

# EMPLOYEE RIGHTS!

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The employment relationship is one which is complex and has the propensity to vary significantly as a result of differing personalities, operational requirements, family situation and other impactful factors. In an attempt to control one of the many variables which can affect the relationship, the Employment Rights Act has provided a base from which employee and management rights can be clearly referenced. This article will examine the rights of employees and I urge you to follow up with my colleagues' article next week which will examine management rights.

Employment Rights are entitlements derived from law or formal agreements (contract of employment, collective agreement) e.g. right to a safe working environment and there are basic fundamental rights to which each party is entitled. In fact, employment rights preceded the ERA. They are embodied in Common Law principles, one such example is the Duty of Care which forms the basis of Health and Safety legislation. ILO Conventions are also a source of Employment Rights and the eight (8) core fundamental Principles of Rights at Work offer the following provisions and protections:

- Elimination of forced and compulsory labour
- Abolition of child labour
- Elimination of discrimination in respect of employment and occupation
- Freedom of association and collective bargaining

It is important to highlight that employee rights, conveyed by the Employment Rights Act or other agreement, are guaranteed solely to **Employees**, that is, according to the ERA an individual who works under a contract of employment. Independent contractors or persons employed under a Contract FOR

Services are not considered employees under the law and thus not guaranteed protection under the provisions of the ERA.

Employment Rights extend to every category of employee, and include:

- The right to equal pay – persons employed to provide services which are of like nature, where no fundamental differences in the quantity or category of work exists, should be compensated equally regardless of age, gender, race or any other likely impactful factor.
- The right to safe and healthy working conditions – this right was further cemented and specifics given as to how this should be done by the Safety and Health at Work Act 2005. All employers are governed by the Act and are subject to fines for non-compliance with many of the provisions. Employees do have the right to formally or informally, bring to the attention of management any conditions which they do not believe are conducive to their health or safety, within reason.
- To work free of any harassment
- To natural justice – therefore when discipline is being administered it must be free from bias and persons should have a fair hearing.

An employee should reasonably expect all the above rights to be conveyed to them by their employer, irrespective of the type of contract or their category of work. Employers should be mindful of these rights and should aim to promulgate a work environment where these rights are inherent.

There are a plethora of rights guaranteed to employees under the Employments Rights Act including the following:

**Documentation/Administration of Employment-** All employees should be provided with:

- A statement of employment particulars, including the employees' name, name and address of the employer and other information pertinent to the employees' employment.
- A statement of changes. Where duties of an employee has increased or decreased this should be documented and their job description should adequately reflect their fundamental duties.
- An itemized pay-slip, stating the gross amount of wages, deductions and purpose of deductions, net amount of wages payable, date of payment and dates of pay period.

**Employers are reminded of the October 14<sup>th</sup> 2013 deadline they are under, to issue the above, plus all other documentation listed by the ERA to employees.**

### **Termination**

- The right not to be unfairly dismissed. An employee employed for less than a year **CANNOT** claim unfair dismissal under the provisions of this Act. An employee can make a claim for unfair dismissal to the Tribunal, through the Chief Labour Officer. There is a time limit of up to three months after the termination in which an employee can make a claim for unfair dismissal and a period of six months to lodge a complaint for failure of an employer to give adequate notice.
- Employees should only be placed on lay-off or short time where business has temporarily ceased or diminished.

The above list merely scrapes the surface of the rights of employees. I urge you to visit [Barbadosemployers.com](http://Barbadosemployers.com) and under the tools and resources drop box view "A Quick Guide to the Employment Rights Act." for more information on obligations under the ERA. Ensuring the fundamental rights of employees should be a priority. Rather than viewing it solely as an obligation, employers should be cognizant that they contribute to creating harmonious employment relationships and can establish your business as an organization of choice in the market. Employees should also be mindful, that with rights come responsibilities and they also have inherent obligations to their employer and should work towards a harmonious and productive employment relationship.