

The Impact of Labour Legislative Changes

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Within the past year, the landscape of industrial relations in Barbados has seen the introduction of a number of legislative changes, these include the Safety and Health Work Act, which though passed in 2005, was proclaimed in 2013, along with the Employment Rights Act. The Occupational Pension Benefits Act, which although not labour legislation in its own right, has had a significant impact on employers in the island. Currently being debated is the Holidays with Pay Act, which seeks to, among other things "make better provisions for the granting and calculation of annual holiday due to an employee." This new labour legislation has a very significant implication for Barbadian organizations; it forces them to place health and safety at the fore front of their minds, it emphasizes the need for proper documentation, and seeks to bring balance and equity to the employment relationship by making several unfair practices illegal and thus punishable by heavy sanctions, imprisonment or both. However, with the focus on procedure and documentation, the corresponding emphasis on the productivity of the employee has been seemingly overlooked within the new legislative thrust of the government.

No onlooker can sensibly state that the increase in legislation to govern the employment relationship in all of its facets is not necessary. This is especially true in an era of increased international business and multinational corporations. Having legally established principles is necessary to avoid the development of unfair practices simply because the law is silent on these areas and thus each organization can create their own norms. However, is the legislation being discussed and introduced actually beneficial at this time, or are the pieces of legislation that will balance the protection of employees with the need for high

levels of productivity required for business sustainability missing from our labour landscape?

In the opinion of the employers, the newly introduced pieces of legislation, while extremely beneficial, have not been well balanced with the realities of the global market, nor have any of them taken productivity of the workforce into account. The law remains silent on a number of issues which require urgent attention, for a number of years employers have been discussing the importance of the 24 hour work day for a number of industries. Employees are forced into taking time away from work to run personal errands because there is no other option available to them, as most businesses only operate Monday to Friday. Additionally, much productive time is lost due to businesses closing their doors or shutting down their machinery at 4:30 or 5:00 p.m., when maximum productivity may be gained through running machinery in excess of an eight hour shift and sometimes on a 24 hour cycle. While much of the above is custom and practice as opposed to legislation, it sets the tone for the climate in Barbados and hinders an organization's ability to operate at maximum productivity.

Another major area on which the legislation has remained relatively silent is the area of leave from the organization. The Holidays with Pay Act and the Employment of Women (Maternity Leave) Act outline the statutory provisions to be granted for holiday as well as maternity leave, however custom and practice and collective agreements have been left to determine what is the acceptable norm for sick leave, compassionate leave, paternity leave, and study leave. The absenteeism levels in Barbados have been steadily ascending, and cost businesses increasingly large sums per year. Each day an employee is not at work puts a strain on other employees, as well as on the organization's productive output. It also puts a financial strain on those organizations which pay employees even when they are not at work. This is especially true for sick

leave, where an organization can find itself paying both the employee who is absent, as well as another employee to perform the job.

A final example is the legislation relating to the closed days, that is, the Public Holidays Act. For many burgeoning offshore businesses this law is extremely prohibitive. For those organizations, many of their overseas counterparts are still at work and ready to do business, and attempts to “swap out” the Barbadian Public Holiday with the US one, were met with heavy protest. Retail businesses also suffer a similar fate when cruise ships are in port on the closed days.

In the labour relationship, it is important to ensure that neither party is exploited, and the best way to achieve this is to clearly define the parameters of the relationship. Legislation is therefore necessary and welcomed where it is balanced and not overly burdensome on one of the parties. The current slew of legislation in Barbados, however has not struck this balance, the focus on protecting the employees has added ill-timed expense on employers especially the costs associated with compliance. The cost of doing business in Barbados is increasing rapidly, making the location unattractive to foreign investment, and potentially crippling small business operators without the resources necessary to comply. It is now time for legislators to produce the legislation necessary to promote high levels of productivity among the Barbadian workforce. It would therefore be prudent for serious consideration and consultation on matters relating to productivity and business facilitation to be held as a matter of urgency.