

SAINT LUCIA

No. 6 of 2011

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I ASSENT

PEARLETTE LOUISY,
Governor-General.

April 6, 2011.

SAINT LUCIA

—————
No. 6 of 2011

AN ACT to amend the Labour Code No. 37 of 2006.

[3rd May, 2011]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the House of Assembly and the Senate of Saint Lucia, and by the authority of the same, as follows :

No. 6] *Labour Code (Amendment) Act* [2011.

Short title

1. This Act may be cited as the Labour Code (Amendment) Act 2011.

Interpretation

2. In this Act “principal Act” means the Labour Code No. 37 of 2006.

Amendment of section 1

3. Section 1 of the principal Act is amended by deleting sub-section (1) and substituting the following:

“(1) This Act may be cited as the Labour Act 2006.”

Amendment of principal Act

4. The principal Act is amended by deleting the word “Code” where it refers to the Labour Code No. 37 of 2006 wherever it appears in the principal Act and substituting the word “Act”.

Amendment of section 2

5. Section 2 of the principal Act is amended —

- (a) by deleting the words “Public Service Commission” that appears in the definition of the words “Chief Medical Officer”, “Chief Fire Officer” and “Labour Commissioner” and substituting the words “Governor General”;
- (b) by deleting the definition of the words “minor”, “non-manual worker” and “out-worker”.

Amendment of section 18

6. Sub-sections (1) and (2) of section 18 of the principal Act are amended by deleting the word “minor” where it appears and substituting the words “child or young person”.

Amendment of section 23

7. Sub-section (1) of section 23 of the principal Act is amended by deleting the word “except” where it appears in that subsection.

Amendment of section 30

8. Sub-section (1) of section 30 of the principal Act is amended by deleting the words “by an employee within a twelve hours period” and substituting the words “spanning a sixteen hour day but not more than three consecutive days within a seven-day period”.

Amendment of section 31

9. Section 31 of the principal Act is amended by —

(a) deleting sub-section (3) and substituting the following:

“(3) Notwithstanding subsection (1) or (2) an employer and an employee may mutually agree to vary the meal interval —

- (a) so that a one hour meal interval is divided into shorter breaks including at least one break of half an hour; or
- (b) to allow the employee a ten minute break within the five hour period.”.

Amendment of section 59

10. Sub-section (3) of section 59 of the principal Act is amended by —

- (a) deleting the word “leived” where it appears in that sub-section and substituting the word “levied”;
- (b) inserting the word “of” between the words “amount” and “profit”.

Amendment of section 95

11. Section 95 of the principal Act is amended by inserting the following definitions in the proper alphabetical sequence:

“average pay” in relation to —

- (a) any period of employment, means one twentieth of the employee’s total remuneration for that period of employment, except that, where an employee by virtue of his or her contract of service or collective agreement or customs is entitled to a

longer period of annual vacation leave with pay than two weeks;

- (b) an employee referred to in paragraph (a), means the fraction of the employee's total remuneration corresponding to the proportion that the period of vacation to which he or she is entitled calculated in weeks bears to fifty-two weeks;

but in the case of an employee who is employed on a weekly, fortnightly or monthly basis average pay in respect of the period of his or her vacation must not be a lesser or a greater amount than he or she would have earned had he or she been employed during the period to which such vacation relates;

“total remuneration” in relation to any period of employment, means all basic wages which the employee is paid or is entitled to be paid by his or her employer in respect of labour performed or services rendered by him or her for his or her employer during that period of employment;”.

Amendment of section 100

12. Section 100 of the principal Act is amended by inserting between the words “a” and “public” that appears in that section the words “Saturday, Sunday or”.

Amendment of section 106

13. Subsection (1) of section 106 of the principal Act is amended by deleting the word “96(2)” and substituting the word “96A”.

Amendment of section 122

14. Sub-section (3) of section 122 of the principal Act is amended by:

- (a) inserting the words “or young persons” between the words “children” and “on” where the words appear in paragraph (c); and
- (b) inserting the words “or young person's” between the words “child's” and “capacity” where the words appear in paragraphs (c) and (d).

Amendment of section 134

15. Section 134 of the principal Act is amended by deleting the word “136(5)” and substituting the words “section 136”.

Amendment of section 135

16. Sub-section (3) of section 135 of the principal Act is amended by deleting the words “provided that any investigation has been completed” where it appears in that sub-section.

Substitution of section 140

17. Section 140 of the principal Act is deleted and substituted with the following:

“Natural justice safeguards

140. Where an employee is accused of misconduct he or she is entitled to have the principles of natural justice applied, including but not limited to:

- (a) the right to a fair hearing;
- (b) the right to make representations;
- (c) notice of the accusation of misconduct and full particulars of the misconduct;
- (d) a right to legal representation.

Amendment of section 150

18. Subsection (3) of section 150 is amended by deleting the words “claim on his or her behalf to wages” where it appears in that sub-section and substituting the words “claim to wages on his or her behalf”.

Amendment of section 165

19. Subsection (1) of section 165 of the principal Act is amended by adding the words “and the total hours worked is not less than twenty-four hours” after the word “week” .

Amendment of section 247

20. Sub-section (3) of section 247 of the principal Act is amended by deleting the words “of such employees is scheduled” that appears in paragraph (d) of that sub-section and substituting the words “where such employees are located”.

Amendment of section 263

21. Sub-section (3) of section 263 of the principal Act is amended in paragraph (b) by inserting the word “or in” between the words “service” and “the”.

Amendment of section 267

22. Sub-section (2)(a) of section 267 of the principal Act is amended by deleting the word “minors” where it appears in that sub-section and substituting the words “children and young persons”.

Amendment of section 285

23. Sub-section (1) of section 285 of the principal Act is amended by inserting the word “any” between the words “in” and “other”.

Amendment of section 287

24. Sub-section (2) of section 287 of the principal Act is amended by –

- (a) deleting the word “eighteen” where it appears in paragraph (a) of that sub-section and substituting the word “twelve”; and
- (b) deleting the words “and fifty” where it appears in paragraph (a) of that sub-section.

Amendment of section 289

25. Section 289 of the principal Act is amended by —

- (a) deleting the word “eighteen” where it appears in that section and substituting the word “twelve”;
- (b) deleting the words “and fifty” where it appears in that section.

Amendment of section 304

26. Subsection (2) of section 304 is amended by deleting the words “young person over the age of sixteen” where the words appear in that subsection and substituting the words “person over the age of sixteen who has not attained the age of eighteen years”.

Amendment of section 358

27. Sub-section 1(b) of section 358 of the principal Act is amended by deleting the word “substantial” where that word appears in the sub-section and substituting the word “majority”.

Amendment of section 363

28. Section 363 of the principal Act is amended by –

- (a) inserting after the section designation “363”, the subsection designation “(1)”; and
- (b) inserting the following new subsection:
 - “(2) Notwithstanding subsection (1)(c), where the premises of the employer are unsuitable or inappropriate, the Labour Commissioner in consultation with the employer and the union shall determine an alternative venue for the conduct of the secret poll.”

Amendment of section 367

29. Section 367 of the principal Act is amended by deleting the word “forty-five” and substituting the word “sixty”.

Amendment of section 380

30. Sub-section (1)(b) of section 380 of the principal Act is amended by inserting the words “but once redundancy pay is given, the collective agreement comes to an end” between the word “transferee” and the full stop.

Amendment of section 402

31. Section 402 of the principal Act is amended by adding immediately after sub-section (2) the following new subsection (3):

- “(3) In the absence or illness of the Labour Commissioner, the Deputy Labour Commissioner is deemed to have authority to exercise all the powers and discharge all the duties vested in and imposed on the Labour Commissioner and all things done or exercised by the Deputy Labour Commissioner is valid and effectual in all respects as if they had been done or exercised by the Labour Commissioner.”

Amendment of section 407

32. Section 407 of the principal Act is amended by —

- (a) deleting the full stop that appears in paragraph (n) and substituting a semi-colon;
- (b) adding after paragraph (n) the following paragraphs:
 - “(o) take with him or her a police officer into any place in or on which he or she has reasonable cause to apprehend any serious obstruction in the execution of his or her duty;

- (p) inquire formally into any complaint which an employer may have to make against any employee or which any employee may have to make against an employer or which may be otherwise brought to his or her notice and to use his or her offices and influences to bring about a fair and reasonable settlement of such complaint without recourse being had to legal proceedings.”

Passed in the House of Assembly this 15th day of February, 2011.

ROSEMARIE HUSBANDS-MATHURIN,
Speaker of the House.

Passed in the Senate this 24th day of February, 2011.

LEONNE THEODORE-JOHN
President of the Senate.