REVIEW AND ANALYSIS OF COMPLIANCE OF THE
NATIONAL LABOUR LEGISLATION OF GRENADA
WITH CARICOM MODEL LABOUR LAWS

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Table of Contents

I. Introduction ..................................................................................................... 3
   Legal status of CARICOM Model Law and ILO Conventions in Grenada ...... 4
   Legal Obligations of Grenada ....................................................................... 6
   Applicable Legislation of Grenada ................................................................. 6

II. Termination of Employment ........................................................................... 7
   Scope of Application ...................................................................................... 7
   Contract of employment ............................................................................... 7
   Continuity of employment ........................................................................... 8
   Protection of employment ........................................................................... 9
   Termination of employment ....................................................................... 10
   Summary dismissal ..................................................................................... 10
   Constructive dismissal ............................................................................... 11
   Burden of proof .......................................................................................... 11
   Remedies ..................................................................................................... 11
   Redundancy and Severance Pay ................................................................. 11
   Winding up .................................................................................................. 12

III. Registration, Status and Recognition of Trade Unions and Employers’
    Organizations ............................................................................................ 13
    Introduction ................................................................................................ 13
    Scope of application ................................................................................... 13
    Freedom of Association ............................................................................ 13
    Basic employee rights ............................................................................... 14
    Freedom of association protection for employees ..................................... 14
    Protection of trade union from employer interference ............................. 15
    Basic employer rights ............................................................................... 15
    Membership ............................................................................................... 16
    Federations ................................................................................................ 16
    Remedies .................................................................................................... 16
    Registration and Status ............................................................................ 17
    Registrar ..................................................................................................... 17
    Registration ................................................................................................ 17
    Right of appeal .......................................................................................... 17
    Cancellation of registration ...................................................................... 17
    Annual return ............................................................................................. 17
Review and Analysis of Compliance of the National Labour Legislation of
Grenada with CARICOM Model Labour Legislation

Legal status ................................................................. 18
Amalgamation .............................................................. 18
Safeguard for Members of Organisations ......................... 18
   Compliance with constitution .................................... 18
   Improper election practices ...................................... 18
   Deposit and safeguard of funds ................................... 19
Recognition of Bargaining Rights ........................................ 19
   Tripartite Body for Certification ................................. 19
   Application procedures .............................................. 19
Certification Particulars .................................................. 20
   Appropriateness of bargaining unit .............................. 20
   Employer recognition or notice .................................... 20
   Majority union determined by poll .............................. 21
Collective Agreement ..................................................... 21

IV. Equality of Opportunity and Treatment in Employment and Occupation 22
   Objectives ............................................................... 22
   Status of ILO Conventions .......................................... 22
   Principles .................................................................... 22
   Scope of Application .................................................. 23
   Gaps in legislative framework ...................................... 24

V. Occupational Safety and Health and the Working Environment 26
   Content of CARICOM Model Labour Law .................... 26
   Scope of Application .................................................. 26
   Registration of Industrial Establishments and Mines ........ 26
   Administration .......................................................... 27
   General Occupational Safety and Health Requirements ....... 27
   Duties of employers, workers and other persons ................ 27
   Duties of Workers ...................................................... 28
   Hazardous Chemicals, Physical Agents and Biological Agents ...... 28
   OSH Committees ....................................................... 29
   Notices ...................................................................... 29
   Enforcement .............................................................. 29

VI. Recommendations ...................................................... 30
   Termination of Employment ......................................... 30
   Registration, Status and Recognition of Trade Unions and Employers’
   Organizations .......................................................... 30
   Equality of Opportunity and Treatment in Employment and Occupation ... 31
   Occupational Safety and Health and the Working Environment .......... 31
I. Introduction

This study undertakes a detailed audit and assessment of the extent to which existing national legislation of Grenada complies with the CARICOM model labour harmonization legislation in the areas of:

- Termination of employment;
- Registration, status and recognition of trade unions and employers’ organizations;
- Equality of opportunity and non-discrimination in employment; and
- Occupational safety and health and the working environment.

These model laws, which were adopted by the CARICOM Standing Committee of Ministers responsible for Labour in 1995 and 1997 for implementation by Member States, are based on the core labour standards of the ILO and seek to mirror relevant ILO Conventions, namely:

- Termination of Employment Convention, 1982 (No. 158);
- Freedom of Association Convention, 1948 (No. 87);
- Right to Organise and Collective Bargaining Convention, 1949 (No. 98);
- Equal Remuneration Convention, 1951 (No. 100);
- Discrimination (Employment and Occupation) Convention, 1958 (No. 111);

In fact, among the stated objectives of the first three named CARICOM Model Labour Laws is to give effect to the related ILO Conventions. The other CARICOM Model Labour Law appears compatible with the standards established in core ILO Occupational Safety and Health (OSH) Conventions and Recommendations. It should be noted however that the ILO has adopted several OSH instruments since the approval of the CARICOM OSH Model Law. In particular, the ILO adopted in 2002 a Protocol to Convention No. 155 to regulate further the recording and notification of occupational accidents and diseases, which should be considered by all CARICOM Member States in their efforts to implement the CARICOM Model Labour Laws.

While the primary focus of the study is concerned with compliance of Grenada with the CARICOM Model Labour Laws, comparisons are made with the applicable ILO Conventions. This approach has practical value in the light of Grenada’s obligation under international law and ILO jurisprudence to comply with treaties that it has ratified and with core international labour standards and to submit periodic reports on such compliance to the Committee of Experts on the Application of Conventions and Recommendations. In fact, Grenada’s obligation to comply with ratified ILO Conventions and core fundamental labour standards has greater legal force within Grenada than that of its obligation with respect to the model legislation.
This study is based essentially on legislative compliance. Its remit does not include other sources of law such as the common law or case law. It also does not focus on what may be accepted and practised as good industrial relations principles within Grenada. The intention is to ensure that the legislation in Grenada becomes fully compliant with the CARICOM Model Labour Laws and its ILO obligations.

While this assessment seeks to address the salient provisions of the CARICOM Model Labour Laws and related ILO Conventions and in particular gaps and inconsistencies in the legislation of Grenada, it does not address every single provision. Consequently, absence of comment on any particular provision of the CARICOM Model Labour Laws should not be construed as an acknowledgement of compliance by Grenada.

Recommendations are made regarding amendments required to address gaps and inconsistencies in Grenada’s legislation with a view to achieving compliance with the CARICOM Model Labour Laws and applicable ILO Conventions. It must be noted that these recommendations emanate from a purely technical assessment of the legislation against the benchmark of the CARICOM model legislation and relevant ILO Conventions.

It is recognised that the soundness and practicability of the proposed amendments are matters to be determined by the Government of Grenada through the consultative process with the social partners in the labour movement and the employers’ federation. The final determination of the practical value and soundness of the recommendations must be that of the people of Grenada in general and the social partners in particular. It is therefore anticipated that the findings and recommendations of the study will be subject to review by the social partners of Grenada.

**Legal status of CARICOM Model Law and ILO Conventions in Grenada**

The CARICOM Model Labour Laws were adopted by the CARICOM Ministers of Labour for implementation by Member States. While Members States are expected to implement the CARICOM Model Labour Laws as an important requirement of the CARICOM Single Market and Economy, there is no legal obligation to ensure compliance; they are precatory and non-binding; and non-compliance does not invite any sanctions.

The non-binding nature of the CARICOM Model Law contrasts with the binding nature of a ratified ILO Convention. One fundamental principle of international law is that treaties are binding upon the parties to them and must be performed in good faith. This rule known as *pacta sunt servanda* is one of the oldest principle of international law now re-affirmed in Article 26 of the Vienna Convention on the Law of Treaties. Moreover, Article 27 of the Vienna Convention on the Law of Treaties prevents a party from invoking the provisions of its domestic law as
justification for its failure to perform an obligation under the treaty. It should be noted also that the International Labour Conference at its Eighty-eight Session declared that all Members of the ILO, which includes Grenada, have an obligation, arising from the very fact of membership in the Organization, to respect, to promote and to realize, in good faith and in accordance with the Constitution, the principles concerning the fundamental rights which are subject to those Conventions, namely:

(a) freedom of association and the effective recognition of the right to collective bargaining;
(b) the elimination of all forms of forced and compulsory labour;
(c) the effective abolition of child labour; and
(d) the elimination of discrimination in respect of employment and occupation.

Thus, it is important from an international law perspective for the domestic law of Grenada to be consistent with its legal obligations under ILO Conventions it has ratified.

The question arises as to how a treaty or convention ratified by Grenada becomes domestic law within the jurisdiction of Grenada. Grenada has a dualist and not a monist legal tradition. In a dualist legal system, unlike a monist system, treaties when ratified are not automatically incorporated into the domestic law of the ratifying State. The process of incorporation of the provisions of an international treaty, where not consistent with or not a part of existing domestic law, requires the enactment of legislation.

The process of legislation in Grenada, as is the case of all Parliamentary systems of democracy, is a time-consuming and cumbersome process. Grenada may wish therefore to consider the adoption of the good practice of Belize, which provides through its International Labour Organization Conventions Act, Chapter 304:01 for the automatic incorporation in domestic law of ILO Conventions ratified by Belize, regardless of any conflicting law. In fact, where the ratified ILO Convention conflicts with an existing law in Belize, the provision of the ILO Convention prevails. This procedure is an efficient method of incorporating a ratified treaty into domestic law. Of course, the automatic incorporation is subject to democratic and Parliamentary safeguards in that the treaty is laid before Parliament subject to negative resolution procedure. Parliament must have a say as to whether the treaty should be ratified in the first place. For the system of automatic incorporation of a treaty to be effective within the democratic framework, the ratification process must not be seen as an exclusive executive act. It must be subject to Parliamentary scrutiny.
Legal Obligations of Grenada

Grenada therefore has a legal obligation under international law and ILO jurisdiction to comply with the following ILO Conventions that it has ratified and that are subject of this study:

- Freedom of Association Convention, 1948 (No. 87);
- Right to Organise and Collective Bargaining Convention, 1949 (No. 98);
- Equal Remuneration Convention, 1951 (No. 100);
- Discrimination (Employment and Occupation) Convention, 1958 (No. 111).

It should be noted that Grenada has not ratified the Termination of Employment Convention, 1982 (No. 158) or any of the 18 core Occupational Safety and Health (OSH) Conventions to date. An identification of the gaps and inconsistencies between the Grenada legislation and these conventions has the practical value of demonstrating what needs to be done to facilitate ratification by the Government of Grenada.

Applicable Legislation of Grenada

The statutes of Grenada which seek to incorporate provisions relevant to the CARICOM Model Laws and the applicable ILO Conventions are:

- The Employment Act, 1999
- The Employment (Amendment) No. 2 (Act No. 21 of 2000)
- The Labour Relations Act, 1999
- The Labour Relations (Amendment) (Act No. 9 of 2003)
- Factories Act, Chapter 100.

Attention is now turned to the extent that these Acts comply with the fundamental provisions of the CARICOM Model labour Laws and related ILO Conventions.
II. Termination of Employment

The stated objectives of the model legislation on termination of employment are:

(a) to give effect to the provisions of the ILO Convention concerning Termination of Employment, 1981 (No. 158);
(b) to confer upon employees the right to continuity of employment and protection against unfair dismissals; and
(c) to establish procedures for employers to follow to terminate an employment relationship in a fair and equitable manner.

It should be noted that Grenada has not ratified the ILO Convention No. 158.

Scope of Application

The provisions of Part 11 of the model legislation (contracts of employment) apply to all contracts of employment with certain categories of exemption listed in section 10 (fixed term or fixed task contracts of less than six weeks, employee of a family member and employees with collective agreements).

ILO’s Convention 158 applies to all branches of economic activities and to all employed persons except fixed term or specific task workers, workers during their probationary period and workers engaged on a casual basis for short terms. The Convention also provides for Governments after consultation with workers’ and employers’ representative organizations to exclude categories of workers whose terms and conditions are governed by special arrangements, which facilitate protection equivalent to the Convention.

The Grenada Employment Act 1999, which provides for termination of employment, continuity of employment and protection against unfair dismissals, grants a wider exemption from its application than that of the CARICOM Model Law. It exempts, in section 4, from its application members of the police force, armed forces, prison guards and officers except those employed in a civilian capacity. It goes on to state that as far as practicable the conditions of service of the exempt workers should not be less favourable than workers not excluded by the section. Thus, there is statutory protection for the exempted workers.

Contract of employment

The Employment Act, 1999, section 30 imposes a duty upon every employer to give to each employee a written statement of particulars of employment with the following particulars within one month of employment:

(a) name of parties;
(b) date of commencement of contract;
(c) rate of remuneration;
(d) interval of payments;
(e) nature of work;
(f) normal hours of work;
(g) provision relating to termination;
(h) disciplinary rules.

This section does not apply to an employee whose contract of employment is for a period less than 16 hours work per week or to fixed term of less than 12 weeks or an employer who employs a member of his/her immediate family or workers whose contract are regulated by collective agreement.

It should be noticed that the period within which the employer has to provide the statement of particulars of employment is one month, a period longer than the fourteen days’ stipulation in the CARICOM model legislation.

Section 29 (7) provides that in contract of employment which do not specify the length of the probationary period, the following probationary periods shall be deemed to apply:

(a) not more than one month in the case of unskilled workers;
(b) three months in the case of other workers, but which period may be extended by a collective agreement.

Section 29 (8) provides that up to the end of a probationary period, either party without notice may terminate a contract of employment at any time.

Continuity of employment

Section 45 of the Employment Act, 1999 provides for continuity of employment in terms consistent with the Model Legislation. It specifies that where a business or part is sold, leased, transferred or otherwise disposed of the periods of employment with the two successive employers shall be deemed to constitute a single period of continuous employment with the successor employer. The employees of the former employer shall have the option to be terminated and receive termination allowance or continue with the successor employer.

In addition, section 44(1) of the said Act states that continuous employment shall begin from and include the first day on which an employee begins to work for an employer and shall continue up to and including the date of termination. Section 44 (2) provides that it shall be presumed, unless the contrary is shown, that employment of an employee with an employer is continuous whether or no the employee remains in the same job.

Section 44(3) provides that an employee’s continuous employment shall not be treated as interrupted if the employee is absent from work:

(a) due to annual leave, maternity leave or any other valid leave;
(b) due to suspension, with or without pay in accordance with the law or any agreement;
(c) due to termination of his employment prior to being reinstated or re-engaged in accordance with the Act or any agreement;
(d) due to having being temporarily laid-off by the employer;
(e) due to action in pursuance of a strike in which he did not participate;
(f) due to a lockout;
(g) in accordance with the agreement of his employer;
(h) due to public duty;
(i) due to *force majeure* or act of God.

In addition, section 44 (5) provides that absence from work because of an employee’s participation in a strike shall not interrupt the continuity of employment but shall not count for the purposes of calculating the length of continuous employment.

**Protection of employment**

Section 26 (1) provides that no person shall discriminate against any employee on the grounds of race, colour, national extraction, social origin, religion, political opinion, sex, marital status, family responsibilities, age or disability, in respect of recruitment, training, promotion, terms and conditions of employment, termination of employment or other matters arising out of the employment relationship.

Section 26.2 states that subsection (1) does not preclude any provision, programme or activity that has as its object the amelioration of condition of disadvantaged individuals, including those who are disadvantaged on grounds enumerated in subsection (1) above.

Section 67 prohibits the termination of employment of an employee because she is pregnant.

Section 74 (1) prohibits an employer from terminating the employment of an employee unless there is a valid reason for such termination connected with the capacity or conduct of the employee or based on the operational requirements of the enterprise, or breach of contract or disciplinary rules.

Section 74.2 provides that the following reasons do not constitute valid reasons for dismissal or the imposition of disciplinary action:

(a) an employee’s race, colour, national extraction, social origin, religion, political opinion, sex, marital status, family responsibilities or disability;
(b) a female employee’s pregnancy;
(c) an employee exercise of any rights specified in Part V;
(d) an employee temporary absence from work because of sickness or injury;
(e) an employee’s temporary removal from a work situation which he reasonably believes presents an imminent or serious danger to life or health;
(f) employee participation in industrial action;
(g) an employee refusal to do any work normally done by an employee who engaged in industrial action;
(h) filing a complaint or participation in proceedings against the employer involving alleged violation of any enactment.

The Grenada Employment Act is based substantially on the CARICOM Model Labour Law with respect to provisions relating to protection of employment.

*There are however, three areas where the Grenada legislation falls short of the requirements of the model legislations. These relate to:*

(i) the absence of any provision to make the termination of employment by an employer of an employee of grounds of HIV virus an unfair dismissal;

(ii) the absence of any requirement on the part of the employer to provide an employee with appropriate instructions to correct an unsatisfactory performance before dismissal; and

(iii) the provision on the termination at the initiative of the employer in the Grenada legislation does not limit the grounds on which the employer could terminate the employment due to redundancy and the payment due to the worker is less than that specified in the CARICOM Model Labour Law. In fact, there is no specific provision on retrenchment, which allows for notice to and consultation with the recognised trade union.

**Termination of employment**

Section 75 of the Employment Act, 1999 provides for termination with notice. Section 75 (1) states that a contract for an unspecified period of time may be terminated by the employer after the probationary period, if any, upon giving the following minimum periods of notice in writing:

(a) one working day where the employee has been employed by the employer for less than one month;

(b) one week where the employee has been employed by the employer for one month or more, but less than three months;

(c) two weeks where the employee has been employed by the employer for three months or more, but less than one year;

(d) one month where the employee has been employed by the employer for one year or more, but less than five years;

(e) two months where the employer has employed the employee for five years or more.

Section 75 (2) provides that the minimum period of notice an employee shall give to an employer is two weeks in the case where an employee has been employed for three months or for a longer period, and one month where the employee has been employed for one year or more.

**Summary dismissal**

Section 77 gives an employer the right to dismiss summarily an employee guilty of serious misconduct of such a nature that it would be unreasonable to require the
employer to continue the employment relationship. This provision is consistent with the CARICOM Model Law.

**Constructive dismissal**
Section 80 provides that an employee is entitled to terminate the contract of employment without notice or with less notice than that to which the employer is entitled, where the employer’s conduct has made it unreasonable to expect the worker to continue the employment relationship, in which event the employee is deemed to be unfairly dismissed. In constructive dismissal, the employee is deemed to have been unfairly dismissed.

**Burden of proof**
Section 81 provides that where any claim or complaint arises out of the dismissal of an employee the onus rests on the employer to prove the reason for dismissal, and if the employer fails to do so there shall be a conclusive presumption that the dismissal was unfair.

**Remedies**
Section 83 provides for the remedies of reinstatement; re-engagement to comparable work or an award of compensation. The Arbitration Tribunal shall, in deciding which remedy to award, first consider the possibility of making an award of reinstatement or re-engagement, taking into account in particular the wishes of the employee and the circumstances in which the dismissal took place, including the extent if any to which the employee caused or contributed to the dismissal. Where the Arbitration Tribunal determines that the employee caused or contributed to the dismissal to any extent, it may include a disciplinary penalty as a term of the order for reinstatement or re-engagement.

Section 83 (4) provides that the award of compensation shall be such amount as the Arbitration Tribunal considers just and equitable in all circumstances having regard to the loss sustained by the employee in consequence of the dismissal in so far as that loss is attributable to action taken by the employer, and the extent, if any, to which the employee caused or contributed to the dismissal. In any event, the amount awarded shall not be less than two weeks pay for each year of service for workers with less than two years service and one month’s pay for each year of service for workers with more than two years of service. Moreover, an additional amount to such loss as may be awarded may be granted if an employee is dismissed for reasons stated in section 74 (2).

**Redundancy and Severance Pay**
Section 84 provides for retrenchment and severance pay, referred to in the Act as termination benefits. It states that on the termination at the initiative of the employer an employee who has completed one year or more of continuous employment with his employer and who is not entitled to gratuity shall be entitled to be paid by the employer a termination allowance of not less than one week’s
wages for each completed year of service. This scale of benefits is less favourable than that provided for in the CARICOM Model Labour Law.

**Winding up**
Section 87 (3) provides that on the insolvency or winding-up of an employer’s business the claim of an employee to wages and other payments to which he/she is entitled shall have priority over all other creditors, including the state and the social security system for the following amounts:

(a) wages, overtime pay, commissions or other forms of remuneration relating to work performed during the twenty-six weeks preceding the date of the declaration of insolvency or winding-up;

(b) holiday pay due as a result of work performed during the two years preceding the date of declaration of insolvency or winding-up;

(c) amounts due in respect of other types of paid absence accrued during the twelve months preceding the date of the declaration of insolvency or winding-up;

(d) termination allowance, compensation for unfair dismissal and other payments due to employees upon termination of their employment.
III. Registration, Status and Recognition of Trade Unions and Employers’ Organizations

Introduction

The stated objectives of CARICOM Harmonization Act Regarding Registration, Status and Recognition of Trade Unions and Employers’ Organisations (referred to in this section as “CARICOM Model Labour Law”) are:

(a) to give effect to the provisions of National Constitutions on freedom of association, the ILO Conventions on Freedom of Association, No. 87 (1948) and on the Right to Organise and to Collective Bargaining, No. 98 (1949);

(b) to establish procedures for the registration and status of trade unions and employers’ organisations;

(c) to promote and protect the recognition of trade unions; and

(d) to encourage orderly and effective collective bargaining.

Unlike the ILO Convention on Termination of Employment, No. 158 (1981), all CARICOM Member States have ratified the ILO Conventions on Freedom of Association, No. 87 (1948) and on the Right to Organise and to Collective Bargaining, No. 98 (1949). In addition, the principles and standards inherent in ILO Conventions No. 87 and 98 are fundamental principles of international labour law, which all ILO Members, even if they have not ratified the Conventions in question, have an obligation, arising from the very fact of membership in the ILO, to respect, to promote and to realise in good faith2.

Grenada’s legislation relating to the registration, recognition and status of trade unions and employers organisations is modern. It was enacted in 1999 and complies substantially with the provisions of the CARICOM Model Harmonisation Act Regarding Registration, Status and Recognition of Trade Unions.

Scope of application

Grenada Labour Relations Act, 1999 makes provision for the registration of both trade unions and employers’ organisations. The exemption to the application of the Act is limited to non-civilian members of the police or armed forces with the proviso that as far as possible their conditions of service should not be less favourable3. This formulation is limited to conditions of service and not the right of association as provided for in the CARICOM Model Law and the ILO Convention.

Freedom of Association

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2 ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, Paragraph 2
3 Grenada Labour Relations Act 1999 section 3
Basic employee rights

Grenada Labour Relations Act, 1999 follows faithfully the provisions of the CARICOM Model Legislation with respect to basic employee rights. Section 25 states as follows:

1. Every employee has the right to:
   (a) take part in the formation of any trade union or federation of trade unions;
   (b) be or not to be a member of any trade union or federation of trade unions;
   (c) take part in lawful trade union activities;
   (d) hold office in any trade union activities;
   (e) hold office in any trade union or federation;
   (f) exercise any right conferred or recognised by this Act or the Employment Act 1999 and assist any employee, shop steward, safety representative or trade union in the exercise of such rights.

2. Where any employee is a member of a trade union certified as the bargaining agent such employee shall have the right to:
   (a) take part in the election of shop stewards or safety representatives;
   (b) be elected a shop steward or safety representative or be a candidate for such election;
   (c) act in the capacity of a shop steward or safety representative.

Freedom of association protection for employees

The Labour Relations Act, 1999 also provides fully for all the measures contained in the CARICOM Draft Model Law regarding the freedom of association protection for employees. In fact, it expands the applicability of the measures to not only an employer’s organisation or its agents but also to include a trade union or any of its officers. Section 26 (1) provides that an employer or person acting on an employer’s behalf, or a trade union or officer of a trade union, with respect to any employee or any person seeking employment, who:

(a) requires that he or she not join a trade union or relinquish trade union membership;
(b) discriminates or takes any prejudicial action, including discipline or dismissal against such employee or person by reason of trade union membership or because of participation in lawful trade union activities;
(c) discriminates or takes any prejudicial action, including discipline or dismissal, against such employee or person because of his or her exercise or anticipated exercise of any right conferred or recognised under this Act or the Employment Act, 1999 or because of his or her participation in any capacity in a proceeding under this Act or the Employment Act,1999;
(d) threatens such employee or person that he or she will suffer any disadvantage from exercising any right conferred or recognised by this Act or the Employment Act, 1999 or from participating in any capacity in a proceeding under this Act or the Employment Act,1999;
promises such employee or person any benefit or advantage for not exercising any right conferred or recognised by this Act or the Employment Act, 1999 or from participating in any capacity in a proceeding under this Act or the Employment Act, 1999;

(f) restraints or seeks to restrain such an employee or person, by a contract of employment or otherwise, from exercising any right conferred or recognised under this Act by this Act or the Employment Act, 1999 or from participating in any capacity in a proceeding under this Act or the Employment Act, 1999 and any such contractual term which purports to exert any such restraint shall be void, whether agreed to before or after the coming into force of this Act;

(g) imposes any discipline or disadvantage upon an employee for refusing to do work normally done by an employee who is lawfully on strike or who is locked out, unless such work must be done to prevent an actual danger to life, health, or personal safety,

(h) commits an offence and shall be liable on summary conviction to a fine not exceeding ten thousand dollars or to a term of imprisonment not exceeding one year, or to both such fine and imprisonment.

Subsection (2) provides that nothing in this section shall be interpreted as preventing an employer from dismissing or otherwise disciplining an employee for just cause, in accordance with section 73 of the Employment Act, 1999.

Protection of trade union from employer interference

The measures for the protection of trade unions from employer interference are contained in subsection (3) of section 26 dealing with basic employee rights. The provision states that no person shall commit an act, which is designed to promote the establishment of an employees' organisation under the domination of an employer or employers' organisation, or to support employees' organisations by financial or other means with the object of placing such organisations under the control of employers or employers' organisations. However, there is no penalty to be imposed on an employer who infringes this statutory protection of trade unions.

Basic employer rights

All basic employer rights of the CARICOM Model Labour Law are contained in section 27 of the Grenada Labour Relations Act, 1999. Section 27 of the Grenada Labour Relations Act, 1999 states that every employer has the right to -

(a) take part in the formation of any employers' organisation or association;
(b) be a member of any such organisation or association, and take part in its lawful activities;
(c) hold office in any such organisation or association;
(d) be free from obligation to employ members of a trade union; and
(e) exercise any and all rights conferred or recognised by this Act or national law on employment or labour relations, and assist any employer or employers' association in the exercise of such rights.
Membership
The provisions of the CARICOM Model Legislation on membership are contained in the Grenada Labour Relations Act section 28 titled “protection of organisation”. It states:

(1) Any person eligible for membership in a trade union or employers' organisation or federation under its constitution has the right to membership in that organisation if he or she pays any fees that are properly payable to it, and such person has the right to remain a member as long as he or she complies with the rules of the organisation.

(2) Any person eligible under subsection (1) to join has the right to join or not to join such organisation.

(3) No organisation shall discriminate in its constitution or through its actions against any person on the grounds of race, sex, religion, ethnic origin, national extraction, colour, indigenous population, social origin, political opinion, disability, age, pregnancy, marital status or family responsibilities or impose any condition, restriction or obligation which is oppressive or unjust.

Federations
Section 29 of the Labour Tribunal gives the right to an organisation to form, participate in, be affiliated to, or to join a federation of trade unions or employers’ organisations. Section 30 provides for the right to join international workers’ and employers’ organisations and to receive financial or other assistance from such a federation.

Remedies
The remedies contained in the CARICOM Model Legislation are provided for in Grenada Labour Relations Act, 1999, except that the remedy is only available in the case of a dismissal and not a denial of employment. Section 31 states that:

(1) Any complaint with respect to infringement of the rights and protection contained in the provisions of this Part (which includes acts of employer interference) may be presented to the High Court.

(2) Where it is alleged that an employee was dismissed contrary to section 26, the burden is on the employer to prove that the dismissal had no connection to the employee's trade union membership or activities.

(3) Subject to subsection (4), where the Court finds that the complaint is well founded, it shall make such order as it deems necessary to secure compliance with the provisions of this Part, including an order for the reinstatement of an employee, if requested and deemed necessary, the restoration to him or her of any benefit, entitlement or advantage, and an order for the payment of compensation.

(4) Where an employee is dismissed contrary to Section 26, reinstatement will be ordered by the Court, along with any other remedy the Court deems appropriate, at the request of the employee, unless reinstatement is not reasonably practicable.
There is a right to proceed with a complaint to the High Court in respect of any infringement under Part V of the Labour Relations Act, which including that of employer interference in the establishment of a trade union. The High Court in Section 3 (3) has the power to make such order, as it deems necessary to secure compliance with the provisions of the Act, which is fully compliant with the CARICOM Model Law.

**Registration and Status**

*Registrar*
According to section 6 of the Labour Relations Act, 1999 the Minister of Labour shall appoint a person to be Registrar of Trade Unions and Employers’ Organisations after consultation with the Labour Advisory Board, which is a tripartite body with representation from the trade unions and employers’ organisations.

*Registration*
Section 4 of the Labour Relations Act, 1999 provides that no organisation or member thereof shall perform any act in furtherance of the purposes for which it has been formed in relation to the Act unless such organisation has first been registered. The minimum number of persons required for registration of a trade union is twenty-five as against seven prescribed in the CARICOM Model Legislation. For the registration of employers’ organisation the minimum number of members required is ten. The CARICOM Model Labour Law requires a minimum of seven members for the registration of a trade union and three members for the registration of an employers’ organisation.

*Right of appeal*
Section 8 of the Labour Act, 1999 provides for the right of appeal to the High Court if the Registrar fails or refuses to register an organisation.

*Cancellation of registration*
The Registrar is the competent authority to cancel the registration of a trade union or employers’ organization. The grounds for cancellation are a request from the organisation, financial irregularity, or failure to maintain the statutory minimum membership qualification.

An appeal against cancellation lies to the High Court.

*Annual return*
Section 21 of the Grenada Labour Relations Act, 1999 imposes a duty on every treasurer or other officer of a registered organisation to render to members a true and accurate account of all monies received and paid which shall be audited from a panel of suitably qualified persons chosen by the Registrar. The audited accounts must be submitted to the Registrar by the 1st April each year together
with a return showing the number of fully paid up members of the organisation and names and addresses of office-holders.

Section 24 (2) provides that in addition to the annual return, the Registrar may at any time by order in writing require the Treasurer or any other officer of an organisation to deliver to him/her, by a date specified in such order, detailed accounts of the revenue, expenditure, assets, liabilities and funds of the organisation in respect of any period specified in the order. ILO jurisprudence suggests that this authority vested in the Registrar should be limited to circumstances where there are serious grounds for believing that the activities of the organisation are contrary to the rule of law.

Legal status
Trade unions and employers’ organisations registered under the Grenada Labour Relations Act are not considered to be bodies corporate. They are still required to acquire, hold and dispose of property, sue and be sued in the name of the trustees.

Amalgamation
A registered organisation has, subject to its constitution, the right to amalgamate with any other registered organisation. In the event of an amalgamation, the newly constituted organisation shall assume all the rights and liabilities of its predecessor organisations unless the court on good cause shown upon the application of an interested party directs otherwise.

Safeguard for Members of Organisations

Compliance with constitution
Section 18 of Grenada Labour Relations Act, 1999 provides for every officer, member or employee of an organisation to comply with the constitution of their organisation. Moreover, a member in good standing may apply to the High Court for an injunction to prevent the contravention of the constitution.

Improper election practices
Grenada Labour Relations Act, 1999 also makes adequate provision to meet the requirements of the CARICOM Model Legislation regarding improper election practices. Section 19 (1) states that no person shall attempt to influence the outcome of an election for any office in an organisation by fraud, threat, bribery or other improper means. Moreover any member of the trade union or employers' organisation, or the Registrar may apply to the High Court to declare such election void and to determine a date for the holding of fresh election.

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4 Grenada Labour Relations Act, 1999 section 11
5 Grenada Labour Relations Act, 1999 section 32
Deposit and safeguard of funds
Section 21 of the Labour Relations Act, 1999 makes adequate provision for meeting the requirements of the CARICOM Model Legislation with respect to deposit and safeguard of funds of a registered organisation.

Recognition of Bargaining Rights

Tripartite Body for Certification
Grenada Labour Relations Act, 1999 gives the power to the Minister of Labour to determine the issue of recognition and the Labour Commissioner to determine the appropriateness of the bargaining unit\(^6\). This is in contrast with the CARICOM Model Legislation, which requires such functions to be carried out by a tripartite body.

Application procedures
Except for the absence of a tripartite body for determination of the claim for recognition, all the other provisions of the CARICOM Model Legislation are covered by the Grenada Labour Relations Act, 1999. Section 33 provides that:

1. A trade union claiming to have as members in good standing a majority of the employees of an employer in a bargaining unit may, subject to the provisions of this Part, make application to the Minister to be certified as the exclusive bargaining agent of the employees in the unit.
2. All existing trade unions, which were certified as bargaining agents immediately before the coming into force of this Act, shall be deemed to be certified.
3. Where no collective agreement is in force and no trade union has been certified under this Part for the bargaining unit, the application may be made at any time.
4. Where no collective agreement is in force but a bargaining agent has been certified under this Part for the bargaining unit, the application may be made after the expiry of 12 months from the date of certification of the bargaining agent.
5. Where a collective agreement is in force the application may be made during the last two months (as against three months in the CARICOM Model Legislation) of the term of the collective agreement or any renewal of it.

It should be noted that while the application procedures for recognition are in conformity with the CARICOM Model Labour Law, ILO supervisory bodies have held that where a collective agreement for more than two years is in force, if a trade union other than the one which concluded the agreement has in the meantime becomes the majority union and requests cancellation of the agreement, the authorities,

\(^6\) sections 35 and 36
notwithstanding the agreement, should make appropriate representations to the employer regarding the recognition of this union.

Certification Particulars
The particulars to be submitted with the application are standard and in keeping with the CARICOM Model Legislation. Section 34 of the Grenada Labour Relations Act, 1999 provides that

(1) the application shall be in writing and shall include the following:
   (a) a copy of the trade union’s constitution, where it is newly registered;
   (b) a description of the proposed bargaining unit; and
   (c) facts and documents upon which the trade union relies to demonstrate that the majority of employees in the bargaining unit wish to have the trade union certified as their exclusive bargaining agent;
   (d) any other matter prescribed by regulations.
(2) A copy of the application shall be served on the employer.

The application is required to be determined within twenty-one days (as against as soon as possible, but not later than 6 months from the date of receipt by the competent authority as provided for in the CARICOM Model Legislation).

Appropriateness of bargaining unit
Section 35 of the Grenada Labour Relations Act, 1999 provides the criteria for the Labour Commissioner to take into consideration in determining the appropriateness of the bargaining unit. They are:

(a) the community of interest among the employees in the proposed bargaining unit;
(b) the nature and scope of the duties of the employees in the proposed unit;
(c) the views of the employer and the trade unions concerned as to the appropriateness of the bargaining unit.

There is no statutory requirement for the Commissioner to take into consideration the historical development, if any, of collective bargaining in the employer's undertaking.

When making a determination the Commissioner may include additional employees in or exclude employees from the bargaining unit. It should be noted that in accordance with the principle of Article 4 of the Convention No. 98, the determination of the bargaining unit is a matter to be left to the discretion of the parties or a tripartite body but not the Commissioner of Labour.

Employer recognition or notice
There is no express provision in the Labour Relations Act, 1999 for the employer to indicate whether he or she agrees to recognise the trade union as the bargaining agent for the bargaining unit or not. His statutory right is to express his views with respect to the appropriateness of the bargaining unit.
**Majority union determined by poll**
The Minister of Labour has the power to either refuse to certify the trade union on the grounds that the bargaining unit is not appropriate or institute a poll in the presence of representatives of all interested parties in order to determine whether the majority of the employees in the bargaining unit wish to have the trade union as their sole and exclusive bargaining agent. Where a union’s application fails, it cannot make a fresh application for the same bargaining unit until the expiration of ninety days.

**Compulsory recognition and duty to negotiate**
Section 40 of the Grenada Labour Relations Act, 1999 provides that where a trade union has been certified as the exclusive bargaining agent for a bargaining unit, that trade union shall provide full and proper representation of the interests of all employees in the bargaining unit with respect to their rights under the collective agreement. *Section 41* imposes a duty on the employer to negotiate with the recognised union in good faith.

**Collective Agreement**
The Grenada Labour Relations Act, 1999 makes provision regarding the content of a collective agreement. However, there is no provision regarding the registration or enforceability of the collective agreement. With respect to the issue of successor rights and obligations, there is no express provision in the Labour Relations Act. There is a provision relating to successor rights in the event of insolvency under the Employment Act, 1999. However, the Labour Relations Act, 1999 defines an employer to include the heirs, successors and assigns of an employer and thus all successor rights and obligations envisaged in the CARICOM Model Legislation are preserved.
IV. Equality of Opportunity and Treatment in Employment and Occupation

Objectives
The stated objectives of the CARICOM Model Harmonisation Act regarding Equality of Opportunity and Treatment in Employment and Occupation (hereinafter referred to in this chapter as “CARICOM Model Labour Law”) are:

(a) to give effect to the provisions of the National Constitution; to the ILO Convention concerning Equal Remuneration, No. 100 (1951); to the ILO Convention concerning Discrimination In Employment and Occupation, No. 111 (1958) and; and to certain provisions in the UN Convention on the Elimination of All Forms of Discrimination Against Women;

(b) to eliminate, as far as possible, discrimination in employment and occupation against persons on the grounds of race, sex, religion, colour, ethnic origin, national extraction, social origin, political opinion, disability, family responsibilities, pregnancy or marital status;

(c) to promote recognition and acceptance of the principle of equal opportunity and treatment on the above grounds in employment, occupation and other related activities including education, vocational training, employment services, provision of goods and services, partnerships and professional trade organisations.

Status of ILO Conventions
All thirteen CARICOM Member States, whose laws are reviewed in this study, except Suriname have ratified ILO Convention concerning Discrimination in Employment and Occupation, No. 111 (1958) and ILO Convention concerning Equal Remuneration, No. 100 (1951). All thirteen CARICOM Member States have ratified or acceded to the UN Convention on the Elimination of All Forms of Discrimination Against Women.

Principles
The fundamental principles underlying the CARICOM Model Legislation insofar as protection against unlawful discrimination is concerned are:

(i) any discrimination in employment or occupation based on race, sex, religion, colour, ethnic origin, indigenous population, national extraction, social origin, political opinion, disability, family responsibilities, pregnancy, marital status or age except for purposes of retirement and restrictions on work and employment of minors shall be unlawful;

(ii) the scope of application of the principles shall include all workers in the public and private sectors, professional partnerships, professional or trade organisations, qualifying bodies, vocational training bodies and employment agencies;
the principles of unlawful discrimination and equality of opportunity shall also apply to the provision of goods, services and facilities, advertisements and application forms;

(iv) the prohibition against unlawful discrimination applies both to workers and to persons seeking employment;

(v) the prohibition against unlawful discrimination extends to terms and conditions of employment, including conditions of work or occupational safety and health measures, workplace facilities, and career development opportunities;

(vi) measures to promote equality of opportunity of a temporary nature shall not be deemed unlawful discrimination;

(vii) employers have a duty to ensure equal pay for work of equal value;

(viii) except where otherwise provided, the person alleging a violation shall bear the evidential burden of presenting a prima facie case of discrimination and thereafter the burden shall shift to the respondent to disprove the allegation.

Scope of Application

Grenada Employment Act, 1999 enumerates certain fundamental principles of employment law. Among these fundamental principles is the prohibition of discrimination in employment. Section 26 (1) states that no person shall discriminate against any employee on the grounds of race, colour, national extraction, social origin, religion, political opinion, sex, marital status, family responsibilities, age or disability, in respect of recruitment, training, promotion, terms and conditions of employment, termination of employment or other matters arising out of the employment relationship. Section 26 (2) excludes any provision, programme or activity that has as its object the amelioration of conditions of disadvantaged individuals. Infringement of this fundamental principle carries a fine not exceeding ten thousand dollars or a term of imprisonment not exceeding three years.

Another fundamental principle concerns equal remuneration for work of equal value. However, it should be noted that the Minimum Wage Order, which sets out minimum wages for male and female workers, is inconsistent with the principle of equal remuneration for work of equal value.

An individual claiming an infringement of any fundamental rights contained in Part IV of the Act may seek redress in the Court if that infringement cannot be redressed by way of the industrial relations framework. Remedies may include an order for reinstatement, the restoration of any benefit or advantage, and an order for compensation.

Section 67 of the Employment Act, 1999 provides that where an employer who terminates the employment of an employee because she is pregnant commits an

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7 Employment Act, 1999 section 27.
offence and the burden of proving that the employment was not terminated because of pregnancy shall be on the employer. The punishment for such an offence is a fine of five thousand dollars and imprisonment for one year and the court shall order the employer to reinstate the employee.

The Constitution provides in section 13-(1) Subject to the provisions of subsections (4), (5) and (7) of this section, no law shall make any provision that is discriminatory either of itself or in its effect.

(2) Subject to the provisions of subsections (6), (7) and (8) of this section, no person shall be treated in a discriminatory manner by any person acting by virtue of any written law or in the performance of the functions of any public office or any public authority.

(3) In this section, the expression "discriminatory" means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, place of origin, political opinions, colour, creed or sex whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages which are not accorded to persons of another such description.

(4) Subsection (1) of this section shall not apply to any law so far as that law makes provision-

(a) for the appropriation of public revenues or other public funds ;
(b) with respect to persons who are not citizens of Grenada ; or
(c) whereby persons of any such description as is mentioned in subsection (3) of this section may be subjected to any disability or restriction or may be accorded any privilege or advantage which, having regard to its nature and to special circumstances pertaining to those persons or to persons of any other such description, is reasonably justifiable in a democratic society.

(5) Nothing contained in any law shall be held to be inconsistent with or in contravention of subsection (1) of this section to the extent that it makes provision with respect to standards or qualifications (not being standards or qualifications specifically relating to race, place of origin, political opinions, colour, creed or sex) to be required of any person who is appointed to or to act in any office in the public service, any office in a disciplined force, any office in the service of a local government authority or in any office in a body corporate established by law for public purposes.

Gaps in legislative framework
The scope of application of the principles does not include professional partnerships, professional or trade organisations, qualifying bodies, vocational training bodies and employment agencies;
The principles of unlawful discrimination and equality of opportunity do not apply to the provision of goods, services and facilities, advertisements and application forms;

There is no legislative prohibition of sexual harassment at the workplace.
V. Occupational Safety and Health and the Working Environment

Unlike the other model laws, CARICOM Model Law on Occupational Safety and Health and the Working Environment (hereinafter referred to in this Chapter as “the CARICOM Model Labour Law”) does not have among its objectives the incorporation of any ILO Conventions. It is an Act to provide for the occupational safety and health of workers in the working environment.

Content of CARICOM Model Labour Law
There are provisions relating to:
(i) registration of industrial establishments and mines;
(ii) administration;
(iii) general occupational safety and health requirements;
(iv) duties of employers, workers and other persons;
(v) hazardous chemicals, physical agents and biological agents;
(vi) enterprise safety and health representatives and committees;
(vii) notices of injury, accidents and explosions;
(viii) enforcement; and
(ix) offences and penalties.

The CARICOM Model Legislation applies to the State and all branches of economic activity and to all employers and workers in all branches of economic activity.

Grenada has not ratified any of the 18 core Occupational Safety and Health Conventions.

Scope of Application
The Factories Act Chapter 100 of the laws of Grenada (hereinafter referred to in this section on Grenada as “the Act”) makes provision for occupational safety and health at factories. The Act applies to the State but not to all branches of economic activity and to all employers and workers in all branches of economic activity. It relates to factories only.

There is no definition of the terms “employer” “employee” or contract of employment.

Registration of Industrial Establishments and Mines
An employer is required under Section 53 of the Factories Act to give notice to the Minister of Labour (hereinafter referred to as “the Minister”) of occupation of a factory within 30 days of commencement of the Act or the commencement of operations where applicable. The particulars of registration application shall include the names and addresses of the owner and employer, address and location of the industrial establishment, the nature and object of the process to be carried out, the number of employees, hazardous chemicals and hazardous physical
agents present in the industrial establishment or mine and whether the industrial establishment or mine is a major hazard installation.

**Administration**
The Act provides for the appointment of inspectors to administer and enforce the Act and Regulations. They are to ensure that employers and other relevant persons are provided with information and advice concerning the Act and the protection of the occupational safety and health of workers generally.

There is no statutory requirement for the appointment of a tripartite National Advisory Council on Occupational Safety and Health with technical or professional persons with expert knowledge to advise and make recommendations to the Minister and to promote awareness, including enforcement and the implementation of a national policy on occupational safety and health. In addition, there is no statutory requirement for submission of an annual report to Minister for incorporation in the Annual Labour Administration Report for Parliament.

**General Occupational Safety and Health Requirements**
There are measures in the Factories Act relating to work at dangerous machines, protective clothing devices, emergency drills and exits, cleanliness and sanitary conveniences, disposal of waste, noise and vibrations, overcrowding, ventilation, availability of drinking water, washing and change facilities, first-aid provisions and restrooms.

The Regulation 25 of the Factories Regulations prohibits the employment of a child under fourteen years from employment in a factory or in a business of a factory outside the factory. That Regulation also prohibits a person under the age of 18 from operating machines, which are of a dangerous character. A worker over the age of 18 shall not work at a machine unless he/she has been fully instructed as to the dangers arising from its operations and the precautions to be observed and (a) has received sufficient training or (b) is under adequate supervision.

There is no provision requiring all persons entering an area in an establishment where they are likely to be exposed to the risk of head or bodily injury, or injury from air contaminants or any other bodily injury must be provided with suitable protective clothing or devices of an approved standard and adequate instruction in the use of such protective clothing or device.

**Duties of employers, workers and other persons**
An employer or occupier at any factory shall ensure that:

(a) a safe, sound, healthy and secure working environment is provided as far as is reasonably practicable;

(b) all machines, devices, tools or equipment are in good condition;
(c) pregnant women are not exposed to any harmful chemicals or substances;
(d) safe access to and egress from any factory or workplace;
(e) information and instruction are given for the safety of workers who operate dangerous machines
(f) all legislative measures and procedures in relation to the Act are applied;
(g) every reasonable precaution is taken in the circumstances for the protection of workers and the general public who comes into contact with the worksite; and
(h) maintenance of certain prescribed registers.

There is no statutory requirement for an employer of occupier to ensure that a written occupational safety and health policy is prepared and reviewed annually. There is also no statutory requirement for the appointment of a joint management/union Occupational Safety and Health Committee or workers’ safety representative.

**Duties of Workers**

A worker is required to:
- (a) work in compliance with the provisions of the Act and Regulations;
- (b) use or wear the equipment, protective devices and clothing required;
- (c) take care of the personal protective equipment, devices and clothing provided to him or her; and
- (d) exercise reasonable care as not to cause injury to self and others.

There is no statutory requirement for a worker to report to his/her employer or supervisor the absence of or defect in any equipment or protective device and clothing of which he is aware and which may endanger himself, herself or another worker or any contravention of the Act or Regulations of which he or she knows;

There is no statutory right of a worker to refuse to work where he/she has reasonable justification to believe that (a) equipment, machine, tool or device or (b) physical condition of workplace - presents imminent and serious danger to life or health. In such circumstance, the worker has to file a complaint with the inspector. However, a worker is protected under the Employment Act, 1999 section 74 (h) against dismissal or disciplinary action where he/she files a complaint or participates in proceedings against an employer involving alleged violations of any enactment.

**Hazardous Chemicals, Physical Agents and Biological Agents**

The Minister may give orders to prohibit, limit or place conditions on use of hazardous chemicals, physical agents and biological agents. An employer is required to maintain an inventory of all hazardous chemical and hazardous physical agents. The inventory must contain information on the effects of the chemicals or agents. All hazardous materials are to be labelled and there must be
adequate information to workers on the handling and disposal thereof so as to eliminate risks. There is no mention of hazardous biological agents.

**OSH Committees**

There is no statutory requirement for a factory with twenty or more employees to make arrangements with the recognised trade union(s) or workers’ representative for the appointment of a Joint OSH Committee or a workers’ safety representative where the factory has five or more but less than twenty workers, the employer shall make arrangements with the workers for the appointment of a safety representative from among the workers.

**Notices**

The employer has an obligation to notify an inspector where a person is killed or critically injured from any cause at the workplace within forty-eight hours of such death or injury.

In the case of a non-fatal accident, explosion or fire causing injury, the employer has four days within which to make a report.

**Enforcement**

Inspectors are vested with the power to enter any factory, inspect any register, remove any register or article violating the Act, conduct tests, require an employer to conduct tests, make enquiries of any person in the workplace and require any equipment to be tested. The Inspector may also order an employer to comply with Act forthwith or within such time as he or she may specify.

Where an Inspector makes an order and finds that the contravention is a danger or hazard to safety and health, he/she may order that the workplace, equipment, machine, device, article or process be not used until the order is complied with. He/she may also order that work be stopped until the danger or hazard is removed.
VI. Recommendations

Termination of Employment

In order to ensure full compliance with the CARICOM Model Labour Law, the following amendments Employment Act, 1999 should be made:

(i) the period within which the employer has to provide to an employee the statement of particulars of his or her employment should be reduced from one month to fourteen days (Section 30);

(ii) HIV virus should be added to the list in Section 74 (2) (a) as reasons that do not constitute a valid reason for disciplinary action;

(iii) a new provision should be added to ensure that an employer provide an employee with appropriate instructions to correct an unsatisfactory performance before dismissal can be effected;

(iv) a new provision on redundancy and severance pay in accordance with the CARICOM Model Labour Law, and in particular the need for the employer to give notice and have prior consultations with the recognised trade union and to set the severance pay at the same level as contained in the CARICOM Model Labour Law.

Registration, Status and Recognition of Trade Unions and Employers’ Organizations

In order to comply with the CARICOM Model Labour Law, the following amendments to the Labour Relations Act, 1999 will be required:

(i) The minimum number of persons required for registration listed in Section 5 (1) and (2) (twenty-five for trade unions and ten for employer’s organisations) should be reduced to seven and three, respectively.

(ii) There should be a provision for penalties for acts of employer interference in trade union establishment and management.

(iii) Part II of the Act be repealed and replaced by a new provision to have trade unions and employers’ organisations deemed to be corporate bodies.

(iv) The authority vested in the Registrar by virtue of section 24 (2) of the Labour Relations Act to require at any time detailed accounts of a trade union or employers’ organisation should be limited to circumstances where there are serious grounds to believe that the activities of the organisation are contrary to the rule of law.

(v) Section 33 should provide for a tripartite body and not the Minister of Labour to determine applications for recognition and certification of trade unions as exclusive bargaining agents, with appropriate consequential amendments;

(vi) Section 35 should provide for the tripartite body and not the Labour Commissioner to determine the appropriateness of the applications bargaining unit.
(vii) A new provision should be added to provide for the employer to indicate whether he or she agrees to recognise the trade union as the bargaining agent for the bargaining unit or not upon receiving notice by the trade union of the application for recognition.

Equality of Opportunity and Treatment in Employment and Occupation

In order to comply with the CARICOM Model Labour Law, the following amendments to the Employment Act, 1999 will be required:

(i) the scope of application of the principles set out in section 26 should be made to apply to professional partnerships, professional or trade organisations, qualifying bodies, vocational training bodies and employment agencies;

(ii) the principles of unlawful discrimination and equality of opportunity should also be made to the provision of goods, services and facilities, advertisements and application forms.

(iii) the Minimum Wage Order should have the same minimum wages for male and female workers.

(iv) there should be a provision relating to sexual harassment at the workplace.

Occupational Safety and Health and the Working Environment

In order to comply with the CARICOM Model Labour Law, the following amendments to the Factories Act, Chapter 100 will be required:

(i) the scope of application of the Act should be extended to apply to all employers and workers in all branches of economic activity and not limited to factories;

(ii) a new provision should be added to provide for the appointment of a tripartite National Advisory Council on Occupational Safety and Health with technical or professional persons with expert knowledge to advise and make recommendations to the Minister and to promote awareness, including enforcement and the implementation of a national policy on occupational safety and health. In addition, this Council should be required to submit an annual report to Minister for incorporation in the Annual Labour Administration Report for Parliament.

(iii) a new provision should be added to require all persons entering an area in an establishment where they are likely to be exposed to the risk of head or bodily injury, or injury from air contaminants or any other bodily injury must be provided with suitable protective clothing or devices of an approved standard and adequate instruction in the use of such protective clothing or device.

(iv) a new provision should be added to require an employer or occupier to ensure that a written occupational safety and health policy is prepared and reviewed annually.
(v) a new provision should be added to require an employer with more than twenty workers to appoint a joint management/union Occupational Safety and Health Committee or in the case of less than twenty workers but at least five workers a workers’ safety representative.

(vi) a new provision should be included to provide for the right to a worker to report to his/her employer or supervisor the absence of or defect in any equipment or protective device and clothing of which he is aware and which may endanger himself, herself or another worker or any contravention of the Act or Regulations of which he or she knows;

(vii) a new provision should be added to provide for the right of a worker to refuse to work where he/she has reasonable justification to believe that (a) equipment, machine, tool or device or (b) physical condition of workplace - presents imminent and serious danger to life or health. In such circumstance, the worker has to file a complaint with the inspector.