



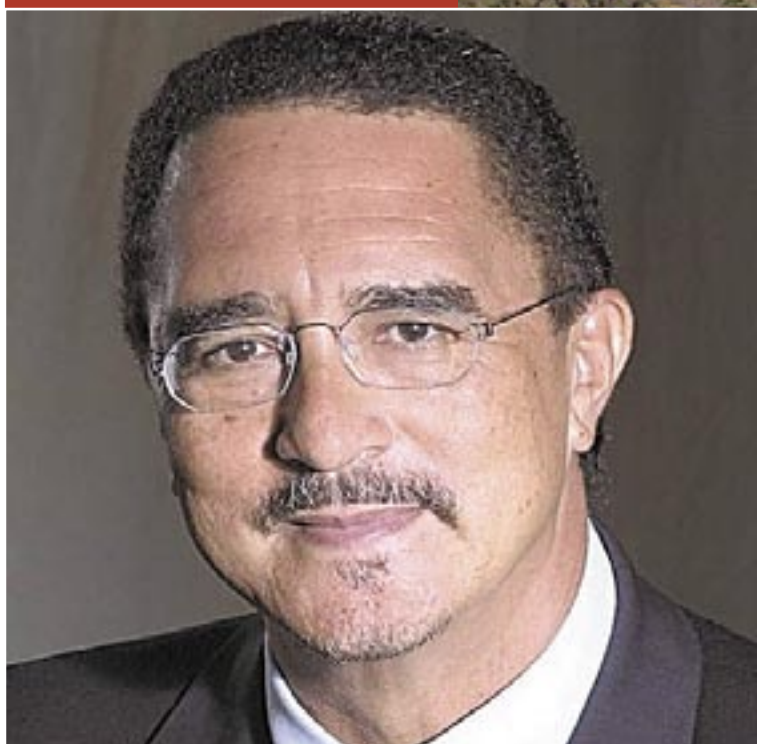
NATIONWIDE

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PM OUTLINES GOVERNMENT'S SUCCESSES

SEE PAGE 3



EXTRACTS FROM THE LABOUR CODE

SEE PAGES 4 & 5



Labour Minister
Hon. Velon John



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ELECTORAL DEPARTMENT READY FOR POLLS

The Electoral Department says it is ready for the polls, following the announcement of the date for elections by Prime Minister Honourable Dr. Kenny Anthony last week Thursday. St. Lucia will go to the polls on December 11th 2006, while nomination day is on November 30th. Approximately 136,958 persons have been registered, an increase of 14,599 electors over the 2001 figure.

With the date of the elections announced the Electoral department is to commence appointing workers for that day. Chairman of the Electoral Commission Kenneth Monplaisir says training sessions for those hired will commence immediately. "Our training sessions will also include arrangement for both parties to send their agents for us to inform them on what they ought to do, what are expected of them on Polling Day. We anticipate

that because of the volume of agents it will be more convenient to have both sets of agents separately for us to train them."

The voters list which has already been published will be followed by a release of a supplementary list of electors. According to Mr. Monplaisir, "the Publication will be made in accordance with the electoral laws at the Electoral Sub-office in Vieux Fort, all electoral offices and sub-offices and sub-offices on the island, police stations and other public buildings island wide.

The elections will be a straight fight between the ruling SLP, which is seeking a third straight term in office, and the main opposition United Workers Party (UWP) led by former Prime Minister Sir John Compton. Before the House was dissolved on Friday, the SLP held 13 seats in Parliament, while the UWP held three. There was one independent parliamentarian.



Chairman of the Electoral Commission Kenneth Monplaisir

Change In Police Voting

Changes to the administration of voting for the police will come into effect for the 2006 General Elections. Chairman of the Electoral Commission Kenneth Monplaisir says he has spoken with Commissioner of Police Aubert Regis on the issue, which he says is a straight forward change in keeping with the wishes of the police.

Previously the police voted in the

constituencies where they worked but now, Monplaisir says, they will vote where they reside.

"When the police used to vote in the manner in which they voted they were in barracks. The police no longer are in barracks. The law is quite clear. A person is registered in the district in which he resides. And his registration will take place in the district in which he resides."

A format has already been outlined

as to how the police will exercise their franchise on polling day. "What is going to happen: The facilities for voting for the police will not change. They will vote at three centres. Central Castries, Police Headquarters and Vieux Fort but arrangements will be made for their vote to be placed in the ballot in which they reside."

Chief Verification Officer in the Electoral Department, Morrison Blanchard, explained that the process will be subject to the prescribed systems of strict monitoring accorded by law.

"The night after the police have

voted the ballot boxes are going to be secured in one of the commercial banks where we secure them and then the morning of elections they will be taken in, sorted out through the electoral districts and then our senior staff members will take them, put them in a large envelope and carry them to the electoral districts where they belong."

The agents of the election candidates are expected to observe the entire process from start to finish and are therefore asked to take advantage of the training offered by the Electoral Department.

New Wing for Fond Assau School

Teachers and students of the Fond Assau Combined School in Babonneau are utilising the comforts of a brand new wing at the school. Officially opened last week, and built from a CDB loan of approximately 844 thousand dollars, the new block executed by the Basic Needs Trust Fund, accommodates the Principal's office, storage facilities, a sick bay, toilets and four classrooms.

Speaking during the official opening ceremony of the new wing, Minister for Education, Human Resource Development, Youth and Sports, Hon Mario Michel gave credit to the school's Parents/Teachers Association who led the campaign for a better structure to house students.

"After their call was heard loud and clear, the Ministry of Education collaborated with the PTA in making an appeal to the Basic Needs Trust Fund to establish a new structure. The formal request was made in October

of 2004 when the Ministry and the PTA wrote to the BNTF to request that a new structure be established on this site to replace the dilapidated one which was really beginning to be a place unsuitable for our children to attend."

Parliamentary Representative for Babonneau, Hon Felix Finisterre told the gathering the new block was well deserved and thanked teachers, students and parents for their patience.

"We were looking at the leaking roof of this older building and the fact that year after year promises had been made which were not fulfilled. Thankfully through the collaboration and support of the World Bank, that is now a thing of the past and that building has been retrofitted with a new roof. There are still some issues though with partitioning, but at least we know it is a building much more worthy of its use."

Former Principal Mrs Rosella Bushell cut the ribbon to officially open the new wing of the school.



Hon. Mario Michel



Hon. Felix Finisterre

PRIME MINISTER OUTLINES GOVERNMENT'S SUCCESSES



Prime Minister Hon. Kenny Anthony

In a speech broadcast live on local TV and the Internet to announce the December 11th General Elections here, Prime Minister Dr Kenny D. Anthony told tens of thousands of Saint Lucians that the present administration had performed exceptionally well in the nine years since it first took office.

His account of the stewardship of the government was delivered in a major address on the Castries Market Steps, in which he highlighted the significant achievements across all sectors of the economy.

Dr Anthony said St. Lucia's GDP in the nine years since 1997 had grown steadily, from 3.3% in 1998 to a record 5.4% in 2005; and he revealed there was a current forecast of 6.0% growth for 2006.

Driving that positive growth, the Prime Minister pointed out, were "the government's deliberate policies of investment in the manufacturing and tourism sectors, as well as a dynamic programme of infrastructural development to include extensive road rehabilitation and the expansion of water distribution lines all over the island."

While progress in the banana industry remains sluggish, Dr Anthony said, the Government had invested over \$140 million in the industry -- more than had ever been invested by any government in bananas.

On manufacturing, Prime Minister Anthony said: "Despite stiff international competition, manufacturing has enjoyed four consecutive years of expansion, fuelled by growth in the food and beverage sector.

"Our targeted support for this sector, with the systematic reduction of taxes, the granting of generous incentives

and the implementation of policies to encourage export has yielded positive results. Our manufacturers are more vibrant and active now than at any other time in recent history."

The Prime Minister reported that activity in construction has peaked on the growth chart leading all other economic sectors. "This", he said, was so "despite increases in the cost of building materials due to high world fuel prices, which has driven up the cost of shipping."

According to the Prime Minister: "Construction's contribution to Gross Domestic Product has averaged well over 8% during our first two terms and St. Lucia has become one huge building site as ordinary citizens and business entrepreneurs felt confident to invest in bricks and mortar."

St. Lucia is preparing to host matches in crickets' premier event, the 2007 World Cup and Dr Anthony said "the legacy of such an event will be felt a long time into the future."

Speaking of the establishment of the Beausejour Cricket Ground in Gros Islet and the National Stadium in Vieux-Fort, the Prime Minister said these projects had "contributed to economic diversification, with St. Lucia now able to take advantage of opportunities in sports tourism."

The PM reported that the tourism industry, in the last nine years, "has had the single greatest impact on the economic development of St. Lucia."

"Since 1997," he reported, "ten hotel projects, including newly-built and expansion to existing hotels, have been undertaken, creating tremendous activity in construction all over the island."

The Prime Minister said these activities "have created wealth and employment for our people" and "resulted in unemployment reaching a fifteen-year low of 15.3 %."

He also chastised the Opposition United Workers Party (UWP) for quoting a 25% unemployment rate, which, he says, "has no basis in fact, but rather, is an invention of a UWP lead-



Construction of a new hotel at Pigeon Point



New 20" pipes for water distribution

ership, which has lost touch with the country."

While economic development has moved ahead rapidly, Dr Anthony

spoke of a social development agenda, which has moved apace with brick and mortar projects.

He said: "In almost every area - education, health care, housing, care of the elderly, social development, youth, sports and culture - we witnessed a gross underdevelopment of our ability and our potential. So, we immediately set about creating a more caring and compassionate society.

"The results are one of the proudest legacies of our administration. Today, Saint Lucia is a more egalitarian and cohesive society than it has ever been in our history."

The Prime Minister highlighted the attainment of Universal Secondary Education, Universal Health Care, the abolition of the shift system, expansion of the school feeding programme and a host of other achievements as significant milestones in the nine-year life of the administration.

The Prime Minister delivered his speech Thursday 16th November.



Cruise ships in Castries Harbour



Prime Minister Hon. Kenny Anthony keeping an election promise to introduce a Labour Code

Non-application

128. This Division shall not apply to persons who have been engaged under a contract of employment as apprentices or for purposes of training and who have been so engaged for a period of less than twelve weeks where such a contract of employment fulfills the conditions laid down under this Code.

Valid reason for dismissal

129. The employment of an employee — (a) without reference to limit of time; (b) for a specific task where that task is not completed; or (c) for a time period where that time period is not completed; shall not be terminated by an employer, unless there is a valid reason for such termination connected to the capacity, performance or conduct of the employee or for reasons of redundancy and, unless in accordance with the principles and procedures under this Division.

Probationary period

130.— (1) Subject to subsection (2), a new employee may be required to serve a probationary period of not more than twelve weeks or a shorter or longer period of time agreed to between the employer and the employee.

(2) Subject to subsection (3), an employee's rights accruing pursuant to section 21 shall not be prejudiced by a probationary period which exceeds twelve weeks.

(3) The employer or employee may terminate employment at any time during the probationary period for any reason and dismissal of a person on probation shall not be construed as being an unfair dismissal for purposes of this Division.

Unfair dismissal

131.— (1) An employer shall not dismiss an employee or institute disciplinary action based on — (a) an employee's race, sex, religion, colour, ethnic origin, national extraction, indigenous origin, social origin, political opinion or affiliation, trade union affiliation or activity, disability, sexual orientation, serious family responsibility or marital status; (b) an employee's age,

subject to any other enactment in force, or collective bargaining provisions or contractual provisions regarding retirement; (c) a female employee's maternity leave or benefits, pregnancy or a reason connected with her pregnancy; (d) an employee's exercise of any of his or her organizational or associative rights as specified under this Code; (e) an employee's temporary absence from work because of sickness or injury, unless it occurs frequently and is found to be an abuse of sick leave provisions under this Code; (f) the perception that the employee has or is carrying the HIV/AIDS unless the employee is engaged in work established as putting other persons at risk of contracting the HIV/AIDS or unless the inherent requirements of the job permit the removal of that employee to other duties; (g) an employee's absence from work due to compulsory military service, national service, public duty or other civic obligation in accordance with any enactment or practice in force; (h) an employee's exercise or proposed exercise of the right to remove himself or herself from a work situation which he or she reasonably believes presents an imminent or serious danger to life, health or safety; (i) an employee's participation, or proposed participation, in industrial action, including strikes; (j) the filing of a complaint or the participation in proceedings against an employer involving alleged violations of this Code; (k) an employee's refusal to do work usually performed by another employee or employees currently engaged in industrial action where that work does not form part of his or her contract of employment; or (l) a conviction which is spent in accordance with the Criminal Records (Rehabilitation of Offenders) Act 2004, No. 2.

(2) A dismissal on any grounds specified in subsection (1) constitutes unfair dismissal and entitles the employee to compensation in accordance with this Code.

Constructive dismissal

132.— (1) An employee is entitled to terminate the contract of employment without notice or with less notice than that

THE LABOUR CODE

INTRODUCTION

The St. Lucia Parliament last week passed the long awaited Labour Code with the House of Assembly approving it on Monday and the Senate giving its seal of approval on Tuesday. The Labour Code became law after first being introduced four years ago and after extensive consultations between Government and interested public and private sector organizations. The Code collects and consolidates various pieces of legislation into a single document, reforms and modernizes existing labour laws, incorporates into domestic law various ILO conventions which St. Lucia had signed and formulates new laws on some labour issues. Due to the importance of the Code, Nationwide will over the next few weeks publish extracts from it.

TERMINATION OF EMPLOYMENT

to which the employer is entitled by any statutory provision or contractual term on grounds of constructive dismissal where the employer's conduct has made it unreasonable to expect the employee to continue the employment relationship.

(2) Where the contract of employment is terminated by the employee pursuant to subsection (1), the employee shall be deemed to have been unfairly dismissed by the employer and shall be entitled to compensation in accordance with this Code.

Summary dismissal for serious misconduct

133.— (1) An employer is entitled to dismiss, summarily without notice, an employee who is guilty of serious misconduct of such a nature that it would be unreasonable to require the employer to continue the employment relationship.

(2) Serious misconduct includes but is not limited to — (a) wilful disobedience of lawful orders given by the employer; (b) repeated substantial neglect of duties; (c) repeated absence from work without the permission of the employer or without reasonable excuse; (d) refusing to follow health and safety measures instituted at work thereby endangering the health and safety of employees or members of the public; (e) theft or wilful damage of property of the employer or another employee at the work place; or (f) conduct inconsistent with the fulfillment of the expressed or implied terms of the employee's contract of employment.

(3) The serious misconduct referred to in subsection (1) is restricted to conduct which is directly related to the employment relationship or has a detrimental effect on the business of the employer or the work relationship.

Entitlement to remuneration on summary dismissal

134. Where an employee is dismissed summarily for misconduct or where he or she is dismissed for unsatisfactory performance in accordance with 136(5), that



Consultations on the Labour Code

employee is entitled to all remuneration, including accrued leave, up to the date of dismissal.

Warnings and termination for misconduct

135.— (1) Where an employee is found to be in breach of his or her terms and conditions of employment or is guilty of any misconduct such that the employer cannot reasonably be expected to continue to employ him or her if it is repeated, the employer may give the employee a written warning outlining the particulars of the offence.

(2) If an employee after being warned two more times after the warning referred to in subsection (1), is again found to be in breach of his or her terms and conditions of employment or is guilty of any misconduct in the following twelve months, the employer may dismiss the employee.

(3) An employer shall be deemed to

Dismissal where unsatisfactory performance is due to the natural aging process

137.— (1) Where an employer alleges that an employee is performing unsatisfactorily or is incompetent and such unsatisfactory performance or incompetence is due to the reasonable effect of the natural aging process, an employer shall not dismiss that employee for unsatisfactory performance in accordance with section 136(2), but shall offer to that employee the option of early retirement or shall re-deploy the employee within the establishment or in any other establishment under the control of the employer, provided that the employee shall not lose any benefits as a result of the redeployment.

(2) Where an employee is offered early retirement, he or she shall be entitled to a payment of termination benefits calculated in accordance with this Part up to the day of termination for early retirement.

Dismissal for lack of qualifications or skills

138. Where an employer terminates the employment of an employee because that employee does not possess the qualifications or skills which he or she purported to hold in order to perform the kind of work which he or she was employed to do, the termination shall not be construed as an unfair dismissal.

Dismissal for fundamental breach of contract

139. Where an employer dismisses an employee because that employee has breached a fundamental term of the contract of employment, this shall not be construed as an unfair dismissal.

Natural justice safeguards

140. Where an employee is accused of misconduct he or she is entitled to have the principles of natural justice applied to his or her case.

Options to suspend or warn in lieu of dismissal

141. An employer may, where he or she is entitled to dismiss an employee fairly,



Labour Minister Hon. Velon John

choose the option of — (a) warning the employee; or (b) suspending that employee without pay for a period not exceeding one month; in lieu of dismissal.

Suspension with pay

142. — (1) Subject to subsections (2) and (3), where an employee is alleged to have committed an act of serious misconduct or gross incompetence, the employer may suspend that employee with pay for a period not exceeding four weeks in order to investigate the complaint.

(2) The right of an employer to dismiss an employee summarily for serious misconduct or to dismiss the employee for incompetence or unsatisfactory performance in accordance with this Part is not waived by exercising the option of suspension if the allegation of serious misconduct or incompetence is proved to the satisfaction of the employer.

(3) Where an allegation of serious misconduct sufficient to ground a charge of summary dismissal in accordance with section 133 is proved after an investigation pursuant to subsection (1), the employer shall be entitled to claim any amounts of wages paid during the time of suspension referred to in subsection (1).

Dismissal for reason of incapacity or abuse of sick leave

143.— (1) Where an employee has been — (a) continuously ill for a period exceeding twenty six weeks such that he or she is no longer capable of adequately performing his or her job; or (b) injured in a manner that makes it difficult or impossible for him or her to continue to perform his or her job; the employer, after a registered medical practitioner has certified such incapacity and it is determined that the employee is incapable of performing his or her job, may dismiss the employee if such incapacity presents an undue hardship to the business or enterprise.

(2) Where an employee has taken sick leave frequently with or without a medical certificate such that the employer rea-

sonably determines that such absences present an undue hardship to the business enterprise or amounts to an abuse of sick leave provisions under this Code, the employer may dismiss the employee.

(3) The burden of proving that the employee's sick leave absences were abusive or that such absences present an undue hardship to the business enterprise shall rest on the employer.

Remuneration due upon dismissal

144. Where an employee is dismissed for misconduct or for unsatisfactory performance or for breach of contract in accordance with this Division, he or she is entitled to remuneration and accrued leave up to and including the date of the dismissal.

Termination due to redundancy

145.— (1) An employer may terminate the employment of the employee because conditions of redundancy exist which make the employee's position redundant pursuant to subsection (2).

(2) For purposes of subsection (1), an employee's position may be made redundant where the termination is because — (a) the employer has modernized, automated or mechanized all or part of the business; (b) the employer has discontinued to carry on all or part of the business; (c) the employer has sold or otherwise disposed of all or part of the business; (d) the employer has reorganized all or part of the business; (e) it has become impossible or impracticable for the employer to carry on all or part of the business at its usual rate or level or at all, due to — (i) a shortage of materials; (ii) a mechanical breakdown; (iii) an act of God; or (f) a reduced operation in all or part of the employer's business has been made necessary by economic conditions, including a lack of or change in markets, contraction in the volume of work or sales, reduced demand or surplus inventory.

FOUR AGRICULTURE CONFERENCES BEGIN THIS WEEK

Four important gatherings of local agriculture stakeholders are scheduled to be convened here in St. Lucia over the next few weeks.

The Ministry of Agriculture, Forestry & Fisheries, in collaboration with WIBDECO (The Windward Islands Banana Development and Exporting Company) and IICA (The Inter-American Institute for Co-operation in Agri-

culture), will conduct four national multi-venue conferences on the transformation and modernization of the agriculture sector and rural enterprises in St. Lucia.

The conferences will be conducted in four major rural centers of St. Lucia – Babonneau, Dennery, Vieux-Fort and Soufriere.

The first of these four one-day meetings takes place on Thursday, November 23rd 2006, at the Babonneau Hu-

man Resource /Multipurpose Centre, with the second taking place at the IRDC, La Caye, Dennery, on Wednesday, 29th November 2006.

Rural groups, community groups, producer associations, farmer and fisher groups, agro-industrial enterprises, agro-related entities, and individual farmers and fishers in the northern areas have been invited to participate in the first conference.

Agriculture stakeholders in the central and southern districts have been invited to the second conference.

A draft national policy and strategic plan for the agriculture sector, will be unveiled by the Ministry of Agriculture at each of these conferences and conference participants will be presented with a number of project initiatives and investment opportunities generated by the Plan.

The Importance of Small Hotels

Newly appointed Permanent Secretary in the Ministry of Tourism, Darrel Montrope, has highlighted the important role played by small hotel operators in the island's tourism industry.

Mr. Montrope spoke at the opening of a two-day Small Properties Revenue Management Workshop staged in collaboration with the Saint Lucia Hotel and Tourism Association and the Organisation of American States (OAS) at the Bay Gardens Inn on Monday.

He told the gathering, the workshop was consistent with Government's policy goals of creating an attractive and profitable investment climate and market friendly mechanisms, to generate opportunities for local participation.

"The Government recognises tourism as a strategic economic and development priority. Thus we have been seeking to deepen the partnerships which are of importance to the industry and country. That this workshop is a collaborative effort between an International agency, the OAS, the SLHTA and the Government of Saint Lucia is no coincidence. That we need to de-

velop and sustain a high quality product that is "brand Saint Lucia" is imperative. Thus this workshop is timely and necessary," Montrope said.

Mr Montrope urged participants to continue prudent management of the tourism sector and called on all partners to demonstrate responsibility in an effort to secure common developmental interests.

Meanwhile, the importance of the Tourism industry to the region as a whole has been one of the major factors why the Organisation of American States (OAS) has collaborated in activities aimed at developing the sector.

OAS resident representative to Saint Lucia, Paul Spencer, described tourism as being probably the largest industry in the world and the most significant economic activity in the Eastern Caribbean.

Speaking at the opening of the Workshop Mr. Spencer said it was for those reasons that the OAS has always been supportive of the sector.

"That support goes back to the 1980's when we signed the first tripartite agreement between the Caribbean Tourism Organisation, the Government



The Bay Gardens Hotel

of Barbados and ourselves, and that agreement has been the guiding principle, has been the basis of what the OAS has been doing in the tourism sector, particularly in the small hotel sector," Mr Spencer noted.

The OAS official said the small hotel sector has a unique role to play in the country's development and the focus of the workshop on Revenue management was key for the sector's survival and sustainability.

Micoud Fire Station Opens

Firemen have received the assurance that their concerns are being addressed via dialogue between the Ministry of Internal Security and the Fire Service Welfare Association.

Speaking at the official opening of the Micoud Fire Station Friday, Minister with responsibility for the Saint Lucia Fire Service, Senator the Honourable Calixte George, announced that issues of man-power will be addressed in next year's national budget.

He said the government's vision of improved infrastructure came at a substantial cost, but that it was all towards improving working conditions for the officers.

"Now this Micoud Fire Station represents the fourth new fire station that we have built and this is at a cost of 8.5 million dollars. We have built fire stations in Dennery at the

cost of 1.9 million dollars, the Vieux Fort Fire station cost us 2.3 million dollars, Gros Islet Fire Station cost us almost 2 million dollars, this one cost the most—2.5 million dollars."

Minister George also disclosed more plans for the Fire Service, which he said will soon begin to unfold on the island.

"We are expanding our training facilities for the firemen and although we have not established a training academy as in the case of the police, we have got some money to remodel one of the factory shell at Vieux Fort so you can continue your training because you lost the facility that you had at Hewannora."

The ceremony included the blessing of the building and a tour of the premises by officials and members of the public.

Local Author Launches Children's Books

At a time when computer related activities seem to provide stiff competition to the habit of reading, a local writer has launched a publication marrying the two pursuits.

The book entitled "Tarik and the Island of Adventure" is written by Mrs. Lee Kessel, retired lecturer of the Sir Arthur Lewis Community College and is set in a local context, with the use of St. Lucian locations and many folklore characters.

Governor General Her Excellency Dame Pearlette Louisy, in keeping with her support for the arts, culture and reading, hosted the launching of the book at Government House. Permanent Secretary in the Minis-

try of Education, Ms. Esther Braithwaite, commended the author saying her book offers a special treat to the imagination of young readers.

"A Saint Lucian writing about the book Tarik and the Island of Adventure, is indeed inspiring. I believe it caught the children's interest and I do hope the book gets more students' and schools' interest, especially during reading month. We certainly endorse the book and we look forward to having the children read more of it," Ms Braithwaite said.

The education official says she would like to see more local writers embark on projects of this nature. The book is available at local book stores island wide.

The Labour Code: Termination of Employment - *continued*

(3) Prior to terminating the employment of any employee pursuant to this section, the employer shall — (a) inform the trade union recognized in accordance with Division 2 of Part VII or, if none exists, the employees' representative and the employee as early as possible, of *inter alia* — (i) the existence of any situation described under subsection (2); (ii) the reasons for the terminations contemplated; (iii) the number and categories of the persons likely to be affected; and (iv) the period over which such terminations are likely to be carried out; (b) consult as early as possible with that recognized trade union, or if none exists, the employees' representative, and the employee on — (i) the possible measures that could be taken to avert or minimize the adverse effects of such situations on employment; and (ii) the possible measures that could be taken to mitigate the adverse effects of any terminations on the employees concerned; (c) notify the Labour Commissioner as early as possible, giving relevant information, including a written statement of — (i) the reasons for the terminations; (ii) the number and categories of workers likely to be affected; and (iii) the period over which the terminations are likely to be carried out.

Constructive redundancy

146.—(1) An employee shall be deemed to have been made redundant where his or her contract of employment is terminated due to the changing requirements of the business relating to new skills, qualifications or expertise. (2) Where an employee, without his or her consent, is consistently provided with terms and conditions of work which are not of the kind which he or she is employed to do, that employee shall be deemed to be in a situation of redundancy and is entitled to compensation for redundancy pay in accordance with Division 11.

Effect of sale

147.—(1) Where one of the purposes of a sale or other disposition of a business or part of a business is to enable an employer to avoid any of his or her obligations under this Code or to deprive any employee of any right under this Code, all of the obligations of the person selling or otherwise disposing of the business under this Code shall be binding on the person acquiring the business or part of a business.

(2) Nothing in subsection (1) shall be interpreted as restricting an employer from making a bona fide sale of his or her business or part of a business.

Lay-offs and suspensions

148.—(1) Subject to subsection (2), where an employee has been laid-off for a continuous period of at least twelve weeks, such lay-off shall be deemed a termination due to redundancy in accordance with this Division.

(2) The provisions of subsection (1) do not apply to an employee who is employed in the hospitality industry or any other industry designated by the Minister as a seasonal industry and who actually performs work on a seasonal basis, except where work which the employee is habitually employed to do is not offered to that employee for the following season.

(3) If after two consecutive seasons an employee habitually engaged in seasonal work is not offered work, the employer shall be deemed to have terminated the employee's contract of employment.

(4) The Minister may, after consultation with employees and employers representatives, make special Regulations for lay-off and redundancy for certain sectors of industry and for specific categories of workers from time to time as he or she deems necessary.

Option for severance pay from successor employer

149. Where there is a successor employer of an enterprise an employee of the former employer shall have the option to have his or her contract of employment terminated and receive severance pay calculated in accordance with Division 11 or to continue with the successor employer within four weeks of the transfer of the enterprise to the successor employer.

Winding up

150.—(1) The winding up or insolvency of an employer's business shall cause the contract of employment of any employee to terminate one month from the date of winding up or the appointment of a receiver, unless the employment is otherwise terminated before that period.

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

(3) On the winding up or appointment of a receiver of an employer's business, the claim of an employee or those legally entitled to make a claim on his or her behalf to wages and other payments to which he or she is entitled under this Code or any contract shall have priority over all other creditors, including the State and the social security system for the following amounts — (a) wages, overtime pay, commissions and other forms of remuneration relating to work performed; (b) accrued vacation leave benefits as a result of work performed during the two years preceding the date of the opening of winding-up or appointment of the receiver; (c) amounts due in respect of other types of paid absence accrued during the twelve months preceding the date of the opening of winding up or appointment of the receiver; (d) redundancy pay, severance pay, compensation for unfair dismissal and other payments due to employees upon termination of their employment.

Death of employer

151. When the employer's personal or legal position formed the basis of the contract of employment, the death of the employer shall cause the contract of employment to terminate one month from the date of the employer's death, unless the employment is otherwise terminated.

Priority debts on death of employer

152. On the death of an employer, the claim of an employee or those legally entitled to make a claim on his or her behalf to wages, severance pay, compensation for dismissal and any other employment terminal payments or benefits shall have priority over all other creditors, including the State and the social security system.

Notice periods and exemptions from notice

153.—(1) Where a valid reason for termination exists in accordance with this Code, a contract without reference to limit of time, except during the probationary period, may be terminated by the employer upon giving to the employee the following minimum periods of notice in writing — (a) one week's notice if the period of continuous employment is more than twelve weeks but less than two years; (b) two weeks' notice if the period of continuous employment is two years or more but less than five years; (c) four weeks' notice if the period of continuous employment is five years or more but less than ten years; and (d) six weeks' notice if the period of continuous employment is more than ten years.

(2) The notice required to be given by an employee who has been continuously employed for an indefinite period to terminate his or her contract of employment shall not be less than — (a) one week's notice if his or her period of continuous employment is more than twelve weeks but less than five years; and (b) two weeks' notice if his or her period of continuous employment is five years or more.

(3) Any provision for notice in any contract of employment with an employee shall have effect subject to the foregoing subsections, but nothing in this section shall be taken to prevent either party from waiving his or her right to notice on any occasion or from accepting a payment in lieu of notice.

(4) The periods of notice under subsections (1) and (2) shall not apply where longer periods of notice are regulated by a collective agreement or by mutual agreement.

(5) The periods of notice under subsection (1) shall not apply — (a) where the employer is entitled to summarily dismiss an employee for serious misconduct under this Code; (b) where there is agreement of both parties in writing to terminate the contract of employment; or (c) where the termination is due to an act of God, civil commotions, riots, destruction of all or part of the plant or business by fire not caused by the wilful act or negligence of the employer.

(6) A notice of termination under subsection (1) shall not be given by an employer during an employee's period of absence on any leave granted under any enactment in force.

(7) For the purpose of subsection (6), leave includes paid annual leave, maternity leave, sick leave, leave for national service, leave for public duty and leave for serious family responsibility.

(8) Where the contract of employment is terminated at the end of a specified period of time or because of the attainment by the employee of the normal age of retirement by virtue of custom, laws, collective agreement, work rules or otherwise, no notice of termination is required.

Notice not relevant to question of unfair dismissal

154. The question of whether an employee has been dismissed by his or her employer with or without notice shall not be relevant to the question of whether the employee was dismissed fairly or unfairly.

Payment in lieu of notice

155.—(1) In lieu of providing notice of termination, the employer may opt to pay the employee a sum equal to the employees' wages and other remuneration and confer on the employee all other benefits up to the expiry of any period of notice.

(2) Where an employee terminates the contract of employment without notice in circumstances in which notice is required and the employer has not waived the right to notice, the employee is entitled to be paid such wages and other remuneration and to receive such other benefits which occurred at the date of termination and the employer is entitled to deduct a sum in lieu of notice.

Certificate of termination

156.—(1) On the termination of a contract of employment, an employer, if so requested by the 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 continuous service; (d) the capacity in which the employee was employed prior to termination; (e) the wages and other remuneration payable at the date of termination of the contract; and (f) the reason for the termination of employment unless the employee indicates otherwise.

(2) A certificate provided pursuant to subsection (1) shall not contain any evaluation of the employee's work unless this is requested by the employee.

Fines and discipline

157.—(1) An employer shall not impose a fine or other monetary penalty on an employee, except in cases where a requirement of restitution is appropriate, nor impose any other disciplinary action except in accordance with this Code.

(2) An employee may make a complaint to the Labour Commissioner that disciplinary action is unreasonable.

Burden of proof

158.—(1) In any claim or complaint arising out of the dismissal of an employee at the initiative of the employer, it shall be for the employer to prove the reason for the dismissal and if the employer fails to do so there shall be a conclusive presumption that the dismissal was unfair or wrongful.

(2) In any claim arising out of constructive dismissal, it shall be for the employee to prove the reason which made the continuation of the employment relationship unreasonable.

Age of retirement

159.—(1) The age of retirement for all employees shall be the age deemed to be the pensionable age in accordance with the National Insurance Corporation Act.

WATER SUPPLY IMPROVEMENT PROJECT ADVANCED



Hon. Felix Finisterre



Cicéron Treatment Plant

Work on a Water Supply Improvement Project is at an advanced stage. This was determined as Minister for Communications, Works, Transport and Public Utilities, Honourable Felix Finisterre and other officials this week visited the various locations where improvement works are being conducted.

The Water Supply Improvement Project aims to improve the water supply system of the Roseau Dam in four major components. These include the upgrade of the Roseau Dam Pumping Station, the upgrade of the raw water line between Vanard and Sarrot, the Cicéron Treatment Plant upgrade and the installation of a Morne/Bocage distribution line. The need for the project arose from the fact that the original pipes distributing water

from the dam were inadequate, consisting of a hodge podge of different types of pipes.

According to Minister for Communications, Works, Transport and Public Utilities Honourable Felix Finisterre, the project “is going to facilitate the almost doubling of the treatment capacity. From the 6.4 million gallons of water per day, we are now going to achieve 10.5 million gallons of treated water. With two complementary tanks—one at Morne-Fortune for 200,000 gallons and the other at Hill Twenty in Barbonneau of 100,000 gallons, that is really going to ensure the end of the problems of water to the eastern part of Castries—from Bexon, in the Valley, all the way back to Boguis and Desbarras.”

Much of the water from the Roseau

Dam is treated at the Treatment Plant at Cicéron. The upgrade of that facility, according to Operations Manager with the Water And Sewage Company Shanta King, has its own challenges: “In addition to the new component or the new works that the contractor is expected to do, the old treatment plant is expected to be retrofitted as well. So the challenge really is to have the new works go and to have the old plant retrofitted at the same time, while maintaining a significant level of service to our existing customers.”

Ms King, who is also Project Engineer for the Water Supply Improvement Project expects substantial completion of works by February of next year, enabling St. Lucia to meet the demands for water in the island’s North for the hosting of World Cup Cricket matches.

JUDICIARY ‘HOLDS COURT’ OVER SUNSET LEGISLATION

Members of the Caribbean judiciary are ensuring they are well equipped to deal with any cases involving the Sunset Legislation which has been implemented for ICC Cricket World Cup 2007.

Last Friday in Barbados, ICC CWC 2007 Senior Legal Counsel, Derek Jones, outlined the relevance of this legislation - which was recently passed in the nine CWC Host Venues and which is new to the region - to a gathering of judges, magistrates and court officials from Barbados, the Organisation of Eastern Caribbean States (OECS) and Trinidad & Tobago.

In his presentation, he first explained the tournament’s contractual framework, indicating the relationships between key stakeholders: the International Cricket Council (ICC); the West Indies Cricket Board (WICB); the latter’s wholly-owned subsidiary, ICC CWC WI 2007 Inc; the Global Cricket Corporation (GCC); sponsors and Host governments.

Jones then reviewed the ICC Cricket

World Cup West Indies 2007 Act - as Sunset Legislation is officially known - and its provisions which he linked to the contractual obligations of ICC CWC 2007.

“It’s best to explain Sunset Legislation in this way for persons to get a proper understanding of how and why this legislation is a vital part of the tournament’s infrastructure. This legislation is how the Event’s contractual obligations are protected, so once those obligations have been defined, then it is easier to appreciate why these laws must be in place for the duration of the Cricket World Cup,” noted Jones.

Finally, the CWC official analysed ambush marketing - one of the main reasons for the introduction of Sunset Legislation - and compared it to other forms of legal complaints, with respect to Intellectual Property.

“It is very important that the regional judiciary grasp this law as they will be the ones who have to interpret and apply the legislation, should any cases arise. Those who attended were very interested in the

aspect of ambush marketing as this phenomenon is new to this jurisdiction,” said Jones, adding that a “lively discussion” followed his presentation.

In his opening remarks, Honourable Chief Justice of Barbados, Sir David Simmons - who invited Jones to make the presentation - stressed it was important for the judiciary to “start early” in having a firm understanding on Sunset Legislation and its related topics.

“Having Mr. Jones here, at this time, is to make sure we are fully prepared in the eventuality that we are called on to preside over any matter (relating to Sunset Legislation),” said Sir David, who invited his peers from the OECS and Trinidad & Tobago to participate in the forum.

“This meeting will deal with several areas and the one that may be of most interest to us is the issue of ambush marketing. This is an area that is new to us here in Barbados and the Caribbean and we have to ensure that we have full details and clarity on the matter.”



THIS WEEK ON NTN

Sat. Nov. 25th to Fri. Dec. 1st 2006
NTN – PROVIDING INFORMATION
YOU NEED

Land Reform for the 21st Century
- Communities of Hope - Sat. Nov. 25th, 11:30 a.m.
Invest In St. Lucia - Sun. Nov. 26th, 12:30 p.m.
Stabilizing Hillside Communities in St. Lucia – Mon. Nov. 27th, 8:00 p.m.
Prime Minister Dr. Kenny Anthony speaks to the Labour Code - Tues. Nov. 28th, 8:00 p.m.
Minister for Health, Human Services, Hon. Damian Greaves speaks to the UHC and other pertinent issues - Wed. Nov. 29th 8:00 p.m.
Towards Comprehensive Health Care – Upgrading the infrastructure of Health Centres island wide - Thurs. Nov. 30th, 8:30 p.m.
Minister for Social Transformation, Hon. Menissa Rambally speaks to her ministry’s efforts to advance social equality in the country – Fri. Dec. 1st, 8:00 p.m.
Remember to tune in for:
GIS News Breaks and Kweyol News daily from 6:30 p.m.
Issues & Answers/Mondays at 8:00pm:
Interview/Tuesdays at 6:15pm:
Konsit Kweyol/Tuesdays at 8:00pm (Kweyol Discussion):
Your Right to Know/Thursdays at 6:15 p.m. (Min. of Ed. Prog).
Take 2/Fridays at 6:15pm (Week in Review)
Weflechi/Fridays at 6:40pm - (Week in Review—Kweyol)

For the complete programme guide, log on to our website at www.stlucia.gov.lc and then click on the NTN icon.

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