



[L.S.]

I Assent,

Yvonne Maginley,
Governor-General's Deputy.

9th November, 1998.

ANTIGUA AND BARBUDA

No. 16 of 1998

AN ACT to amend the **Antigua** and Barbuda Labour Code Cap. 27.

[*19th November, 1998*]

ENACTED by the **Parliament** of Antigua and Barbuda as follows —

1. This Act may be cited as the **Antigua and Barbuda Labour Code** short title.
(Amendment) Act 1998.

2. The **Antigua and Barbuda Labour Code** Cap. 27 in this **Act referred** **Amendment** of
to as the **principal Act** is amended in section **A5** as follows — section **A5.**

(a) by the repeal of the **definition** of the words "industrial action" appearing therein and by the substitution thereof of the following —

"industrial action" includes any strike, lockout, picketing related to working conditions or labour relations generally, whether by employees or non employees and whether literature is being distributed or not.

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(Amendment) Act, 1998.

(b) "strike" means a partial or total withdrawal of services from an employer by two or more of the employees, in concert or pursuant to a common understanding, or at the request or upon the order of their bargaining agent, either (a) as a protest against a condition of work or employer action related thereto, or (b) as a device to induce or compel their employer, or his bargaining agent, to accept conditions of employment which they have requested, which request has been refused."

(c) by inserting after its appropriate alphabetical order the following —
"temporary employee" means a worker who is employed for a specific period not exceeding six months.

Amendment of
section A6.

3. The principal Act is hereby amended in section A6 by deleting the words "operating or doing business" wherever these words Occur.

Amendment of
section B3.

4. Section B3 of the principal Act is amended by inserting immediately after the definition of the words "severance pay" appearing therein the following —

"suspension" means temporary lay off from work for not more than four weeks with or without pay as a penalty or pending investigation of the employee's alleged misconduct".

Amendment of
section B9.

5. Section B9 of the principal Act is hereby amended in subsection (1) by the insertion immediately after the word 'dismissals' appearing there in line 3 of the words "or suspension".

Amendment of
section B12.

6. Section B 12 of the principal Act is amended in subsection (1) by the repeal of paragraph (b) and by the substitution thereof of the following—

"(b) in an unfair dismissal or suspension without pay matter, he may order the payment of a sum of money equal to loss of wages sustained and, in addition thereto he may also order the re-instatement or restoration of the person dismissed or suspended, or the payment of a sum of money in lieu of such reinstatement".

7. Section C3 is amended by the repeal of the definition of "redundancy" and by the substitution of the following — **Amendment of section C3.**

"redundancy" means a situation in which by virtue of lack of customers orders, retrenchment, the installation of labour saving machinery, an employer's going out of business, a *force majeure*, or any other reason, work which a person was last employed to perform has ceased or substantially diminished.

8. Section C10 of the principal Act is amended by the repeal of subsection (1) and the substitution of the following — **Amendment of section C10.**

"(1) Upon **termination** by an employer of an employee's employment subsequent to the expiration of the latter's probation period, the employer shall, within seven (7) days of the termination or notice **thereof**, furnish to such employee a written statement of the precise reason for the termination".

9. Section C16 of the principal Act is amended as follows — **Amendment of section C16.**

(a) by the repeal of paragraph (1) and by the substitution of the following —

"(i) said leave shall be taken only in connection with actual illness or other physical incapacitation for work, evidence of which in the form of a Doctor's **Certificate** or other **satisfactory** means, must be furnished by the involved employee to his employer on the third (3) consecutive day of any such leave".

(b) by the repeal of paragraph (ii) and by the substitution of the following —

"(ii) in the event that, in the opinion of his employer the extent of such leave taken renders the employee unfit to continue in his employment and the employer terminates the employment therefor, the employee shall receive compensation

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calculated in the manner specified under Part 4 or a collective agreement in force relating to compensation for severance pay".

(c) by the insertion immediately after paragraph (ii) of the following new paragraph —

“(iii) in the event that the illness of an employee or his incapacity is such that he is unable to continue to exercise his duties under his contract of employment, then he may apply to be examined by a medical board appointed in accordance with regulations made under this Act and where the Board decides that he is unable to continue to exercise his duties under his contract, then he shall receive compensation calculated in the manner specified under Part 4 or a collective agreement in force relating to compensation for severance pay”.

Amendment of
section C19.

10. Section C19 of the **principal** Act is amended by the repeal of subsection (1) thereof and the substitution therefor of the following —

"(1) Any employer who contravenes the provisions of section C14, C15, C17 or C18 is guilty of an offence and is liable on summary conviction to a fine of \$500 or to imprisonment for six months."

11. Section C20 of the principal Act is repealed and replaced by the following —

"Maternity
leave.

C20. (1) A female employee shall, on production of a medical **certificate** stating the presumed date of her confinement, be entitled to a period of maternity leave in accordance with the provisions of this section.

(2) A female employee with a minimum of twelve months unbroken service in her employment is entitled whenever she is pregnant to a maternity leave of at least six weeks.

(3) A female employee who is granted **maternity** leave under this section is entitled to receive not less than forty **per centum** of her basic wages during the **period** of the maternity leave.'

12. Section **C22** of the principal Act is amended by the repeal of subsection (3) and by the substitution of the following — **Amendment of section C22.**

"(3) Giving full consideration to the **recommendations** of the said committee, the Minister may thereupon issue an order prescribing the basic minimum wage payable for each such occupation and each level within such occupation:

Provided that an order issued by the Minister under this subsection shall not continue in force for more than two years".

13. The proviso to section **C27** of the principal Act is repealed and replaced by the following — **Amendment of section C27.**

"Provided that the Minister, may after consultation with employer and employee representatives, revise these standards for any given industry or enterprise by the issuance of **an Order** to that effect."

14. Section **C28** of the principal Act is amended by the repeal of subsection (2) and the substitution of the following — **Amendment of section C28.**

"(2) Any person who contravenes the requirement of section **C27** is guilty of an offence and is liable on summary conviction to a fine of \$1,500 and to imprisonment for six months. In addition, the Court may order the payment of any sum found due to any involved employee if warranted by the circumstances."

15. Section **C34** of the principal Act is amended in subsection (1) by repeal of all the words beginning with the word "shall" after paragraph (c) and ending with the word 'dollars' and by the substitution of the following — **Amendment of section C34.**

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"is guilty of an offence and is liable on summary conviction to a fine of \$2,000 or to imprisonment for six months and for a second or subsequent offence to a fine of \$5,000 and to imprisonment for twelve months".

Amendment of
section C46.

16. Section C46 of the principal Act is amended by the repeal of subsection (3) and by the substitution of the following —

"(3) Any person who fails to comply with the provisions of subsection (1) or (2) is guilty of an offence and is liable on summary conviction to a fine of \$1,500 and to imprisonment for six months".

Amendment of
section C50.

17. Section C50 of the principal Act is amended in subsection (3) by the deletion of the word "five" appearing therein and by the substitution of the word "ten".

Amendment of
section C58.

18. Section C58 of the principal Act is amended in subsection (1) by the deletion of paragraph (e) and the substitution of the following —

"(e) is prolonged illness or some other substantial reason of a kind which would entitle a reasonable employer to dismiss an employee holding the position which the employee held".

Amendment of
section C59.

19. Section C59 of the principal Act is amended as follows —

(a) by the repeal of subsection (2) and the substitution therefor of the following —

"(2) Where an employee is guilty of misconduct in or in relation to his employment that is not sufficiently serious to permit his employer to terminate his employment under subsection (1) but is such that the employer cannot reasonably be expected to tolerate a repetition, the employer may give the employee a written warning which shall describe the

misconduct in respect of which the warning is given and state the action the employer intends to take in the event of —

- (a) a repetition of the misconduct; or
- (b) the commission of another misconduct which is as serious as the one in respect of which the written warning was given.

(3) The action to be taken under subsection (2) may include suspension without pay for such period as may be specified in the written warning.

(4) Where, within six months of the receipt of the written warning under subsection (2), the employee is **guilty** of the same misconduct or is **guilty** of another misconduct in relation to his work which is as serious as the one in respect of **which the** written warning was given, the employer may terminate the employment of the employee or take such other action as may have been specified in the written warning."

(b) by the renumbering of subsection (3) as subsection (5).

20. Section C64 of the principal Act is amended in subsection (3) by the deletion of the word 'five' appearing in the first line and by the substitution of the word "**ten**".

Amendment of
section C64.

21. Section C65 of the principal Act is hereby amended by the repeal of subsection (2) and by the substitution of the following —

Amendment
of section C65

"(2) Any person **guilty** of such offence is liable on summary conviction to a fine of **\$500** or to imprisonment for six months. **In** addition the Court may, having regard to the decision of the hearing **Officer** or if a review has been requested, to the decision on the review, make such order or orders as he considers necessary."

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Repeal of section
J7.

22. Section J7 of the principal Act is amended in subsection (2) by the repeal of paragraph (a) and by the substitution of the following —

"(a) a direction by the ~~Labour~~ Commissioner that a secret ballot, as described in section J11, be conducted."

Repeal of section
J11.

23. Section J11 of the principal Act is hereby amended by the repeal of subsection (1) and by the substitution of the following —

"(1) The provisions of this section shall apply to secret ballots conducted in accordance with a direction and supervision of the ~~Labour~~ Commissioner under section J7 (2) (a) and those conducted under a direction of election appearing in a decision of a Hearing Officer issued in accordance with section J9 (7)(a)".

Amendment of
section J13.

24. The principal Act is amended in section J13 (2) by the repeal of paragraph (b) and by the substitution of the following new paragraph —

"(b) The negotiating fee referred to in subparagraph 2 (a) shall, in the case of —

- (i) Workers other than union members, for the bargaining unit be fifty dollars per contract per year."

Passed the House of Representatives this
25th day of May, 1998.

B. Harris,
Speaker.

S. Walker,
Clerk to the House of Representatives.

Passed the Senate this 28th day of
August, 1998.

M. Percival,
President.

S. Walker,
Clerk to the Senate.

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