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GRENADA

**ACT NO. 33 OF 2016**

I assent,

23rd November, 2016.

CÉCILE E. F. LA GRENADE  
Governor-General.

AN ACT respecting individual employment, labour administration and matters connected therewith.

*[By Order].*

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Grenada, and by the authority of the same as follows—

**PART I**

## PRELIMINARY

**1.** This Act may be cited as the**EMPLOYMENT ACT, 2016,**Short title and  
commencement.and shall come into force on a date to be fixed by the Minister by Order published in the *Gazette*.

Interpretation.

**2. In this Act—**

“Arbitration Tribunal” means the Arbitration Tribunal established pursuant to section 45 of the Labour Relations Act, 2016;

“casual employee” means any employee who works on a daily basis on work of an intermittent or irregular nature with no expectation of continuity;

“child” means any person under the age of sixteen years;

“continuous employment” means—

(a) in the case of an employee other than a daily paid worker, the employee’s period of uninterrupted employment with the same employer, in any position, whether full-time or part-time; and

(b) in the case of a daily paid worker, employment of the worker for 70 days in a period of twelve months, unless otherwise noted,

and “continuity of employment” shall be construed accordingly;

“Court” means the High Court;

“daily paid worker” includes an employee who is employed for part of a day and is paid accordingly;

“dependent contractor” means a person, hereinafter referred to as “the employee”, whether or not employed under a contract of employment, who performs work or service for another person for compensation or reward on such terms and conditions that the employee is, in relation to that person, in a position of economic dependence on, and under an obligation to perform duties for that person most closely resembling the relationship of employee than that of an independent contractor;

“employee” means a person who offers his services under a contract of employment and includes a dependent contractor and, where appropriate, a former employee;

“employer” means any person or undertaking, corporation, company, public authority or body of persons who or which employs any person to work under a contract of employment or uses the services of a dependent contractor, and includes the heirs, successors and assigns of an employer;

“employment contract” means any contract, whether express or implied, written or oral, whereby an employee agrees to perform work for an employer;

“forced labour” means work or service that is exacted from any person under the menace of any penalty and is not offered voluntarily, but does not include—

- (a) any labour required in consequence of the sentence or order of the court;
- (b) labour required of any person while he is lawfully detained that, though not required in consequence of the sentence or order of a court, is reasonably necessary in the interests of hygiene or for the maintenance of the place at which he is detained;
- (c) any labour required of a member of a disciplined force in pursuance of his duties as such or, in the case of a person who has conscientious objections to service as a member of a naval, military or air force, any labour which that person is required by law to perform in place of such service; and
- (d) any labour required during any period of public emergency or in the event of any other emergency or calamity that threatens the life and well-being of the community, to the extent that the requiring of such labour is reasonably justifiable in the circumstances of any situation arising or existing during that period or as a result of that other emergency or calamity, for the purpose of dealing with that situation;

“independent contractor” means any person or undertaking, corporation, company, public authority, or body of persons, being an employer, who or which employs any person to work under a contract of employment and whose



economic means are of such a nature that that independent contractor does not have to depend on assistance whether financial or otherwise prior to the undertaking of the contract;

“Labour Code” means the Employment Act, 2016, the Labour Relations Act, 2016 and occupational safety and health legislation;

“Labour Commissioner” means the person appointed as Labour Commissioner under section 7;

“Minister” means the Minister for the time being responsible for labour matters or any person authorised to act on his behalf;

“officer” means an officer in the Ministry of Labour appointed under section 7;

“public contract” means a contract, involving the expenditure of funds by any Government department or any local Government body, for—

- (a) the construction, alteration, repair or demolition of public works;
- (b) the manufacture, assembling, handling or shipment of materials, supplies or equipment; and
- (c) the performance of supply of services;

“Remuneration” means the wage and any additional benefits, allowance or emoluments whatsoever payable directly or indirectly, whether in cash

or in kind, by the employer to the employee and arising out of the employee's employment;

“serious misconduct” means any grave offence which includes, but not limited to unprovoked assault, willful damage to the employer's property, proven dishonesty, refusal to carry out a reasonable request in accordance with duties;

“summary dismissal” means a dismissal whereby an employer dismisses an employee without notice or without the amount of notice to which that employee is entitled by virtue of the contract of Employment;

“wages” means all earnings and allowances capable of being expressed in terms of money payable for the work or services performed or to be performed by an employee, but does not include—

- (a) the value of any accommodation, supply of light, water, medical attention or amenities, supplied at the sole expense of the employer;
- (b) any contribution paid by the employer to any pension or provident fund scheme;
- (c) any travel allowance or the value of any travel concession;
- (d) any sum paid to an employee to defray special expenses incurred by the employee due to the nature of the employment; and

(e) any gratuity payable on discharge or retirement from the service of the employer;

“workplace” means any place where an employee performs work for an employer under an employment contract.

**3.—**(1) Any provision in an agreement shall be void to the extent that it seeks to exclude or in any way limits the operation of any provision of this Act to the detriment of the employee. Status of Act.

(2) Notwithstanding sub-section (1) where an employee has received any specific benefit under an agreement, he or she shall not be entitled to the same benefit under any provision of this Act.

**4.** This Act does not apply to members of the police force, armed forces or to prison guards or officers except those employed in a civilian capacity, although, as far as is practicable, their conditions of service should not be less favourable, than workers not excluded by this section. Non-application of Act.

**5.** Nothing in this Act precludes better terms and conditions than those set out in the Act being agreed upon through collective bargaining or other forms of negotiation or agreement. Better terms and conditions not precluded.

## PART II

### ESTABLISHMENT AND FUNCTION OF THE DEPARTMENT OF LABOUR

**6.—**(1) There shall be a Department of Labour under the authority of the Minister. Department of labour and powers of the Minister.

(2) The Department of Labour shall administer and carry out such other functions under this Act and under any other legislation as the Minister may direct.

(3) The Minister may delegate any power authorised by this Act, but shall have the right to revoke the delegation at any time and no delegation shall prevent the exercise of any power by the Minister.

(4) In the event of the establishment of a Ministry of Labour all references in this Act to the Department of Labour shall be construed as a reference to the Ministry of Labour.

Officers of the  
Department of  
Labour.

**7.**—(1) There shall be a Labour Commissioner, a Deputy Labour Commissioner and such number of Senior Labour Officers as may be necessary.

(2) There shall also be other consultants, advisers, officers and clerks in the Department of Labour as may be necessary.

(3) The Deputy Labour Commissioner, the Senior Labour Officers, Labour Officers and the other officers and clerks shall perform such duties as may be assigned to them by the Labour Commissioner.

(4) All appointments to the Department of Labour are to be made by the Public Service Commission.

Responsibilities  
of the Labour  
Commissioner.

**8.**—(1) Subject to section 6, the Labour Commissioner shall be the Chief Adviser to the Minister on all labour matters and shall be responsible for the administration of the Department of Labour and the enforcement of this Act and in particular shall—

- (a) promote the settlement of any differences between employers and employees in accordance with the provisions of the Act;
- (b) advise the Minister on all labour matters and on measures to improve industrial relations generally;
- (c) encourage the development of tripartism and collective bargaining and provide advice to employers and trade unions on industrial relations;
- (d) be responsible for the inspection of all workplaces in accordance with this Part;
- (e) be in charge of an employment agency and maintain a register of employers seeking workers and workers seeking employment;
- (f) prepare an annual report on the work of the Department of Labour including the reports required under section 15, not later than the month of April following the year in review;
- (g) make recommendations to the Minister for the promotion of good industrial relations practices.

(2) The Labour Commissioner may institute or cause to be instituted any prosecution for the purposes of enforcing the provisions of this Act.

**9.** Officers of the Department of Labour as determined by the Labour Commissioner shall inspect places of work as often and as thoroughly as is necessary to ensure effective application of this Act and any relevant statutory provision. Duty to inspect.

Power of  
officers.

- 10.—(1)** An officer of the Department of Labour—
- (a) may, subject to paragraph (c), enter by any workplace freely and without previous notices at any hour of the day or night;
  - (b) may, subject to paragraph (c), enter by day any premises which he or she reasonably believes to be a workplace;
  - (c) shall not enter the private home of an employer pursuant to paragraphs (a) and (b) except with the consent of the employer or the written authorisation of the Labour Commissioner;
  - (d) may carry out any examination, test or enquiry which he considers necessary in order to satisfy himself that the provisions of the Act or of any law relating to the employment of persons are being strictly observed and in particular may—
    - (i) interrogate alone or in the presence of witnesses the employer or the employees of the undertaking on any matter concerning the application of any such law;
    - (ii) require the production of any records, books, registers or other documents, the keeping of which is prescribed by any law relating to employment or conditions of work, in order to ensure that the Act and any other relevant statutory provisions are being respected, and to copy such documents or make extracts of them;

- (iii) enforce the posting of notices required by legal provisions;
- (iv) take or remove for purpose of analysis samples of materials and substances used or handled, subject to the employer or the employer's representative being notified of and shown any samples or substances to be taken or removed for that purpose;
- (v) take such photographs or video shots or audio recordings as may be useful;
- (e) may require from employers, information as to the remuneration, hours and conditions of work of the employees;
- (f) may be accompanied by a member of the Police Force if he or she has reasonable cause to apprehend any serious obstruction in the execution of his duty;
- (g) may inspect any record of accidents or occupational disease kept by the employer pursuant to any enactment and require from an employer information as to the causes and circumstances relating to any accident or occupational disease that may have occurred on the employer's premises or in the course of employment;
- (h) may take steps with a view to remedying defects observed in plant layout or working methods which the officer reasonably believes

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constitute a threat to the health or safety of the workers.

(2) For the purposes of subsection (1) (h) an officer of the Department of Labour may subject to a right of appeal to the Court, make orders requiring—

- (a) such alterations to the installation or plant, to be carried out within a specified time limit, as may be necessary to secure compliance with the legal provisions relating to health or safety of the workers; or
- (b) measures with immediate executor force in the event of imminent danger to the health or safety of the workers.

(3) For the purposes of subsection (1), an officer of the Department of Labour may make any order for enforcement of requirements of the Labour Code, including an order that wages or any other amounts owed to an employee be paid to the employee.

(4) A person who is affected by an order made under subsection (3) may request the Labour Commissioner to review the order, and the Labour Commissioner may confirm, vary or revoke the order.

Duty to notify.

**11.** Officers of the Department of Labour shall, when on an inspection visit, notify the employer or his representative of their presence, unless they consider that such notification may be prejudicial to the performance of their duties.

Prohibition of victimisation.

**12.—**(1) Every employer shall grant the employees reasonable opportunity for communicating freely with the officers of the Department of Labour.



(2) No employer shall inflict any disadvantage on an employee for anything done or provided under this Part.

**13.**—(1) Officers of the Department of Labour, both while in office and afterwards, shall maintain secrecy concerning any manufacturing or commercial secrets or working processes which may have come to their knowledge in the course of their duties.

Prohibition on disclosing information.

(2) Officers of the Department of Labour shall treat as absolutely confidential the source of any complaint bringing to their notice a defect or breach of legal provisions and shall give no intimation to the employer or his or her representative that a visit of inspection was made in consequence of the receipt of such a complaint.

(3) Officers of the Department of Labour shall treat as confidential any personal information obtained as a result of a complaint of sexual harassment and shall not disclose that information to any person except where disclosure is necessary for the purposes of investigating the complaint or taking any action under this Act in relation to the complaint.

(4) Officers of the Department of Labour are prohibited from having any direct or indirect interest in the undertakings under their supervision.

**14.**—(1) Officers of the Department of Labour shall be required to submit to the Labour Commissioner periodical reports on the results of their inspection activities.

Duty to report.

(2) These reports shall be drawn up in such manner and deal with such subjects as may from time to time be prescribed by the Labour Commissioner and shall be submitted at least as frequently as may be prescribed by that

authority and in any case not less frequently than once a year.

Labour  
Commissioner's  
annual report and  
content thereof.

**15.—**(1) The Labour Commissioner shall publish an annual general report on the work of the inspection services.

(2) The annual report published by the Labour Commissioner shall include but not limited to the following—

- (a) enactments, laws and regulations relevant to the work of the inspection service;
- (b) staff of the labour inspection service;
- (c) statistics of work places liable to inspection and the number of workers employed therein;
- (d) statistics of inspection visits;
- (e) statistics of violations and penalties imposed;
- (f) statistics of industrial accidents; and
- (g) statistics of occupational diseases.

Offences.

**16.—**(1) Any person who without good cause—

- (a) contravenes section 12 or 13;
- (b) hinders or obstructs an officer of the Department of Labour in the exercise of his powers or the performance of his duties;
- (c) refuses or fails to comply to the best of his ability with any requirement made by an officer

of the Department of Labour in the exercise of his powers or the performance of his duties;

- (d) refuses or fails to answer to the best of his ability any question which an officer of the Department of Labour in the exercise of his powers or the performance of his duties has put to him;
- (e) willfully furnishes to an officer of the Department of Labour, information which is false or misleading;
- (g) falsely represents himself or herself as an officer of the Department of Labour;
- (f) conceals or prevents any person from appearing before or being examined by an officer of the Department of Labour, or attempts to conceal or prevent any person from appearing,

commits an offence and shall be liable on summary conviction to a fine not exceeding ten thousand dollars or to a term of imprisonment not exceeding three years or to both such fine and imprisonment.

(2) Where proceedings are brought in respect of an offence under subsection (1) and the employer, or his representative, is found guilty of the offence, the Court may order the employer to pay compensation to the employee and, where appropriate, may order the reinstatement of the employee and the restoration to him of any benefit or advantage.

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**PART III****ESTABLISHMENT OF LABOUR  
ADVISORY BOARD**

Composition of  
Labour Advisory  
Board.

**17.**—(1) The Minister shall appoint a Labour Advisory Board consisting of—

- (a) three persons nominated by the Minister;
- (b) three persons nominated by the most representative organisation of workers; and
- (c) three persons nominated by the most representative organisation of employers.

(2) The Labour Commissioner shall be one of the Government representatives and shall be the Chairperson, *ex-officio*.

(3) In the absence of the Labour Commissioner, one of the Government representatives shall act as the Chairperson.

(4) An officer of the Department of Labour shall be appointed as Secretary to the Board.

Term of office.

**18.**—(1) Members of the Board shall be appointed for a term of two years and shall be eligible for re-appointment.

(2) Persons who were members of the Labour Advisory Board established under the Employment Act, Chapter 89 shall continue as members of the Labour Advisory Board established under this Act for the same term as they were appointed under that Act, but otherwise the provisions of this Act shall apply to their appointment.

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**19.** Any vacancies on the Board shall be filled by the Minister in accordance with section 17. Vacancy on Board.

**20.—**(1) The Minister may revoke the appointment of a member of the Board at his or her discretion where the member is a Government representative. Revocation of appointment.

(2) The Minister shall revoke the appointment of a member of the Board—

- (a) on the request of the representative worker's organisation where the member was nominated by the organisation;
- (b) on the request of the representative employer's organisation where the member was nominated by that organisation.

**21.—**(1) The Board shall advise the Minister on all labour matters including the following— Functions of Board.

- (a) the formulation and implementation of national policies on basic conditions of employment and on health, environment and safety and welfare at work;
- (b) the promotion of collective bargaining;
- (c) proposals for the adoption and amendment of legislation; and
- (d) the review of the operation and enforcement of this Act and the Labour Relations Act, 2016.

(2) The Board shall also be consulted with respect to matters concerning the activities of the International Labour Organisation and in particular on—

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- (a) Government replies to questionnaires concerning items on the agenda of the International Labour Conference and Government comments on proposed texts to be discussed by the Conference;
  - (b) the proposal to be made to the competent authority or authorities in connection with the submission of conventions and recommendations pursuant to article 19 of the Constitution of the International Labour Organisation;
  - (c) questions arising out of reports to be made to the International Labour Office under article 22 of the Constitution of the International Labour Organisation;
  - (d) the re-examination at appropriate intervals of unratified conventions and recommendations to which effect has not yet been given, and to consider what measures might be taken to promote their implementation and ratification as appropriate;
  - (e) proposals for the denunciation of ratified conventions.

Meetings of  
Board and  
procedure.

**22.**—(1) Meetings of the Board shall be convened by the Chairperson or at the request of any three members of the Board.

(2) Where a request for a meeting is made by three members of the Board or by the Minister, the Chairperson

shall convene the meeting within fourteen days of such request being made.

(3) The Board shall meet at appropriate intervals, but at least once a quarter.

(4) The Board may regulate its own procedure.

**23.**—(1) Five members of the Board shall constitute a Quorum. quorum for meetings at which no fewer than one workers' representative and one employers' representative must be present.

(2) Notice for meetings shall be sent at least seven workings days before the scheduled date; and all meetings shall be held during working hours as far as it is practicable.

**24.** The Minister may authorise the payment of Allowances and expenses. allowances to members of the Board and shall authorise the reimbursement of any reasonable expenses of members.

## PART IV

### FUNDAMENTAL PRINCIPLES

**25.**—(1) No person shall be required to perform forced Prohibition of forced labour. labour.

(2) Any person who exacts or imposes forced labour or causes or permits forced labour commits an offence and shall be liable on summary conviction to a fine not exceeding ten thousand dollars or to a term of imprisonment not exceeding three years or to both such fine and imprisonment.

Prohibition of  
discrimination.

**26.**—(1) No person shall discriminate against any employee on grounds of race, colour, national extraction, social origin, religion, political opinion, sex, marital status, pregnancy, family responsibilities, age disability, non-communicable disease or illness, including HIV or AIDS in any matter arising out of the employment relationship including recruitment, training, promotion, terms and conditions of employment and termination of employment other than in cases where contagious diseases can be contracted through regular work related casual contact.

(2) Subsection (1) does not preclude any provisions, programme or activity that has as its object the amelioration of conditions of disadvantaged individuals, including those who are disadvantaged on the grounds enumerated in subsection (1).

(3) A person who contravenes this section commits an offence and shall be liable on summary conviction to a fine not exceeding ten thousand dollars or to a term of imprisonment not exceeding three years or to both such fine and imprisonment.

Equal pay for  
equal work.

**27.** Every employer shall pay male and female employees equal remuneration for work of equal value.

Remedies for  
infringement of  
rights.

**28.**—(1) An individual claiming an infringement of his or her rights contained in this Part may seek redress in the Court if that infringement cannot be redressed by way of the industrial relations framework.

(2) For the purposes of subsection (1) the Court may make such orders as may be necessary to ensure compliance with the provisions of this Part, including an order for reinstatement of an employee, if requested, the restoration



to him of any benefit or advantage, and an order for the payment of compensation.

**29.**—(1) Employees have a right to claim and enforce their rights under the Labour Code, and to refuse to infringe the rights of other employees, without reprisal or threat of reprisal. No reprisal.

(2) No employer shall discipline, dismiss, intimidate or penalise an employee in any way for exercising any rights or obligations under the Labour Code.

(3) Any person who contravenes subsection (2) commits an offence under this Act and is liable, on summary conviction, to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding nine months, or to both such fine and term of imprisonment.

## PART V

### CONTRACTS OF EMPLOYMENT

**30.**—(1) Subject to this Act, this Part applies to all contracts of employment. Types of contract.

(2) A contract of employment may take one of the following forms—

- (a) a contract for an unspecified period of time;
- (b) a contract for a specific period of time; and
- (c) a contract for a specific task.

(3) A contract for an unspecified period of time may be terminated by either party, subject to the provisions of the Act concerning dismissal and notice of termination.

(4) A contract for a specified period of time shall automatically terminate on the date specified for its termination and no notice shall be required for its termination, unless it is expressly or tacitly renewed or prolonged.

(5) Where the purpose or effect of a contract that is purportedly for a specific period of time or for a specific task is the filling on a lasting basis of a post connected with the normal and permanent activity of the undertaking, establishment or service, it shall be deemed to be a contract for an unspecified period of time.

(6) A contract to perform a specific task shall terminate on the completion of the task and no notice of termination shall be required of either party.

(7) In a contract of employment which does not specify the length of the probationary period, the following probationary periods shall be deemed to apply—

- (a) not more than one month in the case of unskilled workers; and
- (b) three months in the case of other workers, but which period may be extended by a collective agreement.

(8) Up to the end of a probationary period, a contract of employment may be terminated at any time by either party without notice.

(9) Subject to subsection (10), up to the end of a probationary period, an employer may terminate an employment contract on grounds of unsatisfactory performance by the employee of the work required by the contract.

(10) An employer may not terminate an employment contract under subsection (9) unless—

- (a) the employer has informed the employee of the unsatisfactory performance and of changes required in performance of the work;
- (b) the employer has given notice to the employee that, if the performance of the work does not improve within a period of time specified by the employer and if the performance of the work continues to be unsatisfactory at the end of that period, the employment contract will be terminated.

**31.—**(1) Every employer shall give to each of the employer's employee a written employment contract.

Content of  
employment  
contract.

(2) The contract shall be given—

- (a) in the case of employees who are employed by the employer at the time when this Act comes into operation, within one month of the coming into operation of this section; and
- (b) in the case of all other employees, within 14 days after they commence their employment.

(3) The contract required by this section shall include the following—

- (a) the names of the employee and the employer;
- (b) the date of commencement of the contract;
- (c) the rate of pay and how wages (remunerations) are calculated;
- (d) the intervals when wages are to be paid (whether daily, weekly, fortnightly, twice monthly, monthly or otherwise);
- (e) a statement of any deductions from wages that are required to be made;
- (f) description of the work to be performed;
- (g) the normal hours of work;
- (h) any provisions for the termination of the contract, other than provided by the Act; and
- (i) any disciplinary rules applicable to employees.

(4) If an employee is covered by a collective agreement, the employer shall give the employee a copy of the collective agreement.

(5) An employment contract shall not contain any provision that is contrary to the Labour Code.

**32.**—(1) Every public contract shall include the provisions set out in the Schedule. Public contracts.

(2) If the public contract does not include the provisions referred to in subsection (1) such inclusion shall be so deemed.

**33.**—(1) Subject to subsection (3), no person under the age of sixteen years shall be employed or allowed to work in any public or private agricultural, industrial or non-industrial undertaking or any branch thereof, save and except for holiday job employment. Prohibition on child labour.

(2) Subject to subsection (3), no person under the age of sixteen years shall be employed or allowed to work on vessels.

(3) The provisions of this section do not apply to the following—

- (a) work done by children in technical schools, work done by children on job training or work experience exercises provided that such work is approved and supervised by public authority;
- (b) work done by children on school-ships or training ships, provided that such work is approved and supervised by public authority.

**34.** Every employer shall keep a register of all persons under the age of eighteen years employed by him and of the dates of their births. Register of young persons.

Medical  
examination.

**35.**—(1) The employer of any person under the age of eighteen on any vessel shall be conditional on the production of a medical certificate attesting fitness for such work, signed by a registered medical practitioner.

(2) A person under the age of eighteen employed on any vessel shall undergo a medical examination at least once every year at the expense of the employer and obtain a medical certificate attesting fitness for such work, signed by a registered medical practitioner.

Offence.

**36.** Any person who contravenes section 33 commits an offence and shall be liable on summary conviction to a fine not exceeding ten thousand dollars or to a term of imprisonment not exceeding three years or to both such fine and imprisonment.

## PART VI

### HOURS OF WORK AND CONTINUITY OF EMPLOYMENT

Interpretation.

**37.** For the purposes of this Part—

“agricultural worker” means any person, not being in any management position, who is employed among other things, to cultivate or harvest agricultural products;

“catering assistant” means any person, not being in any management position, who is employed in a restaurant, guest house, refreshment house, hotel or similar establishment for the purposes

of catering food, drinks, entertainment or accommodation to the public;

“clerical assistant” means any person, not being in any management position, who is employed in any business establishment for doing clerical duties;

“construction worker” means any person, not being in any management position, who is employed in construction, reconstruction, maintenance, repair, alteration, or demolition of any building, harbour, dock, pier, canal, inland waterway, road, tunnel bridge, viaduct, sewer, drain, well, telegraphic or telephonic installation, electrical undertaking, gas work, water work, or other work or construction as well as the preparation for or laying the foundations of any such work or structure;

“continuous employment” and “continuity of employment” mean an employee’s period of uninterrupted employment with the same employer;

“domestic worker” means any person who is employed for the purpose of undertaking household chores including but not limited to cooking, washing, ironing, baby sitting, and general cleaning;

“industrial worker” means any person, not being in any management position who is employed in industries in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in

which materials are transformed; also includes any person employed for the purposes of electronic data processing telecommunication, electricity generation or distribution;

“security guard” means any person, other than a police officer or prison officer, who is employed for, among other things, the protection of plant or machinery, real property, personnel, maintenance of law and order;

“shift worker” means any employee who works within a system of employment established by the employer which requires different groups of workers to work at different times on a shift basis;

“shop assistant” means any person, not being in any management position, who is employed in a shop or store where wholesale or retail trade or business is carried on.

Maximum  
weekly working  
hours for  
employees.

**38.** No employer shall require any employee with the exception of shift workers in the under-mentioned categories to work for more than the hours prescribed hereunder during any week, excluding overtime—

- (a) for an agricultural worker, a construction worker or an industrial worker, no more than forty hours with the ordinary working days being Mondays to Fridays;
- (b) for a clerical assistant or a shop assistant, no more than forty-four hours with the ordinary working days Mondays to Saturdays;



- 
- (c) for a catering assistant no more than forty-four hours;
  - (d) for a domestic worker, or security guard no more than sixty hours.

**39.** No employer shall require an employee to work for more than six consecutive days without a period of rest comprising at least twenty-four consecutive hours which shall be taken on a customary day of rest or on a day agreed between the parties.

Prohibition on ordinary working hours.

**40.—**(1) As ordinary working hours, no employer shall require any employee save and except a security guard or a domestic worker, to work for more than eight hours on any day, exclusive of lunch period without paying adequate compensation for overtime work.

Maximum daily ordinary working hours.

(2) As ordinary working hours, no employer shall require a domestic worker to work for more than ten hours on any day, inclusive of two hours for lunch and rest periods.

(3) As ordinary working hours, no employer shall require a security guard, to work for more than twelve hours on any day.

**41.—**(1) Subject to subsections (2) and (3), the Minister may on the advice of the Labour Advisory Board make regulations prescribing categories of employees and the number of hours that they can work, in addition to the categories and number of hours set out in section 38.

Minister may prescribe additional categories of employees.

(2) In deciding whether to make regulations under subsection (1), the Minister shall consider—

- (a) the history of work of the proposed category of employees;

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- (b) the work requirements of the proposed category;
  - (c) the safety and health of employees in the proposed category;
  - (d) International Labour Organisation commitments and goals; and
  - (e) any other factors that the Minister considers relevant.

Special provisions for young persons.

**42.** No person under the age of eighteen years shall be employed or allowed to work between the hours of 9:00 p.m. to 6:00 a.m.

Meal intervals.

**43.—**(1) No employer shall require an employee—

- (a) subject to subsection (2), to work for more than five hours continuously without a meal interval of not less than one hour or any such period as may be agreed upon; or
- (b) to perform any work during his or her meal interval, without the consent of that employee.

(2) An employer and employee may agree to a shorter meal interval of not less than thirty minutes, but such agreement shall not take effect until the employer has given written notice of the agreement to the Labour Commissioner.

Overtime.

**44.—**(1) No employer shall require an employee to work overtime otherwise than pursuant to an agreement concluded between the employer and the employee.

(2) An employer shall pay to an employee who works overtime an amount calculated at a rate of not less than one

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and one-half times his or her wage for one hour in respect of the overtime worked.

**45.** A worker who is paid on a daily basis and who works on the working day before and the working day after a public holiday shall be paid for the public holiday. Payment for public holiday.

**46.—**(1) Continuous employment shall begin from and include the first day on which an employee begins to work for an employer and shall continue up to and including the date of termination. Particulars of continuity of employment.

(2) It shall be presumed, unless the contrary is shown, that the employment of an employee with an employer is continuous whether or not the employee remains in the same job.

(3) An employee's continuous employment shall not be treated as interrupted if the employee is absent from work—

- (a) due to taking annual leave, maternity leave or sick leave or any other leave in accordance with this Act or any other enactment or any contract or agreement;
- (b) due to his or her suspension, with or without pay, in accordance with the provisions of this Act, or any other enactment or contract or agreement;
- (c) due to the termination of his or her employment prior to being reinstated or re-engaged in accordance with this Act or under any contract or agreement;

- 
- (d) due to having been temporarily laid-off by the employer;
  - (e) due to action in pursuance of a strike in which he or she did not participate;
  - (f) due to a lockout;
  - (g) in accordance with the agreement of his or her employer;
  - (h) due to public duty; or
  - (i) due to *force majeure* or act of God.

(4) Any periods of time elapsing in the circumstances referred to in subsection (3) shall count for the period of calculating the continuous period of employment.

(5) Any period during which an employee is absent from work because of his or her participation in a strike shall not interrupt the continuity of employment, but shall not count for the purposes of calculating the length of continuous employment.

Successor  
employer.

**47.—**(1) Where a business or a part of it is sold, leased, transferred or otherwise disposed of, the periods of employment with the two successive employers shall be deemed to constitute a single period of continuous employment with the successor employer.

(2) The employees of the former employer shall have the option to be terminated and receive termination allowance or continue with the successor employer.

**48.** Where an employee is engaged in an occupation in which it is customary to employ some employees only at certain seasons of the year and that employee is employed for consecutive seasons, the employee shall be deemed to have been continuously employed for the aggregate of all the time the employee has actually performed work for the same employer for continuous seasons. Seasonal employment.

## PART VII

### PROTECTION AND REGULATION OF WAGES

**49.—**(1) The wages payable to an employee, other than a casual employee, shall be paid— Payment of wages.

- (a) at least once every two weeks in the case of employees whose wages are fixed by the hour or day or week, or whose wages are calculated solely on a piece-work or out-put basis, or who are required to perform task work;
- (b) at least once a month in the case of employees whose wages are fixed on a monthly or yearly basis.

(2) The provisions of subsections (1)(a) and (b) shall not apply where other intervals for the payment of wages to employees are fixed by collective agreement or arbitration award, provided that payment must occur at least monthly.

(3) The wages payable to a casual employee shall be paid daily or, if the employer and the employee agree, weekly, every two weeks or monthly.

(4) The wages payable to an employee—

- (a) shall be paid to such employee or to a person specified by the employee in writing;
- (b) shall be paid in legal tender or by cheque drawn on a bank in Grenada but may, on the written request of any employee, other than a casual employee, be paid into a bank, credit union or co-operative society, provided the statement referred to in section 45 is given to the employee;
- (c) shall, where made in cash, be made on a working day and at or near the workplace.

Employee's entitlement to statement of wages.

**50.—**(1) An employer shall, with each payment of wages to an employee, give the employee an itemised written statement containing—

- (a) a statement of the employee's regular, supplemental and gross wages due for the pay period in respect of which the wages are paid;
- (b) a statement of the amount of every deduction from the employee's wages during that pay period and the purpose for which each deduction was made;
- (c) a statement of the employee's net wages for that pay period; and
- (d) a declaration, in such form as may be prescribed, that the required remittances for the immediately preceding pay period have been made.

(2) Where an employer fails to provide a statement under subsection (1), or fails to provide an accurate statement, an employee may file a complaint with the Labour Commissioner under section 84.

**51.—**(1) No employer shall, except with the permission of the Labour Commissioner—

Prohibitions  
relating to  
remuneration.

- (a) require an employee to pay or repay the employer any wages payable or paid to that employee in accordance with this Act;
- (b) do any act or permit any act to be done as a direct or indirect result of which an employee is deprived of the benefit or of any portion of the benefit of any remuneration payable or paid;
- (c) require or permit an employee to give a receipt for or otherwise to represent that the employee received more wages than the employee did actually receive;
- (d) require an employee to make use of stores which are established for the sale of commodities to his or her employees or services which are established in connection with his or her undertaking, provided that goods and services in such work stores shall be provided at fair and reasonable prices;
- (e) pay wages in any place where alcoholic liquor or noxious drugs are sold, or in a place of amusement, or in a retail store, except to persons employed there;

- (f) limit the right of employees to dispose of their wages as they see fit; or
- (g) make any deduction from the wages of an employee for any reason, except as provided in subsection (2).

(2) An employer may deduct any of the following amounts from an employee's wages—

- (a) monies due to the employer in respect of housing furnished by the employer to the employee, goods sold by the employer to the employee or any loan or advance on his or her wages granted by the employer to the employee;
- (b) monies which the employer has paid or has undertaken to pay in connection with any loan granted to such employee in order to acquire real property, a dwelling or household equipment;
- (c) monies which the employee owes to a vacation, sick, medical, insurance savings, provident or pension fund;
- (d) monies which are deducted in accordance with the Labour Relations Act, 2016.

(3) For greater certainty, no deduction in the form of direct or indirect payments for the purpose of obtaining from the wages payable to an employee by way of payment to any person for anything done to enable the employee to obtain or retain employment.



**52.**—(1) An employer commits an offence if the employer—

Offences in relation to payment of wages.

- (a) fails to pay wages to an employee as required by and in accordance with this Act;
- (b) fails to make any deductions, from the payment of wages, that are required by this Act to be made; or
- (c) fails to remit any monies that have been deducted and are required by this Act to be remitted.

(2) An employer who commits an offence under subsection (1) is liable, on summary conviction, to a fine as follows—

- (a) for a first conviction, to a fine not exceeding five thousand dollars;
- (b) for a second or subsequent conviction, to a fine not exceeding ten thousand dollars.

**53.** The Labour Commissioner shall issue an order to an employer as follows—

Order by Labour Commissioner.

- (a) in the case of an employer who has failed to pay wages to an employee, an order to pay the difference between the amount which should have been paid and the amount that was actually paid, together with interest at such rate as may be prescribed in regulations;
- (b) in the case of an employer who has failed to make deductions from wages as required by this Act, an order to make those deductions; and

- (c) in the case of an employer who has failed to remit monies that have been deducted, an order for those monies to be remitted.

Establishment of  
Wages Advisory  
Committee.

**54.**—(1) Where no arrangements exist for the effective regulation of wages in a particular trade, industry or occupation, or where the Minister deems it expedient, he or she shall appoint a Wages Advisory Committee to investigate the conditions of employment in such trade, industry or occupation and to make recommendations as to the minimum rates of wages which should be payable.

(2) An order made under section 55 shall be reviewed by the Wages Advisory Committee at least once every three years with a view to updating the minimum rate of wages.

(3) A Wages Advisory Committee shall consist of an equal number of—

- (a) members nominated by the most representative organisation or organisations of employees;
- (b) members nominated by the most representative organisation or organisations of employers; and
- (c) representatives of other interests as the Minister deems appropriate.

(4) The Minister shall designate one of the members of the Wages Advisory Committee as Chairperson.

(5) An officer of the Department of Labour shall be appointed as Secretary of the Wages Advisory Committee.

(6) The Minister may make rules prescribing the powers, duties and procedure of the Wages Advisory Committee.

(7) The Minister may authorise the payment of allowances to and the reimbursement of the reasonable expenses of the members of a Wages Advisory Committee.

**55.**—(1) After considering the recommendations of a Wages Advisory Committee, the Minister may make an order prescribing, varying or revoking minimum rates of wages payable to employees in particular categories of employment. Minimum wage order.

(2) Any minimum wage order made under subsection (1) shall be published in the *Gazette*.

(3) A minimum wage order becomes effective on the date the order is published in the *Gazette* or on such other date specified in the order.

(4) A minimum wage order may prescribe time rates, piece rates and overtime rates.

**56.** All wages and other remuneration due to an employee on the termination or completion of his or her contract of employment shall be paid within seven days after the termination or completion. Payment of remuneration on termination.

**57.**—(1) Every employer affected by a minimum wage order shall post it in a conspicuous place in the workplace so as to inform employees of the contents of the order. Posting of notices.

(2) An employer who contravenes this section commits an offence and is liable, on summary conviction,

to a fine not exceeding one thousand dollars or to a term of imprisonment not exceeding three months.

Consequences  
of failure to pay  
minimum wage.

**58.**—(1) Where an employer pays less than the rate of wages prescribed in a minimum wage order, the employer commits an offence and shall be liable, on summary conviction, to a fine as follows—

- (a) for a first conviction, to a fine not exceeding five thousand dollars;
- (b) for a second or subsequent conviction, to a fine not exceeding ten thousand dollars.

(2) Where it is found that an employer has paid less than the rate of wages prescribed in a minimum wage order, the Court shall order the employer to pay to the employee or employees concerned the difference between the amount which should have been paid and the amount which was actually, together with interest on that amount where appropriate.

(3) Where it is alleged that an employer has paid less than the rate of wages prescribed in a minimum wage order, the burden shall be on that employer to prove that there was no violation of the order.

## PART VIII

### LEAVE ENTITLEMENTS GENERALLY

Interpretation.

**59.** In this Part—

“daily paid workers” include employees who are employed for part of a day and are paid accordingly;

“date of expected confinement” means the date of the expected birth of a child.

**60.**—(1) Except where otherwise provided for in this Act, every agricultural worker, catering assistant, clerical assistant, construction worker, domestic worker, industrial worker, security guard and shop assistant shall be entitled to a period of annual leave with pay of not less than the following—

Annual leave.

- (a) two weeks for the first year of employment; and
- (b) three weeks thereafter.

(2) Where an employee is employed on a half day basis, a half day shall be counted as one working day in the computation of periods of employment for vacation leave.

(3) An employee employed on a daily or hourly basis shall be allowed a period of paid vacation leave of not less than one working day for every period of fifteen days or one hundred and twenty hours as the case may be.

**61.**—(1) The leave referred to in section 60—

Date of leave.

- (a) shall be granted by the employer, after consultation with the employee, as from a date determined by the employer, but as far as it is practicable not later than six months after the end of the year in respect of which the entitlement arose;
- (b) shall not be concurrent with any period of sick leave granted pursuant to section 73 or maternity leave granted pursuant to section 63,

or with a period of notice of termination of the contract of employment;

- (c) shall be extended by one working day with full pay for each public holiday which falls within the employee's period of leave and which falls on a day which otherwise would have been an ordinary working day for the employee.

(2) As far as it is practicable an employer shall pay an employee to whom leave is granted under section 60 the remuneration in respect of his or her leave not later than the employee's last working day before the commencement of his or her leave or by agreement.

(3) Upon termination of an employee's employment, the employer shall pay to him or her remuneration in respect of any leave which accrued to the employee but was not granted before the date of termination of employment.

Rights of  
employee  
regarding  
pregnancy.

**62.**—(1) Subject to this section, an employee who is pregnant shall be entitled under this Act as of right to take maternity leave in accordance with section 63 or 64, and to receive from her employer maternity pay in accordance with section 64, and to return to work in that employment thereafter if she so desires.

(2) An employee shall only be entitled under subsection (1) if—

- (a) at the date of her expected confinement she would have been continuously employed by that employer (or a successor to that employer) for a period of eighteen months or more;

- (b) she informs her employer (in writing if he or she so requests) at least three weeks before the commencement of the maternity leave required—
  - (i) that she will be requiring maternity leave because of pregnancy; and
  - (ii) that she intends to return to work for her employer.

(3) For the purposes of subsection (2)(a), “continuously employed”, in relation to daily paid workers, means employment for one hundred and five days in a period of eighteen months.

**63.—(1)** Maternity pay shall comprise—

Maternity pay.

- (a) in the case of monthly paid employees, two months salary less any amount to which such employees are entitled under the National Insurance Act, Chapter 205;
- (b) in the case of weekly or fortnightly paid employees, wages for four fortnights less any amount to which such employees are entitled under the National Insurance Act, Chapter 205;
- (c) in the case of daily paid workers, one-fifth of wages earned in the twelve months immediately prior to the commencement of the leave being taken less any amount to which such workers are entitled under the National Insurance Act, Chapter 205.

(2) Maternity pay shall be paid by an employer—

- (a) in a lump sum on the first day of maternity leave; or
- (b) in the same manner in which the employee was ordinarily paid previously, at the election of the employee.

Maternity leave without maternity pay in certain cases.

**64.** An employee whose pregnancy commences before she has worked for her employer for a period of eighteen months (or in the case of a daily paid worker one hundred and five days in a period of eighteen months), or who is ineligible for maternity leave with maternity pay by virtue of section 67, shall be entitled to take maternity leave without pay for a period of three months, and that employee may return to work at any time before the expiration of three months at her own option, provided that a certificate of fitness from a registered medical practitioner is given to the employer.

Exercise of right to return.

**65.—(1)** An employee shall exercise her right to return to work by notifying her employer (who may be the original employer or a successor to that employer) at least two weeks before the day on which she proposes to return, of her intention to return on that day (in this section referred to as “the notified day of return”).

(2) An employee may postpone her return to work for a total period of not more than sixty days if, before the notified day of return, she gives her employer a certificate from a medical practitioner stating that, by reason of disease or the physical or mental disablement of herself or her child, she will be incapable of work on the notified day of return.

(3) If an employee has notified a day of return but an intervening interruption of work (whether due to industrial action or some other reason) renders it unreasonable to



expect the employee to return to work on the notified day of return, she may instead return to work when work resumes.

**66.** An employee who has, under both this Act and a contract of employment, the right to return to work may not exercise those rights separately but may avail herself of whichever right is, in any particular respect, the more favourable.

Choice of right to return.

**67.** An employee entitled to maternity leave and maternity pay under this Act shall, after the first occasion, be so entitled only once in each period of two years and on no more than three occasions including the first occasion.

Restriction on entitlement to maternity leave with pay.

**68.—**(1) An employer who refuses or wrongfully fails to accord to an employee her entitlement due under this Act commits an offence and shall be liable on summary conviction, on the complaint of the employee or the Labour Commissioner, to a fine of five thousand dollars and to imprisonment for six months.

Offence.

(2) Where a person is guilty under subsection (1) of an offence in relation to maternity pay the court shall, on conviction, order the offender to pay, in addition to any fine, compensation to the employee of a sum equal to the amount of maternity pay due and owing under this Act, and such sum may be recovered as if it were a fine under this Act and when recovered, shall be paid to the employee.

**69.—**(1) An employer who terminates the employment of an employee because she is pregnant commits an offence and the burden of proving that the employment was not terminated because of pregnancy shall be on the employer.

Termination of employment on account of pregnancy.

(2) An employer who commits an offence under subsection (1) shall be liable, on summary conviction, to a fine of five thousand dollars and to imprisonment for one year, and the court shall order the employer to re-instate the employee who shall be entitled under this Act in all respects as if her employment had not been terminated.

(3) An employer who is ordered under subsection (2) to re-instate an employee and refuses so to do commits an offence and shall be liable on summary conviction to a fine of one hundred dollars for each day during which the offence continues.

(4) A prosecution under this section may be instituted on the complaint of the Labour Commissioner or an employee.

Employer to keep  
record of female  
employees.

**70.**—(1) Every employer shall keep, in relation to each female employed by him or her, a record showing—

- (a) her name and address;
- (b) the date of commencement of her employment;
- (c) her normal pay and normal working week;
- (d) the duration (with dates) of any previous periods of maternity leave granted pursuant to this Act to the employee; and
- (e) all maternity pay which has been paid to the employee on any and every previous occasion.

(2) An employer who contravenes subsection (1) commits an offence and shall be liable, on summary conviction,

to a fine not exceeding one thousand dollars or to a term of imprisonment not exceeding three months.

**71.** For the avoidance of doubt it is hereby declared that maternity leave granted under this Act shall be in addition to any vacation leave to which an employee may be entitled.

Maternity leave in addition to vacation leave.

**72.** No fees shall be imposed by the magistrate or by the clerk of the court in respect of any proceedings under this Act; but the magistrate may direct the recovery from the defendant, if the decision is against him or her, of the fees which would have been taken and, where appropriate, any fee for legal representation.

Court fees and other fees.

**73.—**(1) After not less than twelve months continuous service and subject to subsection (4) an employee shall be eligible for paid sick leave on the production of a medical certificate from a registered medical practitioner stating the nature and expected duration of the employee's incapacity.

Provision for sick leave.

(2) During sick leave, an employee shall be paid at the normal rate of wages less any amount to which the employee is entitled as a benefit by virtue of the National Insurance Act, Chapter 205.

(3) An employer shall not be responsible to pay an employee for more than five occasions during a one year period that he or she does not provide a medical certificate.

(4) If sick leave other than maternity leave is required for more than two months the employer may require the employee to attend a medical practitioner of the employer's choice and pay the cost involved and based upon the medical report shall have a discretion as to whether any further period will be granted.

Supplementary  
family leave.

**74.**—(1) Any employee, whether male or female, may take leave for reasons of family responsibilities with the consent of the employer for the duration agreed upon by the employer and the employee.

(2) An employer shall not unreasonably refuse to give the consent referred to in subsection (1).

(3) “Family responsibilities” may include, but not limited to the following: sickness or death of spouse, sickness or death of a close relative or dependant person.

## PART IX

### DISCIPLINE AND TERMINATION OF EMPLOYMENT

Disciplinary  
action by  
employer.

**75.**—(1) An employer shall be entitled to take disciplinary action including dismissal when it is reasonable to do so in all the circumstances.

(2) In deciding whether the employer has acted reasonably, regard shall be had to the nature of the violation, the employee’s duties, the penalty imposed by the employer, the procedure followed by the employer, the nature of any damage incurred and the previous conduct and the circumstances of the employee.

(3) For the purposes of this section, a “disciplinary action” includes—

- (a) a verbal warning;
- (b) a written warning;

- (c) suspension;
- (d) demotion; and
- (e) dismissal.

(4) No employer may impose a fine or other monetary penalty on an employee.

(5) A complaint that disciplinary action is unreasonable may be made to the Labour Commissioner, and if necessary, to the Minister.

(6) Where the Labour Commissioner and the Minister fail to settle the matter, it may be referred to the Arbitration Tribunal for final decision.

(7) The right of an employee to make a complaint under this section shall be without prejudice to any right an employee may enjoy under a collective agreement.

**76.—**(1) The employment of an employee shall not be terminated by an employer unless there is a valid reason for such termination connected with the capacity or conduct of the employee or based on the operational requirements of the enterprise, or breach of contract of employment or disciplinary rules.

Justification for dismissal.

(2) The following reasons do not constitute valid reasons for dismissal or the imposition of disciplinary action—

- (a) an employee's race, colour, national extraction, social origin, religion, political opinion, sex, marital status, family responsibilities or disability;

- 
- (b) a female employee's pregnancy or a reason connected with her pregnancy;
  - (c) an employee's exercise of any of the rights specified in the Labour Relations Act, 2016;
  - (d) an employee's temporary absence from work because of sickness or injury;
  - (e) an employee's exercise or proposed exercise of the right to remove himself or herself from a work situation which he or she reasonably believes presents an imminent or serious danger to life or health;
  - (f) an employee's participation, or proposed participation in industrial action which takes place in conformity with the Labour Relations Act, 2016;
  - (g) an employee's refusal to do any work normally done by an employee who is engaged in industrial action;
  - (h) the filing of a complaint or the participation in proceedings against an employer involving alleged violations of any enactment.

Notice of  
termination.

**77.—**(1) Subject to section 76, a contract for an unspecified period of time may be terminated by the employer after the probationary period, if any, upon giving the following minimum periods of notice in writing—

- (a) one working day where the employee has been employed by the employer for less than one month;
- (b) one week where the employee has been employed by the employer for one month or more, but less than three months;
- (c) two weeks where the employee has been employed by the employer for three months or more, but less than one year;
- (d) one month where the employee has been employed by the employer for one year or more, but less than five years;
- (e) two months where the employee has been employed by the employer for five years or more.

(2) The minimum period of notice an employee shall give an employer is two weeks in the case where an employee has been employed for three months or for a longer period, and one month where the employee has been employed for one year or more.

(3) A period of notice under subsection (1) given by an employer shall not take effect at any time during an employee's period of absence on any leave granted pursuant to this Act.

(4) Nothing in this section prevents—

- (a) the parties to a contract from agreeing to a longer period of notice of termination than is provided for in this section; or

- (b) an employer waiving the right to receive notice.

Unfair dismissal. **78.** A dismissal is unfair if it is not in conformity with section 76 or is constructive dismissal pursuant to section 82.

Summary dismissal. **79.** An employer is entitled to dismiss summarily where the employee is guilty of serious misconduct of such a nature that it would be unreasonable to require the employer to continue the employment relationship.

Certificate of termination. **80.—(1)** On the termination of a contract of employment an employer, if so requested by the employee, shall provide the employee with a certificate indicating—

- (a) the name and address of the employer;
- (b) the nature of the employer's business;
- (c) the length of the employee's continuous employment with the employer;
- (d) the capacity in which the employee was employed prior to the termination;
- (e) the wages and other remuneration payable at the date of termination of the contract; and
- (f) where the employee so requests, the reasons for the termination of employment.

(2) The certificate required by this section shall not contain any evaluation of the employee's work unless this is requested by the employee.



**81.**—(1) In lieu of providing notice of termination, the employer shall pay the employee a sum equal to the wages and other remuneration and confer on the employee all other benefits that would have been due to the employee up to the expiry of any required period of notice. Payment in lieu of notice.

(2) Where the employee terminates the contract without notice in circumstances in which notice was required, and the employer has not waived the right to notice, the employee shall be entitled only to be paid such wages and other remuneration and to receive such other benefits which accrued at the date of termination.

**82.**—(1) An employee is entitled to terminate the contract of employment without notice or with less notice than that to which the employer is entitled by any statutory provision or contractual term, where the employer's conduct has made it unreasonable to expect the worker to continue the employment relationship. Constructive dismissal.

(2) Where the contract of employment is terminated by the employee pursuant to subsection (1), the employee shall be deemed to have been unfairly dismissed by the employer.

**83.**—(1) Where any claim or complaint arises out of the dismissal of an employee the onus rests on the employer to prove the reason for dismissal, and if the employer fails to do so there shall be a conclusive presumption that the dismissal was unfair. Proof of reason for dismissal.

(2) In addition to providing that an employee was dismissed for reasons stated in section 76(1), an employer must also show that in all the circumstances of the case,

he or she acted with justice and equity in dismissing the employee.

(3) In the circumstances mentioned in section 82, the employee must prove the reason which made the continuation of the employment relationship unreasonable.

Complaints of  
unfair dismissal.

**84.**—(1) Within three months of the date of dismissal, an employee shall have the right to complain to the Labour Commissioner that he or she has been unfairly dismissed, whether notice has been given or not.

(2) No complaint under this section may be made by an employee who has been dismissed during the probationary period or has reached the normal retirement age for employees employed in his or her capacity.

(3) The right of an employee to make a complaint under this section shall be without prejudice to any right an employee may enjoy under a collective agreement.

(4) Where the Labour Commissioner fails to settle the matter it shall be referred to the Minister who shall hear the matter as soon as it is practicable.

(5) Where the Minister fails to settle the matter it may be referred to an Arbitration Tribunal.

Remedies for  
unfair dismissal.

**85.**—(1) If the Arbitration Tribunal determines that an employee's complaint of unfair dismissal is well founded it shall award the employee one or more of the following remedies—

(a) if the employee requests, an order for reinstatement where the employee is to be treated in

all respects as if he or she had never been dismissed;

- (b) an order for re-engagement whereby the employee is to be engaged in work comparable to that in which he or she was engaged prior to his or her dismissal, or other reasonably suitable work, from such date and on such terms of employment as may be specified in the order agreed by the parties;
- (c) an award of compensation as specified in subsection (4).

(2) The Arbitration Tribunal shall, in deciding which remedy to award, first consider the possibility of making an award or re-instatement or re-engagement, taking into account in particular the wishes of the employee and the circumstances in which the dismissal took place, including the extent, if any, to which the employee caused or contributed to the dismissal.

(3) Where the Arbitration Tribunal determines that the employee caused or contributed to the dismissal to any extent, it may include a disciplinary penalty as a term of the order for reinstatement or re-engagement.

(4) An award of compensation shall be such amount as the Arbitration Tribunal considers just and equitable in all the circumstances having regard to the loss sustained by the employee in consequence of the dismissal in so far as that loss is attributable to action taken by the employer, and the extent, if any, to which the employee caused or contributed to the dismissal.

(5) The amount awarded shall not be less than two week's pay for each year of service for workers with less than two years of service and one month's pay for each year of service for workers with more than two years of service and an amount additional to such loss may be awarded where dismissal was based on any of the reasons set out in section 76(2).

(6) Where the Arbitration Tribunal has made an award of re-instatement or re-engagement and this is not complied with by the employer, the employee shall be entitled to a special award of an amount equivalent to twenty-six weeks' wages, in addition to a compensatory award under subsection (4).

Termination  
allowance.

**86.**—(1) On termination at the initiative of the employer, an employee who has completed one year or more of continuous employment with his or her employer and who is not entitled to gratuity shall be entitled to be paid by the employer a termination allowance of not less than one week's wages for each completed year of service.

(2) For the purposes of subsection (1), termination includes termination by reason of the insolvency of the employer.

(3) The payment of a termination allowance under subsection (1) shall not affect the employee's entitlement, if any, to payment in lieu of notice under section 82 or to a compensatory or special award under section 86.

(4) Subsection (1) shall not apply where the employee—

(a) is fairly dismissed for a reason related to his or her conduct;

- (b) unreasonably refuses to accept an offer of re-employment by the employer at the same place of work, under no less favourable terms than he or she was employed immediately prior to the termination;
- (c) is employed by a partnership and his or her employment ceases on the dissolution of the partnership, and he or she either enters into employment with one or more of the partners immediately after such dissolution, or unreasonably refuses to accept an offer of employment by any such person on no less favourable terms than he or she was employed immediately prior to the dissolution;
- (d) is over the age of sixty or has reached retirement age.

(5) A complaint that a termination allowance has not been paid may be presented to the Labour Commissioner and if necessary to an Arbitration Tribunal which, if it finds the complaint to be well founded, shall make a declaration to that effect and order payment of the amount due.

**87.**—(1) No contract of employment shall be transferred from one employer to another without the consent of the employee, except as provided in section 47(2). Transfer of contracts.

(2) Section 47(2) shall not operate to transfer or otherwise affect the liability of any person to be prosecuted for, convicted of, and sentenced for any offence.

Death of  
employer.

**88.** When the employer's personal or legal position formed the basis of the contract of employment, the death of the employer shall cause the contract of employment to terminate one month from the date of the employer's death, unless it is otherwise terminated in accordance with section 76(1) within that period.

Insolvency of  
employer.

**89.—(1)** The insolvency or winding-up of the employer's business shall cause the contract of employment of any employee to terminate one month from the date of insolvency or winding-up, unless it is otherwise terminated in accordance with section 77(1) within that period.

(2) This section shall not apply where, notwithstanding the insolvency or winding-up, the business continues to operate or has been transferred.

(3) On the insolvency or winding-up of an employer's business the claim of an employee or those claiming on his or her behalf to wages and other payments to which he or she is entitled under the Act or any contract shall have priority over all other creditors, including the state and the social security system, for the following amounts—

- (a) wages, overtime pay, commissions or other forms of remuneration relating to work performed during the twenty-six weeks preceding the date of the declaration of insolvency or winding-up;
- (b) holiday pay due as a result of work performed during the two years preceding the date of the declaration of insolvency or winding-up;

- (c) amounts due in respect of other types of paid absence accrued during the twelve months preceding the date of the declaration of insolvency or winding-up;
- (d) termination allowance, compensation for unfair dismissal and other payments due to employees upon termination of their employment.

## PART XI

### MISCELLANEOUS

**90.**—(1) A person who contravenes any express prohibition contained in this Act for which no penalty is prescribed shall be liable, on summary conviction, to a fine not exceeding five thousand dollars or to a term of imprisonment not exceeding six months. General penalty.

(2) In cases where a registered company is involved in a violation of this Act any person involved in the management of that company may be charged with the offence.

**91.**—(1) Any person alleging a violation of a provision of this Act may report the matter to the Labour Commissioner, who may institute or cause to be instituted a prosecution in order to enforce the provisions of this Act. Complaints procedure.

(2) Notwithstanding the provisions of subsection (1), where not otherwise specified, any person alleging a violation of this Act may present the complaint to the court for appropriate relief.

- Regulations. **92.** The Minister may, after consultation with the Labour Advisory Board, make regulations prescribing anything that is required or necessary to be prescribed and generally to give effect to this Act.
- Repeal. **93.** The Employment Act, Chapter 89 is repealed.

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## SCHEDULE

### PUBLIC CONTRACTS

(Section 32)

1. The contractor, subcontractor, and assignees of contracts shall pay rates of wages and observe hours and conditions of employment which are not less favourable than those established in the trade or industry in the district where the work is carried on—
  - (a) by collective agreement or other machinery of negotiation between employers' organisations and trade unions representative of a substantial proportion of employers and employees in the trade or industry concerned; or
  - (b) by arbitration award.
2. Where no rates and conditions are established as stated in paragraph 1 for the district, established rates and conditions in other districts shall apply.
3. In the absence of any rates and conditions established as stated in paragraph 1 or 2, the Labour Commissioner shall, after consulting with employees' and employers' representatives, prepare a schedule setting out fair and reasonable rates and conditions to be observed in the execution of the contract, having regard to established rates and conditions of persons employed in a capacity and in general circumstances similar to those of persons engaged in the contract or, failing such established rates and conditions, any fair standard of rates and conditions commonly recognised in respect of persons employed in a similar capacity and similar general circumstances.
4. Before being placed on a list of Government contractors, or being allowed to tender for a Government contract, the contractor shall certify that the wages and



conditions of employment of all those employed by the contractor in the trade or industry in which the contractor is seeking to contract with the Government are fair and reasonable having regard to the provisions of paragraphs 1, 2 and 3.

5. Any dispute as to what wages and conditions of employment ought to apply shall be referred to the Labour Commissioner, who may refer it to an Arbitration Tribunal.
6. The contractor shall keep proper wage records and time sheets for all those employed in relation to the execution of the contract, and the contractor shall produce the wage records and time sheets for inspection by the Labour Commissioner or by a person authorized by the Labour Commissioner.
7. The contractor shall post in a conspicuous place notices at the establishments and workplaces concerned with a view to informing employees of their conditions of work.
8. The contractor shall effect sufficient insurance so as to pay compensation to employees under the Workman's Compensation Act, Chapter 343.
9. A contractor is prohibited from subcontracting, transferring or assigning any portion of the work without the written approval of the Labour Commissioner.
10. A subcontractor shall be bound to conform to the conditions of the main contract and the main contractor shall be responsible for the observance of all contract conditions.
11. Contractors and subcontractors shall recognise the right of their employees to be members of the trade unions.
12. A contractor shall not be entitled to payment of any money which would otherwise be payable under the terms of the contract unless the contractor has filed together with the claim for payment a certificate—
  - (a) showing the rates of wages and hours of work of the various classes of employees employed in the execution of the contract;
  - (b) specifying any wages that remain in arrears;
  - (c) that all labour conditions of the contract have been duly complied with; and
  - (d) that all remittances due to the National Insurance Scheme have been made.

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13. The contractor shall furnish to the Labour Commissioner any further details and evidence as the Labour Commissioner may deem necessary in order to be satisfied that the conditions of this schedule have been complied with.
  14. In the event of a contractor defaulting in the payment of wages of any employee employed in respect of the execution of the contract and if a claim to that effect is filed with the Labour Commissioner and adequately proved, the Labour Commissioner may order payment to be made and failing payment by the contractor, arrange for payment of the claim to be made to the employee out of the amount owing under the contract and that amount shall be deemed to have been paid to the contractor.
  15. Any contractor or subcontractor who fails to comply with any provisions of this schedule shall cease to be approved as a contractor or subcontractor for the period determined by the Labour Commissioner, with the consent of the Minister.

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Passed by the House of Representatives this 11th day of November, 2016.

ADRIAN FRANCIS  
*Acting Clerk to the House of Representatives.*

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Passed by the Senate this 16th day of November, 2016.

ADRIAN FRANCIS  
*Acting Clerk to the Senate.*

GRENADA

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