

NATIONAL TRIPARTITE ADVISORY COUNCIL

(NTAC)

**Statement by the Minister of Labour and Small Enterprise Development,
Senator the Hon Jennifer Baptiste-Primus**

Media Conference

Tuesday July 31st 2018, 10.00 a.m.

**La Lune Conference Room, Level 20, Ministry of Finance, Independence
Square, Port of Spain.**

Madame Chair, Members of the Media, Ladies and Gentlemen,

Over the past eleven months, the Members of the National Tripartite Advisory Council have been deliberating very conscientiously on three Policy Position Papers which had been referred for our comments by the Cabinet of Trinidad and Tobago.

The Policy Position Papers are on the subjects of

Amendments to

- The Industrial Relations Act Chapter 88:01 and
- The Workmen's Compensation Act Chapter 88:05
- The Retrenchment and Severance Benefits Act Chapter 88:13

In respect of the Industrial Relations Act Chapter 88:01, NTAC is in the final stages of deliberations on the matter. Comments were received from all three Sectors and it is our expectation that consensus on this item should be reached by the conclusion of our monthly meeting in September 2018.

We are currently collating comments from Sector Representatives on the Workmen's Compensation Act Chapter 88:05. Once received, these comments will be deliberated upon and consensus arrived at soon thereafter.

In respect of the Retrenchment and Severance Benefits Act, I am pleased to report that Sector Representatives of the National Tripartite Advisory Council (Labour, Business and Government) are close to arriving at consensus on recommendations for the harmonisation of measures to enhance the existing level of protection for retrenched workers.

Consensus has so far been reached on twelve (12) of the sixteen (16) provisions contained in the draft Policy Position Paper which was referred for NTAC's consideration by the Cabinet.

Members of the Media,

The draft Position Paper on Amendments to the Retrenchment and Severance Benefits Act (RSBA) is the outcome of a National Stakeholders Consultation which was held by the Ministry of Labour and Small Enterprise Development on the 18th May, 2016 as well as comments solicited from stakeholders who comprised the leadership of employer organisations, trade unions, government, academia, the legal fraternity and other agencies with technical expertise.

The Paper was developed to lay the groundwork for the introduction of a Bill in the Parliament of Trinidad and Tobago to give effect to Amendments to the Retrenchment and Severance Benefits Act Chapter 88:13 with a view to bringing legislative provisions in line with contemporary social and economic conditions.

Madame Chair, Members of the Media,

One of the critical items currently engaging meticulous consideration by NTAC is that of introduction of a provision that will guarantee the payment of severance benefits in circumstances where the services of workers are terminated due to redundancy, insolvency or receivership. These are three conditionalities not currently provided for in the scope of the original Retrenchment and Severance Benefits Act which came into effect in November 1985.

Prior to the passage of this Act of 1985, severance payments were generally made only where Collective Agreements provided for such payments or at the sole discretion of the employer.

But here is the dilemma:

While there is unanimous consensus among the Tripartite Partners that payment of severance benefits should be legislated for among the amendments currently being proposed, two very critical issues have been stymieing NTAC's progress in arriving at consensus on this provision.

One of these is that of determining the most appropriate mechanism by which the retrenchment payment should be made. The other is that of making a determination as to where, in the order of prioritisation, should payment of retrenchment benefits be placed when stacked side by side against competing legal, regulatory and fiduciary obligations especially of financially strapped institutions. There is no simple solution to these intricacies.

In respect of the Prioritization of Payment to Retrenched Workers, the Draft Policy Position Paper had cited the ILO Convention 173 for the Protection of Workers' Claims (Employer's Insolvency) Convention 1992 as a basis upon which further discussion can take place.

The ILO Convention 173 proffers two options *(i)* by means of Privilege and *(ii)* by means of A Guarantee Institution.

The Prioritisation of Payment to Retrenched Workers continues to be an area of grave concern to all parties. And we are working very objectively on arriving at consensus on this delicate item.

In our determination to arrive at the most impartial and practical mechanisms to address these two very pivotal issues, the Council consulted with representatives of both the International Labour Organisation Decent Work Team and Office of the Caribbean and the Financial Sector.

At the conclusion of our deliberations with these institutions, consensus was reached on the use of a Guarantee Institution for the payment of severance benefits especially taking into account the challenges to effect payment of retrenchment and severance benefits which could be encountered in the instances of involuntary or forced winding up of a business.

So ladies and gentlemen, while there was general consensus that leaned toward a Guarantee Institution, the issues yet to be decided by the Council are the mechanism for effecting the payment of retrenchment and severance benefits in a manner that brings balance to all stakeholders and secondly the prioritisation to be attached to such payments .

To determine the most appropriate mechanisms available for payment of severance benefits and the estimated outline cost of the mechanism, the Council agreed to refer the matter to a sub-committee which was assigned the responsibility to develop a framework for consideration by the Council. The sub-committee is comprised of representatives from the International Labour Organisation and the National Insurance Board of Trinidad and Tobago under the stewardship of a highly professional and accomplished actuary from the Insurance Sector who has offered his services voluntarily.

Upon receipt of the recommendations of the Sub Committee and arrival at consensus on all items which, for all practical purposes, is on the horizon, NTAC's recommendations will be forwarded for Cabinet's consideration, and then to the Office of the Attorney General for drafting of the necessary amendments to the subject legislation. Thereafter the Bill will be laid for Parliamentary debate and approval.

Members of the Media,

I trust that I would have made the status on this item focussed and clear and thank you for the opportunity to have shared this update with you and, though you, for the enlightenment and benefit of the national community.

I thank you.
