but an advisory body to the Governor, and because it is sometimes impossible to obtain consensus of views with staff on our recommendations, which must have regard to the overall community interest. The latter may include wider financial and economic considerations which are not always compatible with staff expectations. These considerations are still valid. We cannot therefore discuss with staff our recommendations to be made to the Governor. It must also be borne in mind that we do not take the final decision on any issue. Our recommendations, after being submitted to the Governor, will be considered by the Government under established procedures. In practice, the Government will ensure that all recommendations with service-wide implications are discussed with the Staff Side of the central councils before being submitted to the Executive Council for decision.

6.12 It is our established practice to publish all our reports in which the deliberations of the Commission on each issue are given in detail. We reiterate that all the points put to us by staff will be fully considered before we arrive at our conclusions, but it is of course impossible to answer every one of them in our published reports.