

2024/02/12

OBJECTS AND REASONS

This Bill would make provision for the conditions applicable to concessions granted to employers.

Arrangement of Sections

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Labour Enactments

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BARBADOS

A Bill entitled

An Act to make provision for the conditions applicable to concessions granted to employers.

ENACTED by the Parliament of Barbados as follows:

Short title

1. This Act may be cited as the *Labour Clauses (Concessions) Act, 2024*.

Interpretation

2. In this Act,

“Barbados Revenue Appeals Tribunal” means the Barbados Revenue Appeals Tribunal established under the *Barbados Revenue Authority Act* (Act 2014-1);

“concession” may include

- (a) an exemption, waiver or remit of a tax under an enactment set out in the *First Schedule*; or
- (b) a benefit granted to an employer having received an approval of
 - (i) the status of the employer as an approved entity as defined in an enactment;
 - (ii) the status of an approved product or an approved project, as defined in an enactment, developed by the employer; or
 - (iii) the status referred to in subparagraphs (i) and (ii);

“employee” means an individual who has entered into or works under a contract of employment;

“employer” in relation to an employee means

- (a) the person by whom the employee is employed;
- (b) the person in whose organization the employee is employed; or
- (c) the operator of an establishment where the employee is engaged to work;

“Employment Rights Tribunal” means the Employment Rights Tribunal established under the *Employment Rights Act, 2012* (Act 2012-9);

“tax” means import duty, consumption tax, income tax or any other tax, duty or impost.

Labour clauses

3.(1) The labour clauses set out in the *Second Schedule* shall have effect in relation to employees and employers referred to under this Act.

(2) A Minister referred to in the *Second Schedule* shall carry out such actions as are required in relation to the employers and employees referred to in subsection (1) in accordance with the labour clauses set out in the *Second Schedule*.

(3) The Chief Labour Officer shall carry out such actions as are required in relation to the employers and employees referred to in subsection (1) in accordance with the labour clauses set out in the *Second Schedule*.

(4) Where a dispute arises as to what wages ought to be paid or what hours or other working conditions ought to be observed in accordance with the requirements of paragraph 1 of the *Second Schedule*, the dispute shall be referred to the Employment Rights Tribunal by the Chief Labour Officer.

Conditions applicable to concessions

4.(1) Notwithstanding anything contained in any enactment, where an employer fails to comply with

- (a) the labour clauses set out in the *Second Schedule*
- (b) the enactments set out in the *Third Schedule* or any other enactment relating to labour,

a concession granted under any enactment may be suspended or revoked by the Minister responsible for the enactment under which the concession is granted on consultation with the Minister responsible for labour.

(2) A decision made under subsection (1) in regard to an employer shall be communicated to that employer, in writing, within 7 days of the making of that decision.

Appeal

5. A person aggrieved by a decision made under section 4(1) may, within 7 days after receiving the decision, appeal to the Barbados Revenue Appeals Tribunal.

Regulations

6.(1) The Minister responsible for labour may make regulations generally for the purposes of giving effect to this Act.

(2) The regulations made under subsection (1) shall be subject to negative resolution.

Amendment of Schedules

7. The Minister responsible for labour may, by order, amend the *First Schedule*, *Second Schedule* and *Third Schedule*.

Consequential amendments

8. The enactments set out in Column 1 of the *Fourth Schedule* are amended in the manner specified in Column 2 of the *Fourth Schedule*.

FIRST SCHEDULE

(Section 2)

Concessions Enactments

1. *Duties, Taxes and Other Payments (Exemption) Act, 2023 (Act 2023-14)*
2. *Shipping (Incentives) Act, Cap. 90A*
3. *Small Business Development Act, Cap. 318C*
4. *Special Development Areas Act, Cap. 237A*
5. *Tourism Development Act, Cap. 341*

SECOND SCHEDULE*(Sections 3,4 and 7)**Labour Clauses*

1. An employer shall pay the rates of wages and observe hours and other conditions of employment that are not less favourable than those established in the trade, industry or sector for which he has been granted a concession pursuant to any enactment.
2. The rates of wages, hours and conditions of employment shall be established by agreement or arbitration between the most representative organisation of employers and the most representative organisation of employees engaged in the trade, industry or sector to which the concession relates.
3. Where there are no established rates, hours or other conditions as defined in paragraph 1, the Chief Labour Officer, after consultation with representatives of employers and employees, shall establish and publish in the *Official Gazette* a schedule setting out fair and reasonable rates and conditions which are to be observed by the employer, having regard to persons employed in a capacity and in general circumstances similar to those engaged by the employer.
4. An employer shall keep records of wages and records of time worked of an employee in the execution of tasks or duties under the award of the concession or other benefit and the records shall be kept in electronic form or otherwise to be made available for inspection of any person authorized by the Chief Labour Officer in accordance with the provisions of the *Labour Department Act*, Cap. 23.
5. An employer shall treat an employee pursuant to a grant of concessions as a person insured under section 12(1) of the *National Insurance Act*, Cap. 47.
6. An employer shall recognize the freedom of their employees to be members of a registered trade union and recognize their right to bargain collectively.
7. Where there is a default in the payment of any money in respect of wages or other entitlements of an employee, that employee may make a claim for the payment of unpaid wages or other entitlements in accordance with any enactment governing the protection of wages or other entitlements in Barbados.
8. The employer shall from time to time furnish to the relevant Minister under a relevant enactment such further detailed information and evidence as the Minister, on consultation with the Chief Labour Officer, may deem necessary in order to satisfy him that the conditions set out in the provisions of this *Schedule* have been complied with.

THIRD SCHEDULE

(Section 4 and 7)

Labour Enactments

1. *Employment Rights Act, 2012* (Act 2012-9)
2. *Employment (Prevention of Discrimination) Act, 2020* (Act 2020-26)
3. *Employment (Sexual Harassment Prevention) Act, 2017* (Act 2017-21)
4. *Holidays with Pay Act, 2017* (Act 2017-3)
5. *Labour Clauses (Public Contracts) Act, Cap. 349*
6. *Labour Department Act, Cap. 23*
7. *Protection of Wages Act, Cap. 351*
8. *Safety and Health at Work Act, Cap. 356*
9. *Shops Act, 2015* (Act 2015-30)

FOURTH SCHEDULE*(Section 8)**Consequential Amendments*

Column 1 <i>Enactments</i>	Column 2 <i>Amendments</i>
1. <i>Barbados Revenue Authority Act, 2014</i> (Act 2014-1)	In the <i>First Schedule</i> , delete paragraph 12 and substitute the following: “12. <i>Labour Clauses (Concessions) Act, 2024</i> (Act 2024-).”.
2. <i>Employment Rights Act, 2012</i> (Act 2012-9)	Section 7(2) is deleted and the following is substituted: “(2) The jurisdiction of the Tribunal is to determine complaints made to it under this Act or under any other enactment that provides for enforcement by the Tribunal or the determination of disputes referred to the Tribunal under any enactment, and subject to section 48, to make awards and other decisions in relation to those complaints in accordance with its powers.”.

Read three times and passed the House of Assembly this
day of _____, 2024.

Speaker

Read three times and passed the Senate this _____ day of
, 2024.

President