

BERMUDA

EMPLOYMENT ACT 2000

2000 : 38

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WHEREAS it is expedient to promote the fair treatment of employers and employees by providing minimum standards of employment, by establishing procedures and notice periods for the termination of employment, by providing employees with protection against unfair dismissal, and by establishing the Employment Tribunal; and to make connected provision;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:—

PART I

INTRODUCTORY

Short title and commencement

1 (1) This Act may be cited as the Employment Act 2000.

(2) This Act shall come into operation on such date as the Minister may appoint by notice published in the Gazette.

Application

2 (1) Subject to any express provision to the contrary in this Act or regulations, this Act applies to all employers and employees.

(2) An agreement to waive any of the requirements of this Act and the regulations is of no effect.

(3) Where any of the rights of an employee established by any other Act, agreement, contract of employment, custom or practice are more favourable than this Act requires, the provisions so established prevail over this Act.

Interpretation

3 In this Act—

"bullying" has the meaning given in section 10B;

"civil penalty" means a civil penalty imposed in respect of a contravention of this Act either by—

(a) the Director in accordance with section 37A; or

(b) the Tribunal in accordance with section 44M;

"collective agreement" means any agreement or arrangement made (in whatever way and in whatever form) between—

(a) a trade union and an employer; or

(b) a trade union and a trade union;

"condition of redundancy" has the meaning given in section 30(3);

"constructive dismissal" means termination by virtue of section 29;

"continuous employment" shall be determined in accordance with section 5;

"contract of employment" means any contract, whether express or implied, whether oral or in writing and whether or not in compliance with the requirements of this Act, which provides for an employee to perform specified services for an employer;

"Director" means the Director of Labour referred to in section 3AA;

"dress code" means a written policy issued by an employer requiring his employees to dress in a particular manner for reasons of safety, hygiene or corporate image;

"employee" has the meaning given in section 4;

"employer" means a person in Bermuda who employs employees;

"Employment and Labour Code" has the meaning given in section 3A;

"inspector" means the Manager or a person designated as an inspector under section 34;

"lock-out" has the meaning given in section 2 of the Trade Union and Labour Relations (Consolidation) Act 2021;

"Manager"*[Repealed by 2025 : 4 s. 3]*

"Minister" means the Minister responsible for labour relations;

"normal hourly wage", in relation to an employee who does not receive a standard wage per hour, shall be calculated by dividing a week's wages by the average number of hours for which the employee is employed per week, excluding any overtime;

"other gratuities" has the meaning given in section 10C;

"overtime rate" means the rate of one and a half times the employee's normal hourly wage;

"prescribed" means prescribed by regulations;

"regulations" means regulations made by the Minister under this Act;

"sexual harassment" has the meaning given in section 10B;

"statutory notice period" has the meaning given in section 20;

"strike" and "irregular industrial action short of a strike" have the meanings given in section 2 of the Trade Union and Labour Relations (Consolidation) Act 2021;

"tip" has the meaning given in section 10C;

"Tribunal" means the Employment and Labour Relations Tribunal established by section 44B;

"unfair dismissal" has the meaning given in sections 28 and 29;

"wages" means all sums payable to an employee under his contract of employment (by way of weekly wage, annual salary or otherwise) or otherwise directly in connection with his employment, including any commission, but not including—

(a) any tips or bonuses;

(b) any expenses; or

(c) the monetary value of any benefits in kind;

"week" means—

(a) a week ending with a Saturday; or

(b) in relation to an employee whose pay is calculated on a weekly basis ending with a day other than Saturday, a week ending with that day;

"a week's wages" in relation to an employee whose wages vary from week to week, shall be calculated by taking—

(a) the average wages not including any other gratuities earned by him over the previous twelve weeks; or

(b) in any case where he has worked for less than twelve weeks, the average wages not including any other gratuities earned by him over the time that he has worked;

"work permit" has the meaning given in section 57(2A) of the Bermuda Immigration and Protection Act 1956;

[Section 3 "employer" substituted by 2006:12 s.2 effective 8 June 2006; Section 3 amended by 2010 : 36 s.3(a) effective 16 July 2010; Section 3 "Minister" deleted and substituted by BR 5 / 2011 para. 5 effective 25 February 2011; Section 3 "inspector" amended and "Minister" deleted and substituted by BR 40 / 2013 para. 2 effective 3 May 2013; Section 3 definition "inspector" and "Minister" amended by BR 115 / 2017 para. 7 effective 7 December 2017; Section 3 definitions "bullying", "Manager", "sexual harassment" and "work permit" inserted, and definition "inspector" amended by 2021 : 2 s. 2 effective 1 June 2021; Section 3 definitions "civil penalty" and "Employment and Labour Code" inserted by 2021 : 7 s. 99 & Schedule 7 effective 1 June 2021; Section 3 definitions "collective agreement" and "Tribunal" repealed and substituted, and definitions "lock-out" and "strike" and "irregular industrial action short of a strike" amended by 2021 : 7 s. 99 & Sch. 7 effective 1 June 2021; Section 3 definition "tip" inserted by 2023 : 28 s. 2 effective 1 March 2024; Section 3 definition "other gratuities" inserted, and "a week's wages" deleted and substituted by 2025 : 1 s. 2 effective 1 March 2024; Section 3 definition "civil penalty" amended, "Director" inserted, and "Manager" repealed by 2025 : 4 s. 3 effective 23 June 2025]

Department of Labour

3AA (1) There shall continue to be a department of Government known as the Department of Labour.

(2) The Department shall—

(a) subject to the general direction and control of the Minister, be under the supervision of a public officer who shall be known as the Director of Labour; and

(b) consist of such other public officers as may from time to time be authorized by the Minister.

(3) The Director may delegate to any member of staff of the Department any of his functions under this Act subject to such conditions as the Director may specify.

[Section 3AA inserted by 2025 : 4 s. 2 effective 23 June 2025; Section 3AA subsection (3) inserted by 2026 : 36 s. 2 effective 1 November 2026]

Employment and Labour Code

3A The provisions of this Act together with those of the Trade Union and Labour Relations (Consolidation) Act 2021 (including any subordinate legislation made thereunder), shall constitute the Employment and Labour Code of Bermuda.

[Section 3A inserted by 2021 : 7 s. 99 & Sch. 7 effective 1 June 2021]

Meaning of "employee"

4 (1) For the purposes of this Act, "employee" means—

(a) a person who is employed wholly or mainly in Bermuda for remuneration under a contract of employment;

(b) any other person who performs services wholly or mainly in Bermuda for another person for remuneration on such terms and conditions that his

relationship with that person more closely resembles that of an employee than an independent contractor;

but does not include a person who falls within subsection (2).

(2) The following persons are not employees for the purposes of this Act—

(a) a person who is under the age of sixteen years;

(b) a casual worker;

(c) a part-time employee;

(d) a temporary employee;

(e) a student;

(f) a voluntary worker;

(g) such other class of persons as may be prescribed by regulations.

(2A) For the purposes of determining under subsection (1)(b) whether a relationship more closely resembles that of an employee than an independent contractor, the Director may—

(a) issue guidance and may, from time to time, revise such guidance;

(b) publish such guidance so issued or revised in such manner as he considers appropriate.

(3) For the purposes of subsection (2)—

"casual worker" means a person who works from time to time for remuneration for one or more employers, but who does not seek the rights and obligations of a contract of employment;

"part-time employee" means a person who is employed by an employer for less than fifteen hours a week;

"student" means a person who is, by virtue of section 1(3) of the Contributory Pensions Act 1970 (students employed in vacation etc), deemed not to be an employed person for the purposes of that Act;

"temporary employee" means a person who is employed for no more than three months in any year by an employer;

"voluntary worker" means a person who works on a voluntary basis for a charity or other philanthropic organisation.

(4) Regulations made pursuant to subsection (2)(g) shall be subject to the negative resolution procedure.

(5) Section 6 of the Statutory Instruments Act 1977 shall not apply to any guidance issued or revised under this section.

[Section 4 subsections (1) and (4) amended by 2006:12 s.3 effective 8 June 2006; Section 4 subsections (2A) and (5) inserted by 2021 : 2 s. 3 effective 1 June 2021; Section 4 subsection (2A) amended by 2025 : 4 s. 3 effective 23 June 2025]

Meaning of "continuous employment"

5 (1) An employee's period of continuous employment shall begin from and include the first day on which he begins to work for an employer (including any probationary period) and shall continue up to and including the date of termination.

(2) It shall be presumed, unless the contrary is shown, that the employment of an employee is continuous.

(3) An employee's period of continuous employment shall be deemed to continue during any period of absence from work—

(a) due to his taking leave, whether annual leave, maternity leave, paternity leave, parental leave, sick leave or any other leave in accordance with this Act or his contract, provided that any period of sick leave does not extend beyond four weeks;

(b) due to his suspension, with or without pay, in accordance with this Act or his contract;

(c) due to the termination of his contract, if he is reinstated or re-engaged under Part V;

(d) due to an inability to work on account of an occupational disease or accident resulting from that employment;

(da) due to lay off;

(e) due to a lock-out;

(f) by agreement with his employer.

(4) Periods of short term contracts granted in succession with less than thirty day intervals shall count for the purpose of calculating the period of continuous employment.

(5) Acceptance of severance pay by an employee shall terminate his period of continuous employment.

(6) Where a business is sold, transferred or otherwise disposed of, the period of employment with the former employer shall be deemed to constitute a single period of employment with the successor employer, if the employment was not terminated and severance pay was not paid pursuant to this Act.

[Section 5 subsection (3)(a) amended by 2019 : 39 s. 5 effective 1 January 2020; Section 5 subsection (3)(da) inserted by 2021 : 2 s. 4 effective 1 June 2021; Section 5 subsection (3)(a) amended by 2026 : 3 s. 2 effective 1 June 2026]

PART II

CONDITIONS OF EMPLOYMENT

Statement of employment

6 (1) Not later than one week after an employee begins employment with an employer, the employer shall give to the employee a written statement of employment which shall be signed and dated by the employer and employee.

(2) The statement shall contain particulars of the following—

(a) the full names of the employer and employee;

(b) the date when the employment began;

(c) the job title and brief description of the work for which the employee is employed;

(d) the place or places of work;

(e) the gross wage or the method of calculating it, and the intervals at which it is to be paid;

(f) the normal days and hours of employment or, where the job involves shift work, the normal pattern of the shifts;

(g) the entitlement to holidays, including public holidays, and paid vacation leave;

(ga) the entitlement to rest days and meal breaks;

(gb) the entitlement to overtime pay or hours in lieu and the rate of overtime pay or the method of calculating it;

(h) the terms relating to incapacity for work due to sickness or injury, including provision for sick leave;

(i) the length of notice which the employee is obliged to give, and entitled to receive, to terminate his contract of employment;

(j) details of any pension provided, whether under the National Pension Scheme (Occupational Pensions) Act 1998 or otherwise;

(k) any disciplinary and grievance procedures applicable;

(l) where the employment is not expected to be permanent, the period for which it is expected to continue or, if it is for a fixed term, the date on which it is to end;

(m) any probationary period;

(n) any dress code;

(o) the existence of any collective agreement which directly affects the terms and conditions of the employment;

(p) where the employment is pursuant to a work permit, the date of issue and expiry of that work permit, any employment-related conditions (including any requirement to work at more than one location) and any immigration restrictions set out in the work permit;

(q) the existence of the employer's written policy against bullying and sexual harassment in the workplace and how the policy can be accessed;

(qa) where required under section 10J, the existence of the employer's written policy in relation to the management, protection and fair distribution of employee tips and other gratuities within the workplace and how the policy can be accessed;

(r) such other matters as may be prescribed,

and may contain other details relating to the terms and conditions of employment.

(3) Where there are no particulars to be entered under paragraphs (k) to (o) of subsection (2), that fact shall be noted in the statement.

(4) The statement may refer the employee for particulars of the matters mentioned in (g) to (k), (n) and (q) of subsection (2) to—

(a) the provisions of any collective agreement which directly affects the terms and conditions of his employment; or

(b) to any other relevant document,

which is copied to the employee.

(4A) Where by virtue of section 9(2) there is no payment of overtime or hours in lieu, that fact shall be noted in the statement.

(5) Where—

(a) additional matters to be included in the statement are prescribed under paragraph (r) of subsection (2); or

(b) the employer and employee agree to change any of the terms of employment particularised in the statement;

the employer shall, as soon as practicable and no later than one month after the matters are prescribed or the change agreed, give to the employee an amendment to the statement containing particulars of the change or a revised statement which shall (in either case) be signed and dated by the employer and employee.

(6) This section applies, with the necessary modifications, to—

(a) persons falling within section 4(2) (students, casual, part-time and temporary employees, voluntary workers, etc); and

(b) such other persons as may be prescribed by regulations,

who are not employees for the purposes of this Act; but nothing in this subsection shall be taken to entitle such persons to any of the matters listed in subsection (2) or to any entitlements under this Act which are not applicable to persons who are not employees.

(7) An employer who contravenes this section shall be liable to a civil penalty as may be imposed by the Director or the Tribunal.

[Section 6 subsection (2)(g) amended by 2019 : 39 s. 5 effective 1 January 2020; Section 6 amended by 2021 : 2 s. 5 effective 1 June 2021; Section 6 subsections (6) and (7) inserted by 2021 : 7 s. 99 & Sch. 7 effective 1 June 2021; Section 6 subsection (2)(qa) inserted by 2023 : 28 s. 3 effective 1 March 2024; Section 6 subsection (7) amended by 2025 : 4 s. 3 effective 23 June 2025]

Itemised pay statement

7 (1) An employer shall give to each of his employees a written itemised pay statement, at or before the payment of any wages.

(2) The statement shall contain particulars of—

(a) the period of time or the work for which the wages are being paid;

(b) the rate of wages to which the employee is entitled and the number of hours worked, where the number of hours worked varies from week to week;

(c) the gross amount of wages to which the employee is entitled;

(d) the amount and purpose of any deduction made from that amount;

(e) any bonus, gratuity, living allowance or other payment to which the employee is entitled; and

(f) the net amount of money being paid to the employee.

Unauthorised deductions

8 (1) An employer shall not make a deduction from an employee's wages unless—

(a) the deduction is required or authorised to be made by virtue of this or any other enactment, a collective agreement or a provision of the employee's contract, or by order of any court or tribunal; or

(b) the employee has previously signified in writing his agreement or consent to the making of the deduction.

(2) Where the total amount of wages paid on any occasion by an employer to an employee is less than the total amount payable on that occasion, the amount of the deficiency shall be treated as a deduction for the purposes of subsection (1).

(3) Subsection (1) does not apply—

(a) where the purpose of the deduction is the reimbursement of the employer in respect of an overpayment of wages or an overpayment in respect of expenses incurred by the employee in carrying out his employment;

(b) to a deduction made in consequence of any disciplinary proceedings which were held by virtue of this or any other enactment;

(c) to a deduction made in consequence of an employee's participation in a strike or irregular industrial action short of a strike that results in a withdrawal of labour.

Overtime

9 (1) Any hours worked by an employee in excess of forty hours a week shall either—

(a) be paid at the overtime rate; or

(b) be paid at the employee's normal hourly wage and compensated by giving him the same number of hours time off in lieu.

(2) Subsection (1) shall not apply—

(a) where the employee is a professional or managerial employee whose statement of employment indicates that his annual salary has been calculated to reflect the fact that his regular duties are likely to require him to work, on occasion, more than forty hours a week; or

(b) in any other case where the employer and employee agree in writing that it shall not apply.

(3) For the purposes of this section, the Minister may, after consulting the Labour Advisory Council, modify the effect of subsection (1) by prescribing a different number of hours for specified types of employer or employee, and in doing so shall take into account such matters as he considers relevant, including—

(a) the seasonal nature of the work; and

(b) the effect of the different number of hours on the health and safety of employees and the public.

(4) Regulations made pursuant to subsection (3) shall be subject to the affirmative resolution procedure.

[Section 9 subsection (2)(b) amended by 2021 : 2 s. 6 effective 1 June 2021]

Rest days

10 (1) An employer shall provide each employee with a rest period of at least twenty-four consecutive hours in each week.

(2) Subsection (1) shall not apply to—

(a) police officers;

(b) prison officers;

(c) fire officers;

(d) medical practitioners and nurses employed at the hospitals, as defined by the Bermuda Hospitals Board Act 1970; and

(e) such other classes of employee as may be prescribed for the purposes of this section.

Meal breaks

10A An employer shall not require an employee—

(a) to work for more than five hours continuously without a meal break of at least 30 minutes;

(b) to perform any work during his meal break, without the consent of that employee.

[Section 10A inserted by 2021 : 2 s. 7 effective 1 June 2021]

Employer to provide policy statement against bullying and sexual harassment

10B (1) In this section—

"bullying" means the habitual display of offensive behaviour intended to harm, intimidate, humiliate, undermine or coerce a person or group of employees and includes, but is not limited to, ostracising, ridiculing, shouting at, threatening, and verbally abusing a person or group of employees; and

"sexual harassment" includes any one or more incidences of any of the following–

(a) the use of sexually suggestive words, comments, jokes, gestures or actions that annoy, alarm or abuse a person;

(b) the initiation of uninvited physical contact with a person;

(c) the initiation of unwelcome sexual advances or the requests of sexual favours from a person;

(d) asking a person intrusive questions that are of a sexual nature pertaining to that person's private life;

(e) transmitting sexually offensive writing or material of any kind;

(f) making sexually offensive telephone or internet calls or messages to a person; or

(g) any other sexually suggestive conduct in circumstances where a reasonable person would consider the conduct to be offensive.

(2) An employer shall ensure—

(a) that there is a clear written policy statement against bullying and sexual harassment within the place of work for which that employer has responsibility;

(b) that the policy statement is presented to each employee on the commencement of his employment with that employer; and

(c) that procedures are put in place to assist every employee in understanding the policy statement.

(3) The policy statement referred to in subsection (2) must contain the terms set out in Schedule 1 and an employer may consult with employees, trade unions or other representatives (if any) in the establishment of the policy statement.

(4) The Minister may by order amend Schedule 1.

(5) Section 6 of the Statutory Instruments Act 1977 shall not apply to an order under subsection (4).

(6) Any employer who contravenes this section shall be liable to a civil penalty as may be imposed by the Director or the Tribunal.

[Section 10B inserted by 2021 : 2 s. 7 effective 1 June 2021; Section 10B subsection (6) inserted by 2021 : 7 s. 99 & Sch. 7 effective 1 June 2021; Section 10B subsection (6) amended by 2025 : 4 s. 3 effective 23 June 2025]

PART IIA

PROTECTION OF EMPLOYEE TIPS AND OTHER GRATUITIES

Application of Part

10C (1) In this part—

"other gratuities" means—

(a) a payment in return for services, voluntarily made to an employer by a customer, in excess of any basic fee or standard charge imposed;

(b) a payment of a service charge or similar charge imposed, by an employer on a customer for services, in excess of the basic fee;

"payment arrangement" means an arrangement between an employer and another person under which other gratuities are to be received by that other person instead of the employer;

"tip" means a payment in return for services, voluntarily made to or left for an employee by a customer of that employee's employer, in excess of any basic fee or standard charge imposed;

"tip pool" means the voluntary pooling together of tips by some or all of an employer's employees for the purposes of redistribution among some or all of the employer's employees, where such pooling and redistribution is managed and controlled by the employees so participating.

(2) Notwithstanding section 4, an "employee" under this Part includes a worker to whom the Trade Union and Labour Relations (Consolidation) Act 2021 applies; and such worker shall for the purposes of this Part and sections 36, 37 and 39 of this Act be

treated as if he were an employee under this Act, and section 2(3) of this Act applies accordingly.

[Section 10C inserted by 2023 : 28 s. 4 effective 1 March 2024]

Withholding of tips or other gratuities prohibited

10D (1) An employer shall not withhold tips or other gratuities from an employee, make a deduction from an employee's tips or other gratuities, or cause an employee to give his tips or other gratuities to the employer except where so authorised or required by—

(a) this Act or other enactment; or

(b) order of any court or tribunal.

(2) An employer who contravenes subsection (1) shall be liable to a civil penalty as may be imposed by the Tribunal

(3) For the purposes of an order under section 39, subsection (1)(b) of that section shall be read as if the reference to wages included tips and other gratuities.

(4) This section applies without prejudice to any order made under section 11 of the Employment (Wage Commission) Act 2019 or any enforcement measures taken under the Employment (Minimum Hourly Wage Entitlement) Act 2022 in respect of such order.

[Section 10D inserted by 2023 : 28 s. 4 effective 1 March 2024]

Pooling and redistribution of other gratuities for employees

10E (1) An employer may withhold or make a deduction from other gratuities or cause an employee to give them to the employer if the employer collects and redistributes other gratuities among some or all of the employer's employees.

(2) An employer may make a payment arrangement for the collection and redistribution of other gratuities, among some or all of the employer's employees, to be carried out on behalf of the employer or by an independent third party.

(3) For the avoidance of doubt, nothing in this section permits an employer to—

(a) withhold or make a deduction from any tip;

(b) cause an employee to give any tip to the employer; or

(c) collect or make any arrangement for the collection or redistribution of tips.

[Section 10E inserted by 2023 : 28 s. 4 effective 1 March 2024]

Employer to ensure timely payment of other gratuities

10F (1) Notwithstanding any payment arrangement under section 10E(2), where an amount of other gratuities is to be redistributed to an employee, that amount is payable to the employee by the employer as follows—

(a) in the case of an employee who is paid wages on a monthly basis, not later than 30 days following the date on which the other gratuities were paid by the customer; or

(b) in the case of an employee who is paid wages on less than an a monthly basis, not later than 14 days following the date on which the other gratuities were paid by the customer.

(2) For the avoidance of doubt, nothing in this section shall derogate from any pay reference period set out in an order made under section 11 of the Employment (Wage Commission) Act 2019 and within which payments constituting other gratuities are to be made to an employee to whom that Act applies.

[Section 10F inserted by 2023 : 28 s. 4 effective 1 March 2024]

Employer etc. not to share in tips or other gratuities

10G (1) Except as provided in subsections (2) and (3), no employer or, in the case of a body corporate, no director or shareholder of an employer may share in tips, any tip pool or in other gratuities redistributed under section 10E.

(2) An employer who is a sole proprietor or a partner in a partnership may share in tips, any tip pool or in other gratuities redistributed under section 10E if he regularly performs, to a substantial degree, the same work performed by—

(a) some or all of the employees who share in tips, any tip pool, or in such redistribution of other gratuities; or

(b) employees of other employers in the same industry who commonly receive or share tips or other gratuities.

(3) A director or shareholder of an employer may share in tips, any tip pool or in other gratuities redistributed under section 10E if he regularly performs to a substantial degree the same work performed by—

(a) some or all of the employees who share in tips, any tip pool, or in such redistribution of other gratuities; or

(b) employees of other employers in the same industry who commonly receive or share tips or other gratuities.

(4) For the purposes of determining whether work is regularly performed to a substantial degree regard may be given to any guidance as may be so issued, in relation to this section, by the Minister under section 10K.

[Section 10G inserted by 2023 : 28 s. 4 effective 1 March 2024]

Duty of employer to keep records

10H (1) Where an employer's employees commonly receive other gratuities, the employer shall, with respect to the place of work for which he has responsibility—

(a) create a record of how all other gratuities have been dealt with pursuant to this Part; and

(b) maintain that record for a period of three years beginning with the date on which all such other gratuities were paid.

(2) The record under subsection (1) shall include the amount of other gratuities—

(a) paid to the employer in respect of the place of work; and

(b) redistributed pursuant to section 10E.

(3) An employer who contravenes this section shall be liable to a civil penalty as may be imposed by the Director or the Tribunal.

[Section 10H inserted by 2023 : 28 s. 4 effective 1 March 2024; Section 10H subsection (3) amended by 2025 : 4 s. 3 effective 23 June 2025]

Employee's right of access to records

10I (1) An employee to whom section 10H applies shall be entitled to request in writing to his employer, in relation to the employee's place of work, the following information for the period (subject to subsection 3) specified in the request—

(a) the amount of other gratuities paid to the employer at that place of work; and

(b) the amount of those other gratuities that the employer—

(i) redistributed to the employee pursuant to section 10E;

(ii) redistributed to employees pursuant to section 10E and such other persons (as the case may be) pursuant to section 10E as read with section 10G.

(2) Where an employer to whom section 10H applies receives a request pursuant to subsection (1), the employer shall, within a period not exceeding 30 days from the date the request is made, provide the employee with the requested records in respect of the period specified in the request.

(3) An employee may make a request under subsection (1) in respect of a period only if—

(a) the period is a period of one month or two consecutive months;

(b) the period begins no more than three years before the date of the request;

(c) the period ends before the date of the request; and

(d) the employee worked for the employer at any time during each month that forms part of the request.

(4) An employee may not make more than one request for records under this section in any three month period.

[Section 10I inserted by 2023 : 28 s. 4 effective 1 March 2024]

Employer to provide policy statement in relation to tips or other gratuities

10J (1) An employer, whose employees commonly receive tips or other gratuities or whose business is in an industry or sector within which employees commonly receive tips or other gratuities, shall ensure, with respect to the place of work for which that employer has responsibility, that—

(a) there is a clear written policy statement providing for how tips and other gratuities are to be managed, protected and distributed fairly in accordance with this Part;

(b) the policy statement referred to in paragraph (a)—

(i) is made available to all employees of the employer;

(ii) is presented to each new employee on the commencement of his employment with the employer; and

(iii) where the employer subsequently amends that policy statement, the amended version is made available to all employees;

(c) procedures are put in place to assist every employee in understanding the policy statement.

(2) The policy statement referred to in subsection (1) must contain the terms set out in Schedule 1A and an employer may consult with employees, trade unions or other representatives (if any) in the establishment of the policy statement.

(3) The Minister may by order amend Schedule 1A.

(4) Section 6 of the Statutory Instruments Act 1977 shall not apply to an order under subsection (3).

(5) Any employer who contravenes—

(a) subsection (1)(a) shall be liable to a civil penalty as may be imposed by the Director or the Tribunal;

(b) subsection (1)(b) shall be liable to a civil penalty as may be imposed by the Tribunal only.

[Section 10J inserted by 2023 : 28 s. 4 effective 1 March 2024; Section 10J subsection (5) amended by 2025 : 4 s. 3 effective 23 June 2025]

Minister may issue guidance

10K (1) For the purposes of promoting fairness and transparency in relation to the management, protection, and distribution of tips and other gratuities in accordance with this Part, the Minister may—

(a) issue guidance and may, from time to time, revise such guidance;

(b) publish such guidance so issued or revised in such manner as he considers appropriate.

(2) The Minister may carry out such consultation as he considers appropriate—

(a) before issuing any guidance under this section; or

(b) unless he considers that it is unnecessary to do so before revising any guidance under this section.

(3) Section 6 of the Statutory Instruments Act 1977 shall not apply to any guidance issued or revised under this section.

[Section 10K inserted by 2023 : 28 s. 4 effective 1 March 2024]

PART III

TIME OFF

Public holidays

11 (1) In this section—

"public holiday" has the meaning given in the Public Holidays Act 1947, but does not include any Sunday which would not otherwise be a public holiday by virtue of that Act; and

"with pay" means pay at the employee's regular rate of wages.

(2) Subject to this section, an employer shall grant every employee a holiday with pay on each public holiday falling within any period of employment.

(3) Where a public holiday falls on an employee's rest day, the employer shall grant him a holiday with pay on—

(a) the working day immediately following the public holiday; or

(b) such other day as may be agreed by the employer and employee.

(4) Where an employee is required to work on a public holiday, the employer shall—

(a) pay that employee at a rate at least equal to the overtime rate; or

(b) pay that employee at his regular rate of wages and grant him a holiday with pay on such other day as may be agreed by the employer and employee.

(5) An employer shall not be obliged to pay an employee in respect of a public holiday if the employee does not work on his working day immediately preceding and his working day immediately following the public holiday, unless he was on annual leave or sick leave on such a day.

(6) This section shall not apply where the employer and employee agree in writing otherwise.

[Section 11 subsections (1) and (6) amended by 2021 : 2 s. 8 effective 1 June 2021]

Vacation leave

12 (1) An employee shall be entitled to a period of two weeks annual vacation leave after he has completed—

(a) the first year of continuous employment; and

(b) each subsequent year of continuous employment,

but such periods of vacation are not cumulative.

(1A) Without prejudice to subsection (1), an employee who has completed the first six months of continuous employment shall be entitled to a period of one week's vacation leave, but where such leave (or any part thereof) is taken prior to the completion of the first year of continuous employment, the leave so taken shall be deducted from the period of annual vacation leave to which the employee is entitled pursuant to subsection (1)(a).

(2) An employer shall, where practicable, grant an employee's request to take his vacation leave at a particular time, subject to the reasonable requirements of the business and to requests for vacation by other employees.

(3) An employee shall be entitled to a week's wages for each week of his vacation which shall, where so requested by the employee and where practicable, be paid in advance of the vacation.

[Section 12 amended by 2019 : 39 s. 2 effective 1 January 2020]

Public duties

13 (1) Subject to the requirements of the business, an employer shall, where practicable, permit an employee to take such time off during his working hours as is reasonable in the circumstances to attend a meeting of any of the following bodies of which he is a member, or to do anything approved by the body for the purpose of discharging its functions—

(a) any Government Board;

(b) the Royal Bermuda Regiment;

(c) the Reserve Police;

(d) the Senate or House of Assembly;

(e) such other body as may be prescribed.

(2) An employer shall permit an employee who has been summoned for jury service or summoned to attend court as a witness to take such time off during his working hours as is necessary to discharge his duty.

(3) An employer shall permit an employee to take such time off during his working hours as is necessary in order for him to vote in a parliamentary election, within the meaning of the Parliamentary Election Act 1978.

(4) Subject to section 46 of the Defence Act 1965, an employee who has completed at least one year of continuous employment is entitled to be paid at his normal hourly wage for time taken off under this section; but where the employee receives any

payment in connection with his duties, the employer shall be entitled to deduct the equivalent amount from any wages payable by virtue of this subsection.

[Section 13 subsection (4) amended by 2006:12 s.4 effective 8 June 2006; Section 13 subsection (1)(b) amended by 2015 : 48 s. 25 effective 1 November 2017]

Sick leave

14 (1) An employee who has completed at least one year of continuous employment shall be entitled to be paid at his normal hourly wage in respect of eight days per year when he is unable to work due to sickness or injury.

(2) An employee shall not be entitled to be paid in respect of a period of two or more consecutive days unless, where his employer so requests, the employee provides the employer with a certificate from a registered medical practitioner certifying that the practitioner has examined the employee and determined that he is unable to work due to sickness or injury.

Ante-natal care

15 (1) An employee who is pregnant and who has, on the advice of a registered medical practitioner, made an appointment to receive ante-natal care, is entitled to take time off during her working hours to attend the appointment.

(2) An employee is not entitled to take time off under this section unless, where her employer so requests, she produces a certificate from a registered medical practitioner confirming that she is pregnant, and an appointment card or some other document showing that the appointment has been made.

(3) An employee is entitled to be paid at her normal hourly wage for time taken off under this section.

[Section 15 subsection (3) amended by 2021 : 2 s. 9 effective 1 June 2021]

Maternity leave

16 (1) An employee shall be entitled to maternity leave if she—

(a) provides her employer with a certificate of a registered medical practitioner certifying that she is pregnant and specifying the estimated date of the birth; and

(b) submits to the employer an application for maternity leave at least four weeks before the day she specifies as the day on which she intends to commence her leave.

(2) The period of maternity leave shall be—

(a) in relation to an employee who has completed at least one year of continuous employment or will have done so by the expected date of delivery, a period of 13 weeks paid leave;

(b) in any other case, a period of 13 weeks unpaid leave.

(3) An employee who has taken a period of maternity leave shall notify her employer at least two weeks in advance of the date on which she intends to resume work, and she shall be entitled to resume work—

(a) in the position she occupied at the time the leave commenced; or

(b) where that position no longer exists, in a comparable position with not less than the same wages and benefits she was receiving before the maternity leave,

and with no loss of seniority.

(4) An employee who fails to notify her employer in accordance with subsection (3) shall be taken to have terminated her employment.

[Section 16 subsection (2) amended by 2019 : 39 s. 3 effective 1 January 2020]

Paternity leave

16A (1) An employee shall be entitled to be absent from work for the purpose of caring for a child or supporting the child's mother (hereinafter referred to as "paternity leave") if he—

(a) is the father of the child; and

(b) submits to his employer—

(i) a certificate of a registered medical practitioner certifying that the child's mother is pregnant and the estimated date of the child's birth; and

(ii) an application for paternity leave at least four weeks before the day he specifies as the day on which he intends to commence his leave.

(2) The period of paternity leave shall be—

(a) in relation to an employee who has completed at least one year of continuous employment or will have done so by the expected date of birth of the child, a period of five consecutive days paid leave;

(b) in any other case a period of five consecutive days unpaid leave.

(3) Paternity leave may only be taken once during a 12 month period beginning with the date on which the child is born and such leave shall be taken within a period not exceeding 14 weeks from that date.

[Section 16A inserted by 2019 : 39 s. 4 effective 1 January 2020]

Parental leave

16B (1) Subject to subsections (3), (4) and (5) an employee shall be entitled to leave from his or her employment, for the purposes of caring for a child (hereinafter referred to as "parental leave") upon the expected placement or placement of a child within that employee's household by way of adoption or legal guardianship.

(2) The parental leave entitlement in respect of—

(a) the mother named in the court order for adoption or legal guardianship—

(i) who has completed at least one year of continuous employment on the date of expected placement or placement of the child, shall be thirteen weeks paid leave;

(ii) who has not completed at least one year of continuous employment on the date of expected placement or placement of the child, shall be thirteen weeks unpaid leave;

(b) the father named in the court order for adoption or legal guardianship—

(i) who has completed at least one year of continuous employment on the date of expected placement or placement of the child, shall be five consecutive days paid leave;

(ii) who has not completed at least one year of continuous employment on the date of expected placement or placement of the child, shall be five consecutive days unpaid leave.

(3) Parental leave must be taken within fourteen weeks of the date of the making of a court order for adoption or legal guardianship.

(4) An application for parental leave must—

(a) be submitted to an employer no later than four weeks before the date an employee specifies as the date on which the employee intends to commence parental leave;

(b) state the dates of commencement and conclusion of parental leave;

(c) include a copy of the court order for adoption or legal guardianship.

(5) An employee shall be entitled to parental leave in respect of a child during a 12-month period commencing on the date of the making of a court order for adoption or legal guardianship.

(6) An employee who has taken parental leave shall be entitled to resume work—

(a) in the position the employee occupied at the date of commencement of parental leave; or

(b) where the position previously held no longer exists, in a position comparable to the position held at the date of commencement of parental leave with not less than the same wages, benefits and level of seniority.

(7) Notwithstanding subsection (4)(b), an employee who has taken a period of parental leave under subsection (2)(a) shall notify her employer at least two weeks in advance of the date on which she intends to resume work.

(8) An employee who fails to notify her employer in accordance with subsection (7) shall be taken to have terminated her employment.

(9) In this section "child" means a child under the age of twenty-four months at the date of the making of a court order in favour of an employee for adoption or legal guardianship.

[Section 16B inserted by 2026 : 3 s. 3 effective 1 June 2026]

Bereavement leave

17 (1) In this section, any reference to a person's immediate family shall be taken to be a reference to—

(a) his spouse, child, parent, sibling, grandparent, great-grandparent, grandchild or great-grandchild; or

(b) any other person with whom he was sharing a household (other than by reason only of a landlord-tenant or employer-employee relationship).

(2) An employer shall grant to an employee a leave of absence of up to—

(a) three consecutive days on the death of a member of the employee's immediate family; or

(b) five consecutive days in order to attend the funeral of a member of the employee's immediate family overseas.

(3) An employee shall advise the employer as soon as possible after the death in question of his intention to take bereavement leave under this section and of the anticipated commencement date and duration of the leave.

(4) An employer shall not be obliged to pay an employee in respect of a period of bereavement leave.

[Section 17 subsection (1)(a) amended by 2021 : 2 s. 10 effective 1 June 2021]

PART IV

TERMINATION OF EMPLOYMENT

GENERAL PROVISIONS

Termination of employment

18 (1) An employee's contract of employment shall not be terminated by an employer unless there is a valid reason for termination connected with—

(a) the ability, performance or conduct of the employee; or

(b) the operational requirements of the employer's business.

(1A) An employee's contract of employment shall not be terminated by an employer—

(a) pursuant to subsection (1)(a), unless the notice requirements under section 20 and the provisions under section 26 or 27 have been complied with;

(b) pursuant to subsection (1)(b), unless the notice requirement under section 20 has been complied with.

(2) Subsection (1) does not apply where an employee is employed—

(a) for a fixed period of time which has expired;

(b) for the duration of a project which is complete.

(3) An employee's contract of employment may be terminated by the employee for any reason in accordance with the notice requirements of section 20.

(4) Notwithstanding subsections (1) and (1A), an employee's contract of employment may be terminated by the employer without notice, for serious misconduct, under section 25.

(5) Where an employee's contract of employment is terminated, his employer shall pay any wages and other remuneration and benefits which accrued at the date of termination and such payment shall be made within seven days of termination or at the next interval at which the employee would have been paid had the contract of employment not been terminated, which ever period is the longer.

[Section 18 subsections (1) and (1A) substituted for (1), and subsection (4) inserted, by 2006:12 s.5 effective 8 June 2006; Section 18 subsection (1A) repealed and replaced, and subsection (5) inserted by 2021 : 2 s. 11 effective 1 June 2021]

Probationary period

19 (1) Subject to this section, a new or promoted employee may be required to serve a probationary period of not more than six months commencing from the date of his employment or promotion.

(2) An employee who is serving a probationary period shall be entitled to receive from his employer a review of the employee's performance on or before the completion of one half of the probationary period.

(3) An employer may, before the expiration of the probationary period referred to in subsection (1) and after conducting a review under subsection (2), extend an employee's probationary period for a period not exceeding three months.

(4) During the probationary period (including any period of extension under subsection (3)), a contract of employment may be terminated without notice—

(a) by the employer for any reason relating to the employee's performance review, performance, conduct, or operational requirements of the employer's business; or

(b) by the employee for any reason.

(5) In the application of this section to an employee who during a period of continuous employment is promoted (and without prejudice to section 27), subsection (4) shall not apply.

(6) The six-month and three-month periods referred to in subsections (1) and (3), respectively, shall not apply to—

(a) customs officers;

(b) fire officers;

(c) police officers;

(d) prison officers; and

(e) such other classes of employee as may be prescribed for the purposes of this section.

[Section 19 repealed and replaced by 2021 : 2 s. 12 effective 1 June 2021]

Notice periods

20 (1) A contract of employment may be terminated in accordance with this Part by the employer on giving the following minimum periods of notice in writing ("the statutory notice periods")—

(a) one week, where the employee is paid each week;

(b) two weeks, where the employee is paid every two weeks;

(c) one month, in any other case.

(2) The statutory notice periods shall not apply—

(a) where the employer is entitled to summarily dismiss an employee under this Act;

(b) where the employee has reached the age at which he is required to retire, pursuant to his contract or otherwise;

(c) where periods of notice are regulated by contract, by collective agreement or otherwise by agreement between the employer and employee;

(d) where the giving of longer periods of notice is customary given the nature and functions of the work performed by the employee.

(3) A notice of termination shall not be given by an employer during an employee's absence—

(a) on vacation leave, maternity leave, paternity leave, parental leave or bereavement leave;

(b) on sick leave, unless the period of sick leave extends beyond six weeks;

(c) on any other leave that an employee is entitled to under any agreement or contract of employment; or

(d) while off duty.

(4) An employee shall give his employer the statutory notice period to terminate his contract of employment unless—

(a) the employer waives his right to notice;

(b) a longer notice period applies by contract, by collective agreement or otherwise by agreement between the employer and employee; or

(c) the giving of longer periods of notice is customary given the nature and functions of the work performed by the employee.

[Section 20 subsection (3)(a) amended by 2019 : 39 s. 5 effective 1 January 2020; Section 20 subsection (3)(b) amended by 2021 : 2 s. 13 effective 1 June 2021; Section 20 subsection (3)(a) amended by 2026 : 3 s. 4 effective 1 June 2026; Section 20 subsection (3) amended by 2026 : 36 s. 3 effective 1 November 2026]

Payment in lieu of notice

21 (1) In lieu of providing notice of termination of employment in accordance with section 20, an employer may, at his discretion, pay an employee a sum equal to the wages and other remuneration and confer on him all other benefits that would have been due up to the expiry of any required period of notice.

(2) Where an employee terminates his contract of employment without notice in circumstances in which notice was required, and his employer has not waived the right to notice, the employee shall be entitled only to such wages and other remuneration which accrued at the date of termination.

(3) For the avoidance of doubt any payment made to an employee pursuant to this section shall be made in accordance with section 18(5).

[Section 21 subsection (3) inserted by 2021 : 2 s. 14 effective 1 June 2021]

Certificate of termination

22 On the termination of a contract of employment, an employer, if so requested by his employee, shall provide the employee with a certificate of termination indicating—

(a) the name and address of the employer;

(b) the nature of the employer's business;

(c) the length of the employee's period of continuous employment;

(d) the capacity in which the employee was employed;

(e) the wages and other remuneration payable at the date of termination of the contract;

(f) where the employee so requests, the reason for the termination.

Severance allowance

23 (1) Subject to subsection (7), on termination of his employment, an employee who has completed at least one year of continuous employment shall be entitled to be paid severance allowance by his employer.

(2) For the purposes of subsection (1), the amount of severance allowance payable to an employee shall be no less than the equivalent of—

(a) two weeks wages, for each completed year of continuous employment up to the first ten years;

(b) three weeks wages for each completed year of continuous employment thereafter;

up to a maximum of 32 weeks wages.

(3) For the purposes of subsection (1), termination of employment means termination by reason of—

(a) redundancy;

(b) the winding up or insolvency of an employer;

(c) the death of an employer;

(d) the death of an employee from an occupational disease or accident resulting from that employment.

(4) Severance allowance is not payable where an employee—

(a) unreasonably refuses to accept an offer of re-employment by the employer at the same place of work under no less favourable terms than he was employed immediately prior to the termination;

(b) is employed by a partnership and his employment ceases on the dissolution of the partnership and—

(i) he enters into employment with one or more of the partners immediately after the dissolution; under no less favourable terms than he was employed immediately prior to the dissolution, or

(ii) he unreasonably refuses to accept an offer of re-employment by any of the partners under no less favourable terms than he was employed immediately prior to the termination;

(c) is employed by an employer who dies and—

(i) he enters into employment with the personal representative, widow, widower or any heir of the deceased employer immediately after the death, or

(ii) he unreasonably refuses to accept an offer of re-employment by such a person under no less favourable terms than he was employed immediately prior to the death.

(5) Where the contract of employment is terminated, pursuant to subsection (3) (d), by reason of the death of the employee—

(a) the severance allowance shall be paid to such person as the employee may have nominated in writing or, in the absence of such a person, to his estate representative; and

(b) the employer shall be entitled to set off any life insurance which has been provided to the employee under his contract of employment.

(6) The payment of severance allowance under this section shall not affect an employee's entitlement—

(a) to payment in lieu of notice under section 21; or

(b) to compensation under Part V.

(7) The Minister, after consultation with the Labour Advisory Council, by regulations subject to the affirmative resolution procedure, may exempt specified types of employment from the payment of severance allowance where the Minister is satisfied on the application of an industry that there are exceptional circumstances to justify an exemption.

[Section 23 subsection (1) amended, and (7) inserted, by 2006:12 s.6 effective 8 June 2006; Section 23 amended by 2021 : 2 s. 15 effective 1 June 2021; Section 23 subsection (2) amended by 2024 : 37 s. 2 effective 18 December 2024]

Misconduct etc

Disciplinary action

24 (1) Subject to subsection (1A) an employer shall be entitled to take disciplinary action, including giving an employee a written warning or suspending an employee, when it is reasonable to do so in all the circumstances.

(1A) Disciplinary action under subsection (1) shall not be taken while an employee is—

(a) on vacation leave, maternity leave, paternity leave, parental leave or bereavement leave;

(b) on sick leave, unless the period of sick leave extends beyond six weeks;

(c) on any other leave that an employee is entitled to under any agreement or contract of employment; or

(d) off duty.

(1B) Notwithstanding subsection (1A) an employer may take immediate disciplinary action against an employee in the case of a documented risk that is urgent in nature including—

(a) fraud;

(b) theft;

(c) violence or threats of violence;

(d) harassment;

(e) intimidation;

(f) destruction of company property;

(g) misuse of confidential information;

(h) cyber security risk;

(i) risk related to workplace safety;

(j) risk related to vulnerable persons within the workplace.

(1C) An employer taking immediate disciplinary action in circumstances specified under subsection (1B) shall, in writing, provide reasons for the disciplinary action taken to—

(a) the employee;

(b) the Department of Labour; and

(c) the employee's trade union or other representative (if any),

within seven days from the date such action is taken.

(2) No employer may impose a fine or other monetary penalty on an employee except in cases where a requirement of restitution would be appropriate and where agreed on between the parties.

(3) In deciding what is reasonable for the purposes of subsection (1), regard shall be had to—

(a) the nature of the conduct in question;

(b) the employee's duties;

(c) the terms of the contract of employment;

(d) any damage caused by the employee's conduct;

(e) the employee's length of service and his previous conduct;

(f) the employee's circumstances;

(g) the penalty imposed by the employer;

(h) the procedure followed by the employer; and

(i) the practice of the employer in similar situations.

(4) A complaint that disciplinary action is unreasonable may be made to an inspector under section 36.

(5) In this section "disciplinary action" includes—

(a) a verbal warning;

(b) a written warning;

(c) a disciplinary notice;

(d) notice of a disciplinary meeting;

(e) a notice of suspension;

(f) a dismissal notice;

(g) a formal allegation of misconduct or other similar correspondence, in any physical or electronic form.

[Section 24 subsection (1) amended, and subsections (1A), (1B), (1C) and (5) inserted by 2026 : 36 s. 4 effective 1 November 2026]

Summary dismissal for serious misconduct

25 (1) Subject to subsection (2) an employer is entitled to dismiss without notice or payment of any severance allowance an employee who is guilty of serious misconduct—

(a) which is directly related to the employment relationship; or

(b) which has a detrimental effect on the employer's business,

such that it would be unreasonable to expect the employer to continue the employment relationship.

(2) A dismissal action under subsection (1) shall not be taken while an employee is—

(a) on vacation leave, maternity leave, paternity leave, parental leave or bereavement leave;

(b) on sick leave, unless the period of sick leave extends beyond six weeks;

(c) on any other leave that an employee is entitled to under any agreement or contract of employment; or

(d) off duty.

[Section 25 amended by 2026 : 36 s. 5 effective 1 November 2026]

Termination for repeated misconduct

26 (1) Where an employee is guilty of misconduct which is directly related to the employment relationship but which does not fall within section 25, the employer may give him a written warning setting out the misconduct complained of and appropriate instructions as to how to improve his conduct.

(2) If, within a six-month period, an employee is guilty on two separate occasions of misconduct falling within subsection (1) and receives (in respect of the first occasion of misconduct) a written warning in accordance with subsection (1), the employer may, after the second further occasion of misconduct, terminate the employee's contract of employment without notice or the payment of any severance allowance.

(3) If, within a 12-month period, an employee is guilty on four separate occasions of misconduct falling within subsection (1) and receives (in respect of the first three occasions of misconduct) written warnings in accordance with subsection (1), the employer may, after the fourth further occasion of misconduct, terminate the employee's contract of employment without notice or the payment of any severance allowance.

(4) An employer shall be deemed to have waived his right to terminate under subsection (2) or (3) if he does not do so within 14 days after having knowledge of—

(a) the second further occasion of misconduct referred to in subsection (2); or

(b) the fourth further occasion of misconduct referred to in subsection (3).

(5) A written warning shall not be issued or employee's contract of employment terminated, under this section, while an employee is—

(a) on vacation leave, maternity leave, paternity leave, parental leave or bereavement leave;

(b) on sick leave, unless the period of sick leave extends beyond six weeks;

(c) on any other leave that an employee is entitled to under any agreement or contract of employment; or

(d) off duty.

[Section 26 repealed and replaced by 2021 : 2 s. 16 effective 1 June 2021; Section 26 subsection (5) inserted by 2026 : 36 s. 6 effective 1 November 2026]

Termination for unsatisfactory performance

27 (1) Where an employee is not performing his duties in a satisfactory manner, the employer may give him a written warning setting out the unsatisfactory performance complained of and appropriate instructions as to how to improve his performance.

(2) If the employee does not, during the period of six months beginning with the date of the written warning, demonstrate that he is able to perform his duties in a satisfactory manner and is in fact doing so, the employer may terminate his contract of employment without notice or the payment of any severance allowance.

(3) An employer shall be deemed to have waived his right to terminate under subsection (2) if he does not do so within 14 days after the expiry of the six-month period referred to in that subsection.

(4) A written warning shall not be issued or employee's contract of employment terminated, under this section, while an employee is—

(a) on vacation leave, maternity leave, paternity leave, parental leave or bereavement leave;

(b) on sick leave, unless the period of sick leave extends beyond six weeks;

(c) on any other leave that an employee is entitled to under any agreement or contract of employment; or

(d) off duty.

[Section 27 subsection (1) amended, and subsection (3) inserted by 2021 : 2 s. 17 effective 1 June 2021; Section 27 subsection (4) inserted by 2026 : 36 s. 7 effective 1 November 2026]

Unfair dismissal

Unfair dismissal

28 (1) The following do not constitute valid reasons for dismissal or the imposition of disciplinary action—

(a) an employee's race, sex, religion, colour, ethnic origin, national extraction, social origin, political opinion, disability or marital status;

(b) an employee's age, subject to any other enactment or any relevant collective agreement regarding retirement;

(c) any reason connected with an employee's pregnancy, unless it involves absence from work which exceeds allocated leave entitlement;

(d) an employee's trade union activity;

(e) an employee's temporary absence from work because of sickness or injury, unless it occurs frequently and exceeds allocated leave entitlement;

(f) an employee's absence from work for any of the reasons mentioned in section 13 (public duties), or due to service as a volunteer fire officer;

(g) an employee who removes himself from a work situation which he reasonably believes presents an imminent and serious danger to life or health;

(h) an employee's participation in any industrial action which takes place in conformity with the Trade Union and Labour Relations (Consolidation) Act 2021;

(i) the filing of a complaint or the participation in proceedings against an employer involving alleged violations of this Act;

(j) the making of a protected disclosure under section 29A.

(2) The dismissal of an employee is unfair if it is based on any of the grounds listed in subsection (1).

[Section 28 subsection (1)(j) inserted by 2011 : 35 s. 7 effective 21 October 2011; Section 28 subsection (1)(h) amended by 2021 : 7 s. 99 & Sch. 7 effective 1 June 2021]

Constructive dismissal

29 (1) An employee is entitled to terminate his contract of employment without notice where the employer's conduct has made it unreasonable to expect the employee to continue the employment relationship, having regard to the employee's duties, length of service and circumstances.

(2) An employee who terminates his contract pursuant to subsection (1) shall be deemed to have been unfairly dismissed for the purposes of this Act.

Whistle-blowers

29A (1) A person makes a protected disclosure if, in good faith, he notifies a listed person that he has reasonable grounds to believe—

(a) that his employer or any other employee has committed, is committing, or is about to commit, a criminal offence or breach of any statutory obligation related to the employer's business;

(b) that he himself has been directed, either by his employer or by one of his supervisors, to commit such a criminal offence or breach of statutory obligation; or

(c) that information tending to show any matter falling within paragraph (a) or (b) has been, is being, or is likely to be, altered, erased, destroyed or concealed by any person.

(2) For the purposes of this section, the "listed persons" are—

(a) the person's employer, manager or supervisor;

(b) a police officer;

(c) the Collector of Customs;

(d) the Chief Fire Officer, as defined in section 2 of the Bermuda Fire and Rescue Service Act 1982;

(e) the Chief Medical Officer, as defined in section 2 of the Public Health Act 1949;

(f) the Chief Environmental Health Officer of the Department of Health;

(fa) the Director of the Department of Health;

(g) a Safety and Health Officer appointed for the purposes of the administration of the Occupational Safety and Health Act 1982;

(h) the Auditor General, appointed under section 88 of the Constitution;

(i) the Ombudsman, appointed under section 93A of the Constitution;

(j) the Accountant-General, appointed under section 4 of the Public Treasury (Administration and Payments) Act 1969;

(k) the Director of Project Management and Procurement, appointed under section 32B of the Public Treasury (Administration and Payments) Act 1969;

(l) *[repealed by 2012 : 25 s. 4]*

(m) the Director of Internal Audit, appointed under section 3 of the Internal Audit Act 2010;

(n) the Chief Immigration Officer of the Department of Immigration;

(o) the Registrar-General, appointed under section 2 of the Registration (Births and Deaths) Act 1949;

(oa) the Land Title Registrar;

(p) the Charity Commissioners for Bermuda, continued under section 7 of the Charities Act 2014;

(q) the Bermuda Health Council, established under section 3 of the Bermuda Health Council Act 2004;

(r) the Director or an inspector (designated under section 34 of this Act).

(3) A person making a protected disclosure may notify whichever of the persons listed in subsection (2) appears to him to be the most appropriate person to notify in the circumstances.

(4) Any provision of a contract of employment, or other agreement relating to the terms of employment of a person, shall be void insofar as it purports to preclude a person from making a protected disclosure.

(5) The Minister may, by order subject to the affirmative resolution procedure, amend subsection (2) so as to add or remove persons from the list.

[Section 29A inserted by 2011 : 35 s. 7 effective 21 October 2011; subsection (2)(l) repealed by 2012 : 25 s. 4 effective 3 July 2012; subsection (2)(n) inserted by 2013 : 35 s. 8 effective 1 April 2014; subsections (2)(o) - (2)(q) inserted by BR 99 / 2014 para. 2 effective 20 December 2014; Section 29A subsection (2)(oa) inserted by 2017 : 47 s. 20 effective 2 July 2018; Section 29A amended by BR 39 / 2019 order 2 effective 25 March 2019; Section 29A subsection (2)(r) amended by 2021 : 2 s. 2 effective 1 June 2021; Section 29A subsection (2) amended by 2025 : 4 s. 3 effective 23 June 2025]

Redundancy etc

Termination for redundancy

30 (1) An employer may terminate the employment of an employee whose position is redundant.

(2) An employee is redundant for the purposes of this Act, where the termination of his employment is, or is part of, a reduction in the employer's work force which is a direct result of any of the conditions of redundancy.

(3) The following are the conditions of redundancy—

(a) the modernisation, mechanisation or automation of all or part of the employer's business;

(b) the discontinuance of all or part of the business;

(c) the sale or other disposal of the business;

(d) the reorganisation of the business;

(e) the reduction in business which has been necessitated by economic conditions, contraction in the volume of work or sales, reduced demand or surplus inventory;

(f) the impossibility or impracticality of carrying on the business at the usual rate or at all due to—

(i) shortage of materials;

(ii) mechanical breakdown;

(iii) act of God; or

(iv) other circumstances beyond the control of the employer.

(4) Before terminating the employment of an employee for redundancy, the employer shall, not less than 14 days before giving notice in accordance with section 20—

(a) inform the employee and the employee's trade union or other representative (if any) of the following information—

(i) the existence of the relevant condition of redundancy;

(ii) the reasons for the termination contemplated;

(iii) the number and categories of employees likely to be affected; and

(iv) the period over which such termination is likely to be carried out; and

(b) consult the employee and the employee's trade union or other representative (if any) on—

(i) the possible measures that could be taken to avert or minimise the adverse effects of such redundancy on employment; and

(ii) the possible measures that could be taken to mitigate the adverse effects of any termination on the employees concerned.

[Section 30 subsection (1) amended by 2006:12 s.7 effective 8 June 2006; Section 30 subsection (4) amended by 2021 : 2 s. 18 effective 1 June 2021]

Effect of sham sale

31 (1) Where one of the purposes of a sale or other disposition of a business is—

(a) to enable an employer to avoid any of his obligations under this Act; or

(b) to deprive any employee of his rights under this Act,

all of the employer's obligations under this Act are binding on the person acquiring the business.

(2) Nothing in this section shall be taken to restrict an employer from making a bona fide sale of his business.

Lay off

32 (1) An employer shall not lay off an employee except in accordance with this Act.

(1A) Before laying off an employee, the employer shall as soon as practicable inform the employee and the employee's trade union or other representative (if any) of the following information—

(a) the existence of the relevant condition of redundancy;

(b) the reasons for the lay off contemplated; and

(c) the period over which such lay off is likely to be carried out.

(2) Where any of the conditions of redundancy exist, an employer may lay off an employee for a continuous period not exceeding four months.

(3) Where the lay off continues for a period which exceeds four months, it shall be deemed to be a termination for redundancy pursuant to section 30.

(4) References in this section to a period of four months do not include the period from 1 April 2020 to 30 June 2020 (during which there was a state of emergency in Bermuda).

[Section 32 subsection (4) inserted by 2020 : 29 s. 2 effective 30 June 2020; Section 32 subsection (1A) inserted by 2021 : 2 s. 19 effective 1 June 2021]

Winding up

33 (1) The winding up or insolvency of an employer's business shall cause the contract of employment of an employee to terminate one month from the date of winding up or the appointment of a receiver, unless the contract is otherwise terminated under this Part.

(2) This section shall not apply where, notwithstanding the winding up or insolvency, the business continues to operate.

(3) Subject to the retention of such sums as may be necessary to satisfy the costs, charges and expenses of the winding up of the employer's business, but notwithstanding the priority conferred on certain debts by section 236 of the Companies Act 1981 or any other enactment, on the winding up of an employer's business or the appointment of a receiver, the claims of an employee to the—

(a) payment for vacation accrued but not taken;

(b) payment for wages earned but not paid; and

(c) severance allowance as calculated in accordance with section 23(2) up to a maximum of thirty-two weeks' wages,

shall have priority over all other claims including claims of the Crown.

(4) The debts mentioned in subsection (3)(a), (b) and (c) shall rank equally among themselves and be paid in full, unless the assets of the employer's business available for

payment of general creditors are insufficient to meet them, in which case they shall abate in equal proportions.

[Section 33 subsections (3) and (4) substituted for (3) by 2006:12 s.8 effective 8 June 2006; Section 33 subsection (3)(c) amended by 2024 : 37 s. 3 effective 18 December 2024]

PART V

ENFORCEMENT

Inspectors

34 The Minister shall designate persons to be inspectors for the purpose of the enforcement of this Act and shall give every such person a certificate of his designation signed by the Minister and the person so designated.

Employment Tribunal

35 *[Repealed by 2021 : 7 s.99 & Sch. 7]*

[Section 35 subsection (3) amended by 2021 : 2 s. 23 effective 1 June 2021; Section 35 repealed by 2021 : 7 s.99 & Sch. 7 effective 1 June 2021]

Right to complain to inspector

36 (1) An employee shall have the right to make a complaint in writing to an inspector that his employer has, within the preceding six months, failed to comply with any provision of this Act.

(2) A complaint may be made under this section by a trade union or other representative group on behalf of an employee.

(3) Where a group of employees having the same or substantially the same interests has a complaint pursuant to this Act, one complaint may be made in a representative capacity.

(4) For the purposes of this section, a complaint shall not include any matter which was the subject of a labour dispute as defined in the Trade Union and Labour Relations (Consolidation) Act 2021, which has been settled by the Director or otherwise determined under the Trade Union and Labour Relations (Consolidation) Act 2021.

[Section 36 subsection (1) amended by 2021 : 2 s. 20 effective 1 June 2021; Section 36 subsection (4) inserted by 2021 : 7 s. 99 & Sch. 7 effective 1 June 2021; Section 36 subsection (4) amended by 2025 : 4 s. 3 effective 23 June 2025]

Inquiry by inspector

37 (1) Where an inspector—

(a) receives a complaint under section 36; or

(b) has reasonable grounds to believe that an employer has failed to comply with any provision of this Act,

the inspector shall, within 14 days of receiving the complaint or having such belief, inquire into the matter.

(2) If, for the purposes of an inquiry under this Act, an inspector requires information which the employer, employee or any other person is likely to be able to supply, the inspector may, by notice in writing, require that person—

(a) to supply that information; and

(b) to produce such documents as may be specified and permit the inspector to take copies,

on such date or within such period of time as may be specified in the notice.

(3) After making such inquiries as he considers necessary in the circumstances, the inspector shall, subject to subsection (5), endeavour to conciliate the parties and to effect a settlement by all means at his disposal.

(4) Where the inspector—

(a) has reasonable grounds to believe that an employer has failed to comply with any provision of this Act; but

(b) is unable to effect a settlement under subsection (3),

he shall report the matter to the Director who may refer the complaint to the Tribunal or, in the case of a contravention for which a civil penalty may be imposed by the Director, either impose a civil penalty subject to section 37A or refer the matter to the Tribunal.

(5) Where, in relation to an employer, any relevant grievance procedure is established (whether under a contract of employment, collective agreement or otherwise) to deal with employees' complaints, then unless and until there has been a failure to obtain a settlement by means of that procedure—

(a) the inspector shall not attempt to settle the complaint under this section; and

(b) the Director shall not refer the complaint to the Tribunal,

except with the consent of all the parties.

(6) Without prejudice to this section or any other provision of law, where the inspector, in making inquiries under this section, is of the opinion that there is evidence of a contravention of, or breach of duty under, this Act or any other Act for which another authority is responsible, he shall notify the appropriate authority and refer the matter for further consideration.

[Section 37 subsection (1) amended by 2021 : 2 s. 21 effective 1 June 2021; Section 37 amended by 2021 : 7 s. 99 & Sch. 7 effective 1 June 2021; Section 37 amended by 2025 : 4 s. 3 effective 23 June 2025]

Director may impose civil penalties; procedure and appeals

37A (1) The Director may subject to this section, impose a civil penalty on any person who without reasonable excuse contravenes a provision under Part II or Part IIA and for which a civil penalty is liable to be imposed.

(2) A civil penalty imposed by the Director shall be of such amount as the Director, in his discretion, thinks appropriate but shall not exceed $5,000.

(3) For the purposes of subsection (2) "appropriate" means effective, proportionate and dissuasive.

(4) Where the Director proposes to impose a civil penalty on a person he shall give the person notice (a "warning notice") of—

(a) the amount of the penalty;

(b) the reasons for imposing the penalty; and

(c) the right to make representations to the Director within seven days of the date of such notice.

(5) If after considering any representations, the Director decides to impose a civil penalty on a person, he must give the person notice (a "decision notice") of—

(a) his decision to impose the penalty;

(b) the amount of the penalty;

(c) the reasons for his decision; and

(d) the right to appeal pursuant to subsection (6) within 21 days of such notice.

(6) A person may appeal a civil penalty imposed under this section by giving notice in writing to the Director stating the grounds of appeal and the Director, upon receiving such notice within the time allowed by subsection (5)(d), shall in writing refer the matter to the Tribunal.

(7) The Tribunal shall determine an appeal referred to it under subsection (6) by confirming, revoking or modifying the civil penalty as the Tribunal sees fit.

(8) A person upon whom a penalty is imposed under subsection (5) who does not appeal in accordance with subsection (6) shall either—

(a) pay the penalty; or

(b) pay a portion of the penalty and agree, with the Director, to a payment schedule for the remainder.

(9) A civil penalty appealed against under subsection (6) shall not have effect—

(a) until the end of the period within which the appeal can be brought; and

(b) if such an appeal is brought, until it is determined or withdrawn.

(10) Any civil penalty imposed under this section—

(a) shall be paid into the Consolidated Fund; or

(b) if unpaid may be recovered as a debt owing in any court of competent jurisdiction.

[Section 37A inserted by 2021 : 7 s. 99 & Sch. 7 effective 1 June 2021; Section 37A subsection (1) amended by 2023 : 28 s. 5 effective 1 March 2024; Section 37A amended by 2025 : 4 s. 3 effective 23 June 2025]

Hearing of complaints by Tribunal

38 (1) *[Repealed by 2021 : 7 s. 99 & Sch. 7]*

(2) In any claim arising out of the dismissal of an employee it shall be for the employer to prove the reason for the dismissal, and if he fails to do so there shall be a conclusive presumption that the dismissal was unfair.

(3) Where the employee claims constructive dismissal it shall be for him to prove the reason which made continuation of the employment relationship unreasonable.

[Section 38 subsection (1) repealed by 2021 : 7 s. 99 & Sch. 7 effective 1 June 2021]

Remedies: general

39 (1) Where the Tribunal determines that an employer has contravened a provision of this Act, it shall notify the employer and employee in writing of the reasons for its determination and shall order the employer—

(a) to do any specified act which, in the opinion of the Tribunal, constitutes full compliance with this Act;

(b) pay to the employee not later than such date as may be specified in the notice, the amount which the Tribunal has determined represents any unpaid wages or other benefits owing to the employee.

(2) Where the Tribunal determines that an employer has not contravened a provision of this Act, it shall notify the employer and employee in writing of the reasons for its determination.

Remedies: unfair dismissal

40 (1) If the Tribunal upholds an employee's complaint of unfair dismissal, it shall award one or more of the following remedies—

(a) an order for reinstatement, whereby the employee is to be treated in all respects as if he had never been dismissed;

(b) an order for re-engagement, whereby the employee is to be engaged in work comparable to that in which he was engaged prior to dismissal, or other reasonably suitable work, from such date and on such terms as may be specified in the order or agreed by the parties;

(c) a compensation order in accordance with subsection (4).

(2) In deciding which remedy to award, the Tribunal shall first consider the possibility of making an order of reinstatement or re-engagement, taking into account the wishes of the parties and the circumstances in which the dismissal took place, including the extent (if any) to which the employee caused or contributed to his dismissal.

(3) Where the Tribunal finds that the employee engaged in misconduct notwithstanding the unlawful nature of the dismissal, it may include a disciplinary penalty as a term of the order for reinstatement or re-engagement.

(4) A compensation order shall, subject to subsection (5), be of such amount as the Tribunal considers just and equitable in all the circumstances, having regard—

(a) 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

(b) the extent to which the employee caused or contributed to the dismissal.

(5) The amount of compensation ordered to be paid shall be not less than—

(a) three weeks wages for each completed year of continuous employment, for employees with no more than two complete years of continuous employment;

(b) four weeks wages for each completed year of continuous employment, in other cases,

up to a maximum of 26 weeks wages.

[Section 40 subsection (5)(a) amended by 2021 : 2 s. 22 effective 1 June 2021]

Appeals

41 *[Repealed by 2021 : 7 s. 99 & Sch. 7]*

[Section 41 repealed by 2021 : 7 s. 99 & Sch. 7 effective 1 June 2021]

Binding determination or order

42 *[Repealed by 2021 : 7 s. 99 & Sch. 7]*

[Section 42 repealed by 2021 : 7 s. 99 & Sch. 7 effective 1 June 2021]

Report by Tribunal

43 *[Repealed by 2021 : 7 s. 99 & Sch. 7]*

[Section 43 repealed by 2021 : 7 s. 99 & Sch. 7 effective 1 June 2021]

Offences

44 (1) A person who—

(a) fails, without reasonable cause, to comply with a requirement under section 37(2);

(b) in purported compliance with a requirement under section 37(2), supplies information which he knows is false in a material particular; or

(c) fails to comply with an order of the Tribunal made under this Part,

shall be guilty of an offence and liable on summary conviction to a fine of $10,000.

(2) Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent, knowledge or connivance of a director, manager, secretary or other similar officer of the body corporate, or any person who is purporting to act in any such capacity, he, as well as the body corporate commits that offence and shall be liable to be proceeded against and punished accordingly.

PART VA

EMPLOYMENT AND LABOUR RELATIONS TRIBUNAL

Application, establishment and powers

Interpretation and application of Part

44A (1) In this Part, unless the context otherwise requires—

"award" means any determination, order, declaration or other decision made by the Tribunal in respect of the hearing of any matter before it and includes an order for the payment of compensation;

"chairman" and "deputy chairman" mean the chairman and deputy chairman of the Tribunal as selected under paragraph 10(1)(a) and (b) of Schedule 2;

"difference" means a difference to which section 73 of the Trade Union and Labour Relations (Consolidation) Act 2021 applies;

"employee" includes a worker within the meaning of section 2 of the Trade Union and Labour Relations (Consolidation) Act 2021;

"Naming Register" means the Naming Register for Unpaid Tribunal Awards established under section 44LB; and

"oath" includes an affirmation and declaration.

(2) This Part applies in relation to complaints, labour disputes, differences, conflicts or such other matters referred to the Tribunal under the Employment and Labour Code.

[Section 44A inserted by 2021 : 7 s. 99 & Sch. 7 effective 1 June 2021; Section 44A subsection (1) definitions "award" and "employee" amended, and "Naming Register" inserted by 2026 : 36 s. 8 effective 1 November 2026]

Employment and Labour Relations Tribunal

44B (1) The Employment and Labour Relations Tribunal is hereby established.

(2) The Tribunal shall have jurisdiction to hear and determine (including by way of arbitration) complaints, labour disputes, differences, conflicts and other matters referred to it under the Employment and Labour Code.

(3) Schedule 2 shall have effect with respect to the appointment of the panel of members to serve on the Tribunal, and the constitution of and proceedings before the Tribunal.

[Section 44B inserted by 2021 : 7 s. 99 & Sch. 7 effective 1 June 2021]

Immunity from suit

44BA No action, suit, prosecution or other proceeding shall lie against the members of the Tribunal in respect of any act done in good faith in execution or intended execution of any function under this Act.

[Section 44BA inserted by 2026 : 36 s. 9 effective 1 November 2026]

General powers

44C (1) Without prejudice to any other powers conferred upon it under the Employment and Labour Code, the Tribunal may—

(a) proceed to hear and determine any matter in the absence of any party who has been duly summoned to appear before the Tribunal and has failed to do so;

(b) generally give all such directions and do all such things as are necessary or expedient for the expeditious and just hearing and determination of a matter before the Tribunal.

(2) Without prejudice to the generality of its powers under subsection (1), the Tribunal may award the payment of compensation to an employee where the employee cannot be re-instated or re-employed in his former position; and the compensation may be sued for and be recoverable by the employee as a civil debt in the Supreme Court or in a court of summary jurisdiction.

[Section 44C inserted by 2021 : 7 s. 99 & Sch. 7 effective 1 June 2021]

Case management powers of the Tribunal

44CA (1) For the purposes of ensuring that matters are dealt with expeditiously and in accordance with Schedule 2 in relation to proceedings, the Tribunal shall have the power to—

(a) set hearing dates giving due regard to the Tribunal's schedule and the availability of parties;

(b) limit the number of adjournments available to a party;

(c) grant or refuse a request for an adjournment, after considering—

(i) the circumstances giving rise to the request;

(ii) whether the grant of an adjournment is reasonable in the circumstances;

(iii) any resulting delay;

(iv) expenses incurred by the Tribunal or a party to proceedings;

(d) at any stage of the proceedings, on its own initiative or on application by a party, give an order or direction that must be complied with by a specified date.

(2) Notwithstanding subsection (1)(a) the Tribunal may direct that a party confirms his availability to attend a set hearing date.

(3) A person who attempts to delay or frustrate the Tribunal's ability to deal with a matter expeditiously by refusing to—

(a) confirm his availability to attend set hearing dates; or

(b) participate in the scheduling of hearing dates, where required to do so,

shall be deemed non-compliant with an award and shall be liable to a civil penalty as imposed by the Tribunal.

(4) The case management powers conferred under this section do not derogate from the Tribunal's general powers under section 44C.

[Section 44CA inserted by 2026 : 36 s. 10 effective 1 November 2026]

Power to obtain information

44D (1) For the purpose of dealing with any matter referred to it under the Employment and Labour Code, the Tribunal may, by writing under the hand of the chairman—

(a) require any person to furnish, in writing or otherwise, such particulars in relation to the matter as the Tribunal may specify; and

(b) require a person to attend before the Tribunal and give evidence on oath or otherwise, or produce documents,

and, subject to this Act, shall not be bound by any rule of evidence in civil or criminal proceedings.

(2) Any person who—

(a) fails without reasonable excuse to furnish particulars in compliance with a requirement under subsection (1);

(b) fails without reasonable excuse to attend before the Tribunal in compliance with such a requirement; or

(c) when in attendance before the Tribunal, refuses to take an oath, or to produce a document or give evidence, in compliance with such a requirement,

shall be liable to a civil penalty as may be imposed by the Tribunal.

(3) But a person shall not be liable to a civil penalty for refusing to answer any question or to produce any document which he could not be required to answer or produce in proceedings before a court of law in Bermuda, or for failing or refusing to

answer any question or produce any document which is not relevant to the matters in issue.

(4) Any person who—

(a) threatens, intimidates or restrains;

(b) uses violence to or inflicts injury on;

(c) causes or procures violence, damage, loss or disadvantage to;

(d) causes or procures the punishment of or the loss of employment of; or

(e) penalizes or otherwise discriminates against,

a person for or on account of his having appeared or being about to appear before the Tribunal, commits an offence punishable on summary conviction to a fine of $5,000 or to imprisonment for six months or both.

(5) For the avoidance of doubt the powers conferred on the Tribunal by this section can be exercised either on its own volition or on the application of a party.

(6) In this section—

"injury" includes injury to a person in respect of his person, business, occupation, employment or other source of income, and includes any actionable wrong; and

"intimidate" means to cause in the mind of a person a reasonable apprehension of injury to him or to any member of his family or to any of his dependants or of violence or damage to any person or property.

[Section 44D inserted by 2021 : 7 s. 99 & Sch. 7 effective 1 June 2021]

Power to exclude public

44E (1) Proceedings of the Tribunal shall be open to the public but the Tribunal may with the consent of both parties exclude the public or any representative of the press where it considers it necessary or desirable to protect the privacy of parties to a hearing.

(2) Subject to subsection (3), whenever any representatives of the press are present at any such proceedings, and not otherwise, a fair and accurate report or summary of the proceedings including the evidence adduced at such proceedings may be published.

(3) But no comment shall be published in respect of the proceedings or of any evidence adduced at such proceedings until the decision of the Tribunal has been made public in accordance with section 44F.

(4) Any person who publishes any report on, or comment in respect of any proceedings before the Tribunal other than as authorised by this section shall be liable to a civil penalty.

[Section 44E inserted by 2021 : 7 s. 99 & Sch. 7 effective 1 June 2021]

Decisions and Awards

Notification and publication of award

44F (1) With respect to the hearing of any matter before the Tribunal, the parties to such hearing shall be notified by the chairman of the award made by the Tribunal within 30 business days of the conclusion of the hearing but—

(a) where the chairman fails to notify the parties, the deputy chairman shall, within 10 days thereafter notify the parties; or

(b) where the deputy chairman fails to comply with paragraph (a), the remaining member of the Tribunal (as selected under paragraph 10(1)(c) of Schedule 2) shall, within five days thereafter, notify the parties.

(2) Without prejudice to subsection (1), the Tribunal shall notify the Minister of the award and the Minister shall, not later than 90 days after the conclusion of the hearing before it and subject to this section, cause the award to be made public.

(3) If any party to the proceedings reasonably wishes to conceal any matter, including the fact that he was such a party, the Tribunal shall—

(a) give directions as to the action that shall be taken to conceal that matter in the publication of such award; or

(b) if it considers that an award published in accordance with directions given under paragraph (a) would be likely to reveal that matter, direct that no such award be published until after the end of a period not exceeding one year, as it considers appropriate.

(4) There shall not be included in any publication so authorised by the Minister any information obtained by the Tribunal in the course of the hearing of any matter as to any trade union or to any individual business (whether carried on by an individual, firm or company) which is not available otherwise than through evidence given at the hearing, except with the consent of the secretary of the trade union or of the individual, firm or company in question.

(5) In this section "business day" means a day other than a Saturday, Sunday or public holiday.

[Section 44F inserted by 2021 : 7 s. 99 & Sch. 7 effective 1 June 2021; Section 44F subsection (1) amended, and subsection (5) inserted by 2026 : 36 s. 11 effective 1 November 2026]

Award to require concurrence

44G Without prejudice to section 44F, an award made by the Tribunal shall be made by all the members of such Tribunal, if they are in agreement or, if such members are not in agreement, then by the majority.

[Section 44G inserted by 2021 : 7 s. 99 & Sch. 7 effective 1 June 2021]

Award of Tribunal not to conflict with any Act

44H Where any matter referred to the Tribunal involves questions as to wages, or as to hours of work, or otherwise as to terms or conditions of or affecting employment which are regulated by any Act under the Employment and Labour Code or by any other Act, the Tribunal shall not make any award which is inconsistent with that Act.

[Section 44H inserted by 2021 : 7 s. 99 & Sch. 7 effective 1 June 2021]

Enforcement of Tribunal awards

44I (1) Where—

(a) the Tribunal makes an award; and

(b) the chairman or deputy chairman of the Tribunal certifies that the award has been so made, and specifies the terms of the award,

the award is enforceable as if it were an order made by a court of summary jurisdiction in civil proceedings.

(1A) An award made by the Tribunal shall be binding on the parties to the matter—

(a) as from the date of the award; or

(b) subject to section 44J, from such date as may be specified in the award (not being earlier than the date on which the matter to which the award relates first arose).

(2) It shall be an implied term of the contract of employment between the employer and employee, to whom an award under subsection (1) relates, that the terms and conditions of employment to be observed under the contract shall be in accordance with such award until the same are varied—

(a) by a subsequent binding award; or

(b) by agreement between the employer and employee or employee representative.

(3) For the avoidance of doubt, no award which specifies a period during which it is to be binding, whether made by the Tribunal to have prospective or retrospective effect, shall be binding for a period in excess of the period specified.

(4) For the purposes of this section—

(a) the reference to "parties" under subsection (1A) includes the employer or any person succeeding (whether by virtue of a sale or other disposition or by operation of law) to the ownership or control of the business, the trade union, the employee and any other person to whom the award relates;

(b) the reference to "contract of employment" under subsection (2) includes a collective agreement or such other agreement between the parties respecting the terms and conditions of employment.

[Section 44I inserted by 2021 : 7 s. 99 & Sch. 7 effective 1 June 2021; Section 44I heading deleted and substituted by 2026 : 36 s. 12 effective 1 November 2026; Section 44I amended by 2026 : 36 s. 12 effective 1 November 2026]

Award may be retrospective

44J (1) Any award made by the Tribunal, may be made so as to have retrospective effect, but, subject to subsection (2), such effect shall not be prior to the date upon which the matter to which the award relates was first reported to the Director or inspector (as the case may be).

(2) An award made by the Tribunal may be made so as to have retrospective effect prior to the date referred to in subsection (1) but not earlier than the date on which the matter to which the award relates first arose—

(a) where both parties to the dispute consent thereto; or

(b) where the matter relates solely to the retrospective effect of a contract of employment or collective agreement.

[Section 44J inserted by 2021 : 7 s. 99 & Sch. 7 effective 1 June 2021; Section 44J subsection (1) amended by 2025 : 4 s. 3 effective 23 June 2025]

Question as to interpretation of an award

44K (1) If any question arises as to the interpretation of any award of the Tribunal or any alleged error therein, the Minister or any party to the award may apply to the Tribunal for a decision on such question and the Tribunal shall decide the matter after hearing the parties, or without such hearing, provided the consent of the parties has first been obtained.

(2) The decision of the Tribunal shall be notified to the parties and shall thereafter be deemed to form part of and shall have the same effect in all respects as the original award.

[Section 44K inserted by 2021 : 7 s. 99 & Sch. 7 effective 1 June 2021]

Non-compliance with award

44L (1) Where any person fails to comply with an award of the Tribunal or any part thereof, a person that is directly concerned in or affected by the non-compliance (hereafter referred to as an "aggrieved person") may, and without prejudice to any remedy or relief to which any person may be entitled apart from this section, make a complaint to the Tribunal.

(2) If on a complaint made under this section the Tribunal finds that the complaint is wholly or partly well-founded, it may grant one or both of the following—

(a) an award of compensation to be paid to the aggrieved person;

(b) a general award of such sum to be paid to the aggrieved person as the Tribunal thinks fit.

(3) The amount of the compensation awarded under this section shall be such amount as the Tribunal considers just and equitable.

(4) Where the Tribunal finds that the non-compliance was to any extent caused or contributed to by any action of the aggrieved person it may not award any compensation or sum or it may reduce the amount of compensation or sum by such proportion as it considers just and equitable having regard to that finding.

(5) An award under this section may within a period of 30 days after the award has been made be recovered as a civil debt in the Supreme Court or in a court of summary jurisdiction by the person or party to whom the compensation or sum is awarded.

(6) Without prejudice to any other provision relating to the Tribunal's power to grant an award under the Employment and Labour Code, no costs shall be payable in respect of proceedings before the Tribunal under this section.

(7) In subsections (1) to (5) of this section "person" includes a trade union.

[Section 44L inserted by 2021 : 7 s. 99 & Sch. 7 effective 1 June 2021]

Notice of continuing non-compliance

44LA (1) Where an amount due under an award or civil penalty remains unpaid after the relevant period the Director may serve a notice of continuing non-compliance, on the party against whom the award is made or civil penalty imposed.

(2) Without prejudice to any other remedy in civil proceedings in the Supreme Court or in a court of summary jurisdiction an employee may, with respect to an amount due under an award, in writing make an application to the Director to serve a notice under subsection (1).

(3) A notice served under subsection (1) shall—

(a) be in writing;

(b) state the sum of the award that is outstanding;

(c) state the amount of any civil penalty, where imposed;

(d) notify the party that his name will be entered into the Naming Register on the date specified in the notice;

(e) inform the party of his right to make written representations or submit proof of payment of the award or civil penalty, to the Director, within 14 days of service of the notice.

(4) In this section "relevant period" means the period that—

(a) if no appeal is made in accordance with section 44O(2) relating to an award of the Tribunal has elapsed;

(b) if an appeal is made under section 44O, the period ending when the appeal is withdrawn or determined.

[Section 44LA inserted by 2026 : 36 s. 13 effective 1 November 2026]

Naming Register for Unpaid Tribunal Awards

44LB (1) The Director shall establish, maintain and publish a register known as the Naming Register for Unpaid Tribunal Awards.

(2) A party may be entered on the Naming Register where—

(a) an amount due under an award or civil penalty remains unpaid after a period of 14 days has elapsed from the date of service of a notice under section 44LA(1); and

(b) no stay of enforcement or objection is in place.

(3) The Naming Register shall contain—

(a) the name of the party against whom the award is made or civil penalty imposed;

(b) the date that the award was made or civil penalty imposed;

(c) the amount of the award or civil penalty;

(d) the date on which payment became due;

(e) any sums remaining unpaid;

(f) the date on which the party's name was entered on the Naming Register; and

(g) an annotation of the party's status as unpaid, partially unpaid, paid, under review or stayed pending appeal.

(4) The Naming Register shall not contain the names of employees or any other confidential information.

(5) The Director shall publish the Naming Register, in such form as considered reasonably necessary to inform the public of the continued non-compliance of a party.

(6) Section 44F(3) does not apply to a publication under this section in relation to a party against whom an award is made or civil penalty imposed.

[Section 44LB inserted by 2026 : 36 s. 13 effective 1 November 2026]

Objection to entry on Naming Register

44LC (1) A party may within 14 days after service of a notice under section 44LA(1), object to the proposed entry on the Naming Register.

(2) An objection may be made on one or more of the following grounds—

(a) the award or civil penalty was paid in full;

(b) the award or civil penalty has been set aside, varied, suspended or stayed by the Supreme Court;

(c) an appeal against the enforcement of an award or civil penalty is pending;

(d) the notice of continuing non-compliance was not properly served on the party;

(e) payment was prevented by circumstances beyond the party's control;

(f) publication would be unlawful or manifestly disproportionate.

(3) An objection under subsection (1) shall—

(a) be in writing;

(b) identify the disputed entry and ground for objection; and

(c) provide any supporting evidence.

(4) A party shall not be entered on the Naming Register until—

(a) an objection under subsection (1) has been determined by the Director; and

(b) the Director gives written reasons for the decision.

[Section 44LC inserted by 2026 : 36 s. 13 effective 1 November 2026]

Correction, annotation or removal from Naming Register

44LD (1) A party or other person materially affected by an entry on the Naming Register may, in writing, at anytime apply to the Director for its correction, annotation, or removal.

(2) An application under subsection (1) may be based on the grounds that—

(a) the outstanding award or civil penalty has been paid in full;

(b) the published information has become inaccurate or misleading;

(c) continued publication is no longer proportionate; or

(d) exceptional circumstances justify correction, annotation or removal.

(3) Notwithstanding subsection (1) where the amount of an award or civil penalty is paid in full the Director shall within 30 days after receiving satisfactory proof of payment—

(a) remove the entry in relation to the party; or

(b) annotate the entry in relation to the party as paid.

(4) Where liability or enforcement is stayed by the Supreme Court, after an entry is made on the Naming Register, the entry shall be—

(a) temporarily removed; or

(b) annotated as stayed pending appeal.

(5) The Director shall correct any material error related to an entry on the Naming Register without unreasonable delay, whether or not an application has been made.

(6) A person aggrieved by a decision concerning entry on the Naming Register may appeal to the Supreme Court.

(7) The Supreme Court may—

(a) order the correction, annotation or removal of an entry on the Naming Register; or

(b) make any such orders as it deems fit.

(8) An appeal shall not act as an automatic stay on the issuance of a notice under section 44LA(1) or entry on the Naming Register where the Supreme Court allows an appeal, out of time, but the Court may make any such orders as it deems fit.

[Section 44LD inserted by 2026 : 36 s. 13 effective 1 November 2026]

Other functions of the Tribunal and appeals

Power of Tribunal to impose civil penalties

44M (1) Where a person contravenes—

(a) a provision of the Employment and Labour Code for which a civil penalty is liable to be imposed;

(b) an award,

the Tribunal may impose an appropriate civil penalty.

(1A) A civil penalty imposed under subsection (1) shall—

(a) in the case of paragraph (a) not exceed $10,000 for each contravention;

(b) in the case of paragraph (b) not exceed $15,000 for each contravention.

(2) For the purposes of subsection (1) "appropriate" means effective, proportionate and dissuasive.

(3) Where the Tribunal proposes to impose a civil penalty on a person, it must give the person notice of—

(a) the amount of the penalty;

(b) the reasons for imposing the penalty; and

(c) the right to make representations to the Tribunal within seven days of the date of such notice.

(4) If after considering any representations, the Tribunal decides to impose a civil penalty on a person, it must give the person notice of—

(a) its decision to impose the penalty;

(b) the amount of the penalty;

(c) the reasons for the decision; and

(d) the right to appeal in accordance with section 44O of this Act.

(4A) In considering whether to impose a civil penalty under subsection (1)(b) the Tribunal shall have regard to the following—

(a) the duration of non-compliance with an award;

(b) the amount of the award that remains unpaid where a partial payment is made;

(c) whether circumstances suggest non-payment was deliberate;

(d) whether the party is known in relation to similar matters;

(e) any previous non-compliance with an award;

(f) the party's financial circumstances;

(g) any prejudice that may be caused to the employee.

(5) A person upon whom a penalty is imposed under subsection (3) who does not appeal shall within 21 days either—

(a) pay the penalty; or

(b) pay a portion of the penalty and apply to the Director for a payment schedule for the remainder.

(6) A civil penalty appealed against in accordance with section 44O shall not have effect—

(a) until the end of the period within which the appeal can be brought; and

(b) if such an appeal is brought, until it is determined or withdrawn.

(7) Any civil penalty imposed under this section—

(a) shall be paid into the Consolidated Fund; or

(b) if unpaid may be recovered as a debt owing in any court of competent jurisdiction.

(8) Where a civil penalty has been imposed on a person under any other provision of the Employment and Labour Code for a contravention, the person shall not also receive a civil penalty imposed under this section in relation to the same contravention.

[Section 44M inserted by 2021 : 7 s. 99 & Sch. 7 effective 1 June 2021; Section 44M subsection (5) amended by 2025 : 4 s. 3 effective 23 June 2025; Section 44M subsection (1) repealed and substituted, and subsections (1A) and (4A) inserted by 2026 : 36 s. 14 effective 1 November 2026]

Submission of reports to the Minister

44N (1) The panel chairman (as appointed under paragraph 3 of Schedule 2) shall, from time to time and at least once in each calendar year, submit to the Minister a report setting out awards made by the Tribunal under this Part; but any such report shall not reveal the names of any of the parties affected.

(2) Notwithstanding subsection (1) the Director shall at least once in each calendar year submit, to the Minister, a report of the parties appearing on the Naming Register, but such report shall not reveal the names of employees.

[Section 44N inserted by 2021 : 7 s. 99 & Sch. 7 effective 1 June 2021; Section 44N heading deleted and substituted, and subsection (2) inserted by 2026 : 36 s. 15 effective 1 November 2026]

Appeals

44O (1) A party aggrieved by a determination, order, declaration or other decision of the Tribunal may appeal to the Supreme Court on a point of law.

(2) An appeal under subsection (1) shall be lodged in the Registry within 21 days after receipt of notification of the determination, order, declaration or other decision of the Tribunal or such longer period as the Supreme Court may allow.

(3) On any such appeal, the Supreme Court may make such order, including an order as to costs, as it thinks fit.

(4) Section 62 of the Supreme Court Act 1905 shall be deemed to extend to the making of rules under that section to regulate the practice and procedure on an appeal under this section.

(5) The lodging of an appeal under this section shall act as a stay of any order of the Tribunal.

[Section 44O inserted by 2021 : 7 s. 99 & Sch. 7 effective 1 June 2021]

PART VI

SUPPLEMENTARY

Regulations

45 (1) The Minister may make such regulations as he considers necessary or expedient to give effect to this Act, and regulations may make different provision for different cases.

(2) Regulations under this section shall be made subject to the negative resolution procedure.

Crown application

46 This Act binds the Crown.

Amendment of Labour Relations Act 1975

47 *[Repealed by 2021 : 7 s. 99 & Sch. 7]*

[Section 47 repealed by 2021 : 7 s. 99 & Sch. 7 effective 1 June 2021]

Transitional provisions

48 (1) For the purposes of this section—

"commencement date" means the date appointed under section 1;

"existing employee" means a person who was employed immediately before the commencement date;

"transitional period" means the period of one year beginning with the commencement date.

(2) For the purposes of section 5, an existing employee's period of continuous employment shall be deemed to begin from and include the first day on which he began to work for his employer, notwithstanding that that day was before the commencement date.

(3) In relation to existing employees, subsection (1) of section 6 shall have effect as if the following were substituted—

"(1) An employer shall, before the end of the transitional period, give to each of his existing employees a written statement of employment which shall be signed and dated by the employer and employee.

(1A) Subject to any additional requirements of this Act, the terms and conditions of employment evidenced in the written statement shall be at least as beneficial to the employee as the terms and conditions on which he was employed immediately before the commencement date."

(4) No complaint made under section 36 shall be entertained by an inspector in so far as it relates to any alleged contravention of this Act by an employer in relation to an existing employee during the transitional period.

SCHEDULE 1

(Section 10B)

CONTENT OF POLICY STATEMENT AGAINST BULLYING AND SEXUAL HARASSMENT

The policy statement against bullying and sexual harassment referred to in section 10B shall contain the following provisions—

(a) definitions of "bullying" and "sexual harassment" that are substantially the same as the definitions in section 10B;

(b) a statement to the effect that every employee is entitled to employment free of bullying and sexual harassment;

(c) a statement to the effect that the employer will make every reasonable effort to ensure that no employee is subjected to bullying or sexual harassment;

(d) a statement informing employees of the measures, including disciplinary measures, that may be taken against any person within the workplace or under the employer's direction who subjects any employee to bullying or sexual harassment;

(e) a statement explaining how complaints of bullying and sexual harassment may be brought to the attention of the employer;

(f) a statement to the effect that no person shall disclose the name of a complainant or the name of the respondent or the circumstances related to the complaint to any person except where disclosure is necessary for the purposes of investigating the complaint or taking disciplinary measures in relation thereto; and

(g) a statement informing employees of the provision in the Human Rights Act 1981 which gives them a right to make a complaint where sexual harassment is committed against them and the relevant authority to whom the complaint must be made.

[Schedule 1 inserted by 2021 : 2 s. 23 effective 1 June 2021]

SCHEDULE 1A

(Section 10J)

CONTENT OF POLICY STATEMENT IN RELATION TO EMPLOYEE TIPS AND OTHER GRATUITIES

The policy statement referred to in section 10J shall contain the following provisions—

(a) a statement explaining whether the employer encourages or requires customers to pay tips or other gratuities;

(b) a statement indicating whether a tip pool is permitted at that workplace;

(c) a statement explaining how other gratuities are collected and redistributed in accordance with this Part including—

  (i) the period within which redistribution is made;

  (ii) the employees or other persons (as the case may be) to whom redistribution applies;

  (iii) how other gratuities are redistributed when an employee is on any period of leave; and

  (iv) whether any payment arrangement exists;

(d) where a payment arrangement exists—

  (i) a statement explaining how other gratuities are received and identifying the person responsible for their receipt; and

  (ii) a statement explaining whether other gratuities are to be redistributed under the payment arrangement and, if so, how other gratuities so received are redistributed.

[Schedule 1A inserted by 2023 : 28 s. 6 effective 1 March 2024]

SCHEDULE 2

(Section 44B)

THE EMPLOYMENT AND LABOUR RELATIONS TRIBUNAL

APPOINTMENT OF PANEL

1 The Minister shall, by notice published in the Gazette, appoint a panel of not less than 20 and not more than 30 persons as follows to serve as members of the Tribunal—

(a) not more than 10 barristers and attorneys of not less than eight years' standing who possess Bermudian status;

(b) not more than 10 persons with such experience or expertise as the Minister deems necessary to represent the interests of employers; and

(c) not more than 10 persons with such experience or expertise as the Minister deems necessary to represent the interests of employees.

2 Before exercising his powers under paragraph 1, the Minister shall consult such trade unions and other organisations as appear to him to be representative of the views of employers and employees.

3 The Minister shall appoint from the panel a chairman ("panel chairman") and a deputy chairman ("panel deputy chairman") who shall hold office for a period of three years, and may be reappointed from time to time for a like period.

4 No person shall be qualified to be the panel chairman or panel deputy chairman appointed under paragraph 3 unless—

(a) he is a barrister and attorney of at least eight years' standing; or

(b) he has considerable experience in labour relations.

5 The members of the panel shall hold office for a period of three years, and may be reappointed from time to time for a like period.

6 The Minister may at any time, by notice published in the Gazette, appoint a person to act in the place of any member of the panel who is absent from Bermuda or who is for any reason incapacitated, but shall not appoint a person to act as panel chairman or panel deputy chairman unless that person is himself qualified under paragraph 4.

7 The panel chairman, panel deputy chairman or any panel member may at any time, except during the course of proceedings before them under this Act, resign his appointment by notice in writing addressed to the Minister.

8 The panel chairman, panel deputy chairman and any members of the Tribunal constituted under paragraph 10 shall be entitled to receive out of the funds appropriated by the Legislature for the purpose such fees and allowances as the Minister may determine.

CONSTITUTION OF TRIBUNAL

9 For the purpose of determining any complaint, labour dispute or other matter referred to the Tribunal under the Employment and Labour Code, the Tribunal shall be constituted as follows.

10 (1) The panel chairman (or in his absence the panel deputy chairman) shall, subject to paragraph 11, select from the panel members appointed under paragraph 1—

(a) a chairman;

(b) a deputy chairman; and

(c) one member.

(2) In respect of a deputy chairman and member selected under subparagraph (1)(b) and (c), one shall represent the interests of employers and the other shall represent the interests of employees.

11 No person shall be qualified to be the chairman or deputy chairman of the Tribunal unless—

(a) he is a barrister and attorney of at least eight years' standing; or

(b) he has considerable experience in labour relations.

CONFLICT OF INTEREST

12 (1) Where a member of the Tribunal, constituted under paragraph 10, has any direct or indirect interest in any matter before it, he shall—

(a) prior to the hearing of the matter, or otherwise at the earliest opportunity, disclose his interest to the Tribunal and to the panel chairman (or in his absence the panel deputy chairman);

(b) not take part in any, or any further, discussion of the matter, and have no vote in relation to the matter, unless the Tribunal and the panel chairman (or in his absence the panel deputy chairman) has resolved that the interest does not give rise to a conflict of interest.

(2) Where subparagraph (1) applies, the member may recuse himself and where so recused shall be replaced by another member selected in accordance with paragraph 10.

VACANCIES

13 Where, during any proceedings, a vacancy occurs in the membership of the Tribunal it may, with the consent of all parties, continue to act notwithstanding the vacancy; and no act, proceeding or determination of a Tribunal shall be called in question or invalidated by reason of the vacancy.

ASSESSORS

14 In any proceedings the chairman or deputy chairman of the Tribunal may, if he thinks fit, summon to the assistance of the Tribunal any person of skill and experience in the matter to which the proceedings relate who is willing to assist the Tribunal as an assessor.

TRIBUNAL AUTONOMOUS

15 In the exercise of the powers conferred on it by this Act, the Tribunal shall not be subject to the direction or control of any other person or authority.

PROCEEDINGS

16 As soon as practicable after a matter is referred to the Tribunal, it shall hold a case management hearing to give all parties orders and directions and to set hearing dates to allow parties or their representatives full opportunity to present evidence on oath and make submissions.

17 Parties to any proceedings before the Tribunal may appear personally or be represented, by counsel or otherwise.

18 Notwithstanding section 44E, the Tribunal may impose reporting restrictions where it considers it necessary or desirable to protect the privacy of parties to a hearing.

19 The Arbitration Act 1986 shall not apply to any proceedings of the Tribunal or to any award made by it.

20 Save as otherwise provided by any provision of this Act or in regulations made by the Minister regulating the procedure to be followed by the Tribunal, the Tribunal shall regulate its own proceedings as it thinks fit.

[Schedule 2 heading amended by 2021 : 2 s. 23 effective 1 June 2021; Schedule 2 repealed and replaced by 2021 : 7 s. 99 & Sch. 7 effective 1 June 2021; Schedule 2 paragraph 16 repealed and substituted by 2026 : 36 s. 16 effective 1 November 2026]

[Assent Date: 8 December 2000]

[Operative Date: 1 March 2001]

[Amended by:

2006 : 12
2010 : 36
BR 5 / 2011
2011 : 35
2012 : 25
BR 40 / 2013
2013 : 35
BR 99 / 2014
2015 : 48
BR 115 / 2017
2017 : 47
BR 39 / 2019
2019 : 39
2020 : 29
2021 : 2
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