



# Working for Workers 2023

In 2023, the Department of Labour successfully advanced employee and worker rights, achieving many significant milestones.

The Department of Labour is pleased to highlight the following accomplishments over the past year.

## **Guide to Working in Bermuda Published.**

In February 2023, the Department of Labour published A [Guide to Working in Bermuda](#) to bring greater awareness to the rights and responsibilities of employees and employers. The purpose of the guidance documents is to help prevent and resolve disputes regarding workplace entitlements and generate more reliable and productive working environments.

## **Minimum Hourly Wage Enacted in June 2023**

In May 2023, the Department of Labour published A [Guide to the Minimum Hourly Wage Rate](#) to supplement the Employment (Minimum Hourly Wage Entitlement) Act 2022, which came into operation on 1 June 2023. This Guide provides an overview of the rights and obligations of employers and employees as it relates to the minimum hourly wage rate in Bermuda in accordance with the Employment (Minimum Hourly Wage Entitlement) Act 2022, the Employment (Minimum Hourly Wage) Order 2023 and relevant regulations.

The Guide to the Minimum Hourly Wage Rate outlines how the minimum hourly wage rate is calculated, what records employers are required to maintain and the role and powers of Labour Inspectors in enforcing the minimum hourly wage rate.

On 1 June 2023, Employment (Minimum Hourly Wage) Order 2023 came into effect. The Order sets the minimum hourly wage rate at \$16.40. It applies to all persons employed wholly or mainly in Bermuda for compensation under a contract of employment, including casual workers, part-time employees, temporary employees and students.

## **Tips and Other Gratuities Legislation Passed**

In September 2023, the Employment (Protection of Employee Tips and Other Gratuities) Amendment Act 2023 was passed. This Amendment, which takes effect on 1 March 2024, amends the Employment Act 2000 to provide a framework that ensures the equitable distribution of tips and other gratuities to employees within industry sectors that commonly receive tips and other gratuities. It ensures the end of employers retaining tips and other gratuities earned by employees. It also creates the requirement for a clear written policy statement providing for how tips and other gratuities are to be managed and maintained by all employers that accept tips and other gratuities.

## **Tips and Other Gratuities Guidelines Published**

In December 2023, through consultation with the Labour Advisory Council, Procedural Guidelines for determining what constitutes work regularly performed to a substantial degree pursuant to the Employment (Protection of Employee Tips and Other Gratuities) Amendment Act 2023 were created and will be published





in 2024. These Guidelines prescribe what is to be taken into consideration when determining whether work that is performed by an employer, director or shareholder of an employer is, to a substantial degree, performed by some or all of the employee or employees of other employers in the same industry and would therefore warrant that employer, director or shareholder sharing in the tips, tip pool or redistribution of other gratuities of that employer. Additionally, the Department of Labour has held seminars for worker's associations and participated in information sessions throughout the year to bring awareness to employers, employees, and their representatives of the changes to the legislation and their rights and obligations that result from the same.

### **Distinction Between Independent Contractor vs. Employee Clarified**

The [Independent Contractor Guidance](#), which came into effect on 1 April 2023, assists in determining whether a person is an employee and, as a result, entitled to the protections afforded under the Employment Act 2000. This guidance establishes the basic framework of an employee-employer relationship and how it differs from an independent contractor work arrangement.

By providing clarity on the working relationship, the Independent Contractor Guidance will reduce the misclassification of workers, decrease unclear employment situations and lower the occurrence of disputes and Employment and Labour Relations Tribunal cases. This guidance was a collaborative effort by the Ministry of Economy and Labour and the members of the Labour Advisory Council.

### **Employment Law and Labour Relations Enhanced**

In March 2023, the Cabinet approved the creation of the Department of Labour, formerly the Labour Relations Section, within the Ministry of Economy and Labour HQ. In addition to the current complement of staff, which includes the Labour Relations Manager, Administrative Assistant and Labour Relations Officers, the Department of Labour will add five new positions, namely the Director of Labour, Tribunal Administrative Assistant and three Labour Inspectors. This new Department has already begun strengthening the Government's capacity to perform proactive enforcement and successfully implement and enforce newly enacted legislation, policies and initiatives for the betterment of the labour force within Bermuda.

### **Small Business Expo Supported**

In February 2023, the Department of Labour participated in the Bermuda Economic Development Corporations' First Annual Small Business Expo. The Expo was geared towards new and existing Bermuda businesses to inspire, inform, and support through education, guidance, data provision, advocacy, networking, financing, and the economic growth of Bermuda's local small and medium-sized businesses.

In 2024, the Department of Labour is keen to continue strengthening worker's rights within the workplace, shaping the employment landscape to uphold international best practices and ensuring the right to decent work is at the forefront of advancement.

