



TRINIDAD AND TOBAGO GAZETTE (EXTRAORDINARY)

VOL. 54

Port-of-Spain, Trinidad, Tuesday 25th August, 2015—Price \$1.00

No. 90

1269

APPOINTMENT TO ACT AS MINISTER OF FOREIGN AFFAIRS

IT IS HEREBY NOTIFIED for general information that His Excellency the President, acting in accordance with the advice of the Prime Minister, in exercise of the power vested in him by subsection (2) of section 79 of the Constitution of the Republic of Trinidad and Tobago, has appointed DR. SURUJRATTAN RAMBACHAN, who immediately before the dissolution of Parliament was a Member of the House of Representatives, who is a Minister, to act in the Office of the Honourable WINSTON CHANDARBHAN DOOKERAN, Minister of Foreign Affairs with effect from 24th August, 2015 and continuing during the absence from Trinidad and Tobago of the said the Honourable Winston Chandarbhan Dookeran, M.P., in addition to the discharge of his normal duties.

G. SERRETTE
*Secretary to His Excellency
the President*

20th August, 2015.

1270

APPOINTMENT TO ACT AS A MEMBER AND DEPUTY CHAIRMAN OF THE INTEGRITY COMMISSION

IT IS HEREBY NOTIFIED for general information that His Excellency the President, after consultation with the Prime Minister and the Leader of the Opposition, in exercise of the power vested in him by section 4(4) of the Integrity in Public Life Act, 2000, has appointed MR. RAJIV PERSAD, a Member and Deputy Chairman of the Integrity Commission, for a period of three (3) years, with effect from 1st July, 2015.

G. SERRETTE
*Secretary to His Excellency
the President*

1st July, 2015.

1271

APPOINTMENT OF A MEMBER TO THE INTEGRITY COMMISSION

IT IS HEREBY NOTIFIED for general information that His Excellency the President, after consultation with the Prime Minister and the Leader of the Opposition, in exercise of the power vested in him by section 4(4) of the Integrity in Public Life Act, 2000, has appointed MRS. ANGELA YOUNG LAI, a Member of the Integrity Commission, for a period of three (3) years, with effect from 1st July, 2015.

G. SERRETTE
*Secretary to His Excellency
the President*

1st July, 2015.

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OFFICE OF THE PRIME MINISTER

SEPARATION

IN ACCORDANCE with the Director of Personnel Administration Circular Memorandum No. E 26/06, dated 25th August, 2006, the undermentioned notice is published for general information:

Retirement

Name	Rank of Officer	Ministry/Department	Date	Remarks
Mankee-Martin, Ann Marie Mrs.	Clerk II	Office of the Prime Minister	25th September, 2015	Compulsory Retirement

SUPREME COURT OF JUDICATURE OF TRINIDAD AND TOBAGO**PRACTICE DIRECTION****SENTENCE INDICATIONS**

This practice direction is issued after consultation with the judges of the Criminal Bench.

PREAMBLE

In Criminal trials research has found that in a great many cases a guilty plea would generally be entered by the accused if, prior to the commencement of the trial, an indication was given by the judge of the sentence the accused would likely receive on a plea of guilty. There is therefore a need for a formalised sentence indication process which will achieve the following:

- i) the expeditious disposal of criminal trials, resulting in the optimal use of valuable judicial time spent on cases that do require a trial;
- ii) a marked reduction in the trauma suffered by victims of crime by avoiding the rigours of a trial;
- iii) a reduction in any anxiety that the accused may suffer by lessening the time between charge and disposition; and
- iv) a direct savings in costs and valuable prosecutorial time resulting from the reduction in the number of trials.

1. PURPOSE

- 1.1. The purpose of this Practice Direction is to establish the procedure, following the principles in *R v Goodyear* [2005] EWCA Crim

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SUPREME COURT OF JUDICATURE OF TRINIDAD AND TOBAGO—PRACTICE DIRECTION
SENTENCE INDICATIONS—Continued

888, for an indication by a judge, prior to the commencement of a trial or hearing in criminal proceedings, of a likely sentence an accused might receive if he or she pleads guilty at that point in time.

2. CONTEXT

2.1. In this Practice Direction:

2.1.1. **“court”** means the High Court of Trinidad and Tobago;

2.1.2. **“judge”** means a judge of the High Court and includes a person appointed to act in the office.

3. PROCEDURE

3.1. The Judge may give a sentence indication if an accused to an offence alleged in a charge, or any other specified offence, makes an application for such an indication.

3.2. An application for a sentence indication must be made in the practice form set out in the schedule to this Practice Direction, at any time prior to trial but not excluding the present right to change a plea at any time prior to sentencing.

3.3. A sentence indication may relate to:

3.3.1. a sentence of a particular type;

3.3.2. a sentence of a particular quantum;

3.3.3. a sentence that would not be imposed; or

3.3.4. a combination of sentences.

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SENTENCE INDICATIONS—Continued

- 3.4. A sentence indication should be confined to the maximum sentence to be imposed if a plea of guilty were tendered at the stage of the proceedings at which the indication was sought. The judge should not indicate the maximum possible sentence following conviction after trial.
- 3.5. Subject to direction 3.6, the judge may grant a sentence indication if he or she is satisfied that the information available at that time is sufficient for that purpose.
- 3.6. Without limiting direction 3.5, the judge shall have the following information before granting a sentence indication:
 - 3.6.1. a summary of the facts on which the sentence indication is granted, agreed on by the prosecution and the defence; and
 - 3.6.2. information as to any previous conviction of the accused.
- 3.7. The judge may request a pre-sentencing report to assist in granting a sentence indication.
- 3.8. Where the judge proposes to grant a sentence indication, the judge shall give both sides an opportunity to be heard on the matter. Where appropriate, the attorneys may provide references to the guidelines set out in *R v Goodyear* and any such other assistance as the judge may require.
- 3.9. The judge retains an unfettered discretion to refuse to give a sentence indication, with or without giving reasons for his or her refusal to do so.
- 3.10. The judge may also reserve his or her position until such a time as he or she feels able to give an indication.

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SENTENCE INDICATIONS—Continued

- 3.11. If a judge has refused to give an indication it remains open to the accused to request a further indication at a later stage.
- 3.12. An accused is not permitted to make a request for an indication on the different sentences that might be imposed if various different pleas were to be offered.
- 3.13. An indication should not be requested if there is uncertainty between the prosecution and defence about an acceptable plea to the charge or any factual basis relating to the plea. If there is a basis of plea agreed by the prosecution and defence, it must be reduced into writing and a copy provided to the judge. Any basis of plea will be subject to the approval of the judge.
- 3.14. In all cases an application for an indication of sentence should be in writing, signed by the attorney at law for the accused, indicating that he has clearly explained the material consequences of the application to his client.

4. ROLE OF THE DEFENCE ATTORNEY

- 4.1. A defence attorney should not seek an indication without written and signed authority from the accused, in the form set out in the schedule to this Practice Direction, that he or she wishes to seek an indication.
- 4.2. A defence attorney must enquire from the accused whether he or she fully understands that:
 - a) He or she should not plead guilty unless he or she was guilty;

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SENTENCE INDICATIONS—Continued

- b) The indication reflects the situation at the given time only; and
- c) The indication only relates to matters about which an indication was sought and other proceedings which may follow automatically will not be dispensed with.

5. GRANT OF SENTENCE INDICATION

- 5.1. A sentence indication shall be granted in open court with a full recording of the entire proceedings.
- 5.2. The prosecution and defence attorneys and the accused must be present.

6. RECORD OF SENTENCE INDICATION

- 6.1. The court shall record a sentence indication.

7. SECOND OR SUBSEQUENT SENTENCE INDICATION

- 7.1. The court may grant a second or subsequent sentence indication if since the previous sentence indication, there has been a change in circumstances that is likely to materially affect the question of the appropriate sentence type or quantum.

8. DURATION OF A SENTENCE INDICATION

- 8.1. A sentence indication has effect:
 - 8.1.1. Until the close of business on the date specified by the court;

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SENTENCE INDICATIONS—Continued

8.1.2. If no date is specified, until the expiry of 5 working days after the date on which the sentence indication was granted,

whether or not the same judge is sitting.

8.2. If, after a reasonable opportunity to consider his or her position in light of the indication, the accused does not plead guilty, the indication ceases to have effect.

9. PUBLICATION OF INFORMATION

9.1. A person shall not publish any information about any request for a sentence indication or any indication that has been granted until after the accused has been sentenced or the charge has been dismissed.

10. NON-ADMISSIBILITY OF SENTENCE INDICATION IN PROCEEDINGS

10.1. The fact that an accused made a request for a sentence indication is not admissible in evidence in any proceedings. Further, any reference to the sentence indication hearing is not admissible in a subsequent trial.

11. BINDING EFFECT OF SENTENCE INDICATION

11.1. When a sentence indication is given and the accused pleads guilty to the offence to which the indication applies within its effective period, the sentence indication is binding on the judge unless:

11.1.1. Information becomes available to the judge after the sentence indication was given but before sentencing; and

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SENTENCE INDICATIONS—Continued

11.1.2. The judge is satisfied that the information materially affects the basis on which it was given.

11.2. Subject to direction 8.1 the sentence indication is not binding on a judge other than the judge who gave the indication.

12. UNIFORMITY AND SAFEGUARD

12.1. This practice direction will ensure uniformity of process and safeguard against the creation or appearance of judicial pressure on the accused to plead guilty.

13. EFFECT OF SENTENCE INDICATION ON APPEAL

13.1. The maximum sentencing indication is not appealable but the right of the prosecution and the defence to appeal against final sentence, when one is imposed, is retained.

14. NON-ACCEPTANCE OF SENTENCE INDICATION

14.1. The fact that an accused does not plead guilty after a sentence indication is given by a judge does not preclude that judge from presiding over the subsequent trial.

15. PRACTICE FORMS

15.1. The Practice Forms are contained in the schedule to this Practice Direction.

Dated 14th day of August, 2015

Ivor Archie
Chief Justice

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SUPREME COURT OF JUDICATURE OF TRINIDAD AND TOBAGO—PRACTICE DIRECTION
SENTENCE INDICATIONS—Continued

SCHEDULE

PRACTICE FORMS

SENTENCE INDICATIONS

Practice Direction: 2015

FORM 1: Request for sentence indication [Direction 3.2 ‘Procedure’]

IN THE HIGH COURT OF JUSTICE
of Trinidad and Tobago

BETWEEN

THE STATE

And

[Accused]

This request is made by [Accused] for the court to indicate:

[delete where inapplicable]

- o a sentence of a particular type;
- o a sentence of a particular quantum;
- o a sentence that would not be imposed;
- o a combination of sentences

Include:

1. Summary of the facts as agreed by the prosecution and the defence;
2. Information as to any previous conviction of the accused.

Dated this day of , 20

[Signature of accused]

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SENTENCE INDICATIONS—Continued

PRACTICE FORMS

SENTENCE INDICATIONS

Practice Direction: 2015

**FORM 2: Attorney's authority to apply for indication [Direction 4.1 'Role
of Defence Attorney']**