

**Government of Saint Lucia**

**Saint Lucia Human Capital Resilience Project –P170445**

**LABOUR MANAGEMENT PROCEDURES**



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10. **INTRODUCTION:**

The Labour Management Procedures (LMP) was developed in support of the Human Capital Resilience Project. The procedures seek to ensure that measures are in place to manage risks associated with employment under the project. The LMP identifies the main labour requirements for the project and establishes parameters to ensure that hiring is undertaken as per the Labour Laws of Saint Lucia. The LMP sets out the approach for meeting national requirements as well as the objectives of the World Bank’s Environmental and Social Framework, specifically objectives of Environmental and Socials Standard 2: Labor and Working Conditions (ESS2).

Based on the Project’s Social Assessment, risks as it relates to the labour, working conditions and occupational health and safety are minimal. These risks are understood and expected to have limited impact on the project if managed according to the procedures set out in this plan. The Government of Saint Lucia is committed to continuous assessment of the risks and impact throughout the life of the project and ensures that adequate measures and procedures are in place to address any adverse impacts.

1. **OVERVIEW OF LABOR USE ON THE PROJECT**

The LMP is applicable to all Project workers, whether full-time, part-time or temporary. The LMP is applicable as per ESS2 to the Project in the following manner[[1]](#footnote-1):

* People employed or engaged directly by the Department of Education or Department of Equity including staff of the Project Implementation Unit (PIU)
* People employed or engaged by the consultants to perform work related to the core functions of the project regardless of location.
* People engaged through third parties to perform work related to the core functions of the project regardless of location

The project will be engaged with direct workers and may hire specialized consultants for developing different types of studies and curricula.

The project will be implemented by the Department of Education, Innovation and Gender Relations and the Department of Equity, Social Justice, Empowerment and Human Services with the Department of Education being the lead Agency. Support will be provided by the Department of Finance and the Department of Economic, Transport and Civil Aviation.

* 1. **Labour Requirements for component 3: Technical Assistance and Project Management:**

The Ministry of Education will establish a PIU to oversee the day-to-day operations of the project. The Unit will engage the following personnel throughout the project:

* A Project Coordinator with overall responsibility for project management as well as technical activities in education
* A Technical Coordinator with responsibility for the activities in the Ministry of Equity
* An Administrative Assistant
* A Finance officer
* A Procurement officer
* A Monitoring & Evaluation Officer
* A Social and Environmental specialist

***2.2. Labour requirements for component : Strengthening Technical and Vocational Education and Training (TVET);***

|  |  |  |
| --- | --- | --- |
| **Component and activities** | **Estimated No. of Persons** | **Timing of Engagement** |
| **Component 1;Strengthening Enabling Environment for TVET;** | | |
| * Establishing a periodic labor market needs assessment to gauge private, public, and informal sector needs for technical and non-technical (e.g. socio-emotional) skills | 15 interviewers  3 supervisors | January - March 2020 |
| * Supporting the implementation of the TVET Policy and Strategy, including adequate human resourcing of the TVET Council and measures to increase gender inclusivity and inclusion of persons with disabilities; | TVET Council   * 5 Existing staff * 2 New staff * 1 Ancillary staff (8 )   TVET Unit  4 New staff | May 2020 |
| * Developing fully operational databases of training institutions, trainees, and credentials (TVET database) and of employers and job seekers | 2 data entry personnel | May 2020 |
| * Developing a resource mobilization strategy to ensure sustainable financing of the sector. | 3 People | February 2020 |
| **Component and activities** | **Estimated No. of Persons** | **Timing of Engagement** |
| **Component 2; Improved TVET offerings** | | |
| * Rationalization of programs, informed by the labor market needs assessment and skills program diagnostic; | 4 People | May 2020 |
| * Professional development for TVET trainers, including a trainer immersion program in partnership with the private sector, | 2 People | July 2020 |
| * Development of new TVET offerings - including higher-level CVQs | 1 Officer in charge | January 2020 |
| * Provision of financial support for lower-income students to access TVET | 2 people | April 2020 |

2.3 Labour Requirements for Component 2: Strengthening the Social Protection System

|  |  |  |
| --- | --- | --- |
| **Component and activities** | **Estimated No. of Persons** | **Timing of Engagement** |
| **Subcomponent 2.1: Strengthened social protection policy frame** | | |
| * Review and update the national social protection policy | 1 | Year 1 |
| * Development of a graduation strategy | 1 | Year 2 |
| * Development of Operations Manual for major programmes | 1 | Year 1 |
| * Review of the Draft Social Protection Bill | 1 | Year 1 |
| * Testing and Validation of the updated targeting tool, SL-NET 3.0 | 1 | Year 1 |
| * Planning, implementation and analysis of the 2022 Living Conditions and Household Expenditure Survey | 10 | Year 3 |
| **Subcomponent 2.2: Improved implementation of flagship social programs** | | |
| * Revision of existing social assistance programs | 2 | Year 1 |
| * Design, development and population of a social information system | 5[[2]](#footnote-2) | Year 1-5 |
| * Capacity building activities such as training of management and technical staff | 5[[3]](#footnote-3) | Year 1-5 |
| * Development of a communication strategy | 2 | Year 1 |

## ASSESSMENT OF KEY POTENTIAL LABOR RISKS

The Labour risks associated with the project are minimal. The majority of activities to be carried out on the project will be focused on consultancies. The key labour risks which may be associated with the project are related to potential breaches in promoting transparency in the terms and conditions of employment, non-discrimination and equal opportunity. In addition, the probability of use of child labour or forced labour[[4]](#footnote-4) is negligible due to the level of skills and qualifications required to execute the activities outlined in the project.

## BRIEF OVERVIEW OF LABOR LEGISLATION: TERMS AND CONDITIONS

There is one main piece of legislation which guide and regulate the terms and conditions of employment in Saint Lucia. This is the:

* Saint Lucia Labour Code, no. 37 of 2006

The Saint Lucia Labour Code outlines the conditions of employment with a view to improving the terms and conditions upon which workers are employed. The Labour Code makes it mandatory for employers to provide employees with written details of employment stating, hours of work, leave entitlement, job description, grievance procedures, benefits, health and safety etc. Within this legislation there are provisions relating to:

* Fundamental principles of employment-Part II
* Contracts of employment-Division 1
* Hours of Work-Division 3
* Wages and minimum wages-Division 4&5
* Leave entitlements (annual leave, sick leave, maternity leave, bereavement leave etc)-Divisions 6, 7 and 2
* Employment of Children and Young persons-Division 9
* Termination of Employment-Division 10
* Duties of Employers, workers and other persons-Part IV Division 4
* Occupational Health and Safety-Part IV
* Equality of opportunity and treatment in employment-Part V Division 1
* Trade Unions and employers organizations-Part VII

Part II of the Code under Fundamental Principles of Employment number 7 states that “an employer shall not discriminate against any employee on the grounds of race, colour, sex, religion, national extraction, social origin, ethnic origin, political opinion or affiliation, age, disability, serious family responsibility, pregnancy, marital status or HIV\AIDS, in respect of recruitment, training, work facilities or service, promotion, terms and conditions of employment or benefit arising out of the employment relationship”. The Code also makes provision on how the matter of discrimination can be addressed.

Project workers will be paid on a regular basis as required by national law and labor management procedures. Deductions from payment of wages will only be made as allowed by national law or the labor management procedures, and project workers will be informed of the conditions under which such deductions will be made. Project workers will be provided with adequate periods of rest per week, annual holiday and sick, maternity and family leave, as required by national law and labor management procedures.

## BRIEF OVERVIEW OF LABOR LEGISLATION: OCCUPATIONAL HEALTH AND SAFETY

Part four of the Saint Lucia Labour Code also speaks to occupational health and safety in the workplace. Under Part four, Divisions 1-4 provides for preventative health measures, protective devices and equipment, medical examinations, notification of employment injuries and diseases, training, etc. This Act obligates the employer to ensure the safety and health of all employees and to mitigate risk of exposure to any hazards in the work environment. Division three of the Code clearly outlines the procedures to be followed in relation to notification of accidents, occupational diseases and other diseases. Division four specifically speaks to the responsibilities of employers, employees and other persons in adhering to health and safety regulations. The Code also clearly outlines the circumstances where employees may refuse to work on health and safety grounds and the procedures for how such matters should be addressed.

## RESPONSIBLE STAFF

The Project Coordinator with support from the Department of Education Human Resource Unit and Department of Public Service Human Resource Unit will be responsible for the:

* Engagement and management of project workers
* Occupational health and safety (OHS)
* Addressing worker grievances
* Training of workers

The Project Coordinator with support from PIU staff and the implementing Ministries will be responsible for the engagement and management of consultants/sub-consultants.

## POLICIES AND PROCEDURES

Given the nature of the project no major risks are foreseen on labor and working conditions However, Bank provisions of Labor and Working Conditions applies given that the project will be engaged with direct workers, defined as” people employed or engaged directly by the Borrower (including the project proponent and the project implementing agencies) to work specifically in relation to the project ” and may hire specialized consultants for developing different types of studies and curricula.” Any identified risk will be addressed in accordance with provisions within the Saint Lucia Labour Code utilizing the various Divisions of the Code as outlined in previous sections, and consistent with the World bank, Environmental and Social Standards. The Department of Education as the lead Agency will ensure that all employees hired as part of the project:

* Ascribe to the principle of not harming people
* That sexual harassment, gender-based violence (GBV), sexual exploitation and abuse (SEA) will not be tolerated.
* That discrimination will not be tolerated in the work place
* The employment of project workers will be based on the principle of equal opportunity

and fair treatment, and there will be no discrimination with respect to any aspects of the employment relationship, such as recruitment and hiring, compensation (including wages and benefits), working conditions and terms of employment.

* Given that there are direct workers under PIU, the PIU will adapt and receive training on Code of Conducts as well as on OHS measures required under ESS2.
* That there is compliance with the laws of the Country at all times.
* Compliance with the Environmental and Social Framework (ESF)of the Bank, including the Environment and Social Standard (ESS2) on Labor and Working Conditions.
* That all health and safety measures are adhered to as laid out under World Bank’s Environmental and Social Standards (ESS) 2 on Labor and Working Conditions and for on Community Health and Safety.

## AGE OF EMPLOYMENT

Division 9 “Employment of children and young persons” of the Labour Code states “…..a person shall not employ or allow to be employed any child who is under the minimum school leaving age[[5]](#footnote-5) as declared by any law in force in Saint Lucia except for employment during school holidays in light work.

The minimum age of employment for the Project will be 18 years. To ensure compliance all employees will be required to produce their National Identification Card (NIC) as proof of their identity and age. This NIC serves as the national document required for employment.

A child over the minimum age, and under the age of 18 may be employed or engaged in connection with the project only under the following specific conditions:

(a) an appropriate risk assessment is conducted prior to the work commencing; and

(b) the Borrower conducts regular monitoring of health, working conditions, hours of work and the other requirement of ESS2 of the World bank: Labor and Working condition.

A child over the minimum age and under the age of 18 will not be employed or engaged in connection with the project in a manner that is likely to be hazardous[[6]](#footnote-6) or interfere with the child’s education or be harmful to the child’s health or physical, mental, spiritual, moral or social development.

Any consultant found hiring persons under the age of 18 will have their contract immediately terminated and will be reported to the authorities. Under Division 9 127-“ Any employer who contravenes sections 122, 123 or 124 commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars or to imprisonment for a term of two years or both.

## TERMS AND CONDITIONS

The Saint Lucia Labour Code guides and regulates the terms and conditions of employment. Division 1 “Contracts of Employment” applies to all persons engaged under contracts of employment. The Act mandates that “Within fourteen days from the date on which employment commences, an employer may prepare a written contract correctly describing the terms and conditions of employment that have been agreed upon by the employer and employee”. The Code also states that “where a contract of employment is not written the employer shall explain to the employee the contents of the contact of employment….”. The Code further states that “upon written request to the employer, an employee who is not employed under a written contract shall be given, within one month of the request, a written contract.

The Labor code, para. 27.— (1) states that subject to subsections (2) and (3), an employer shall not require any employee to work for more than forty hours during any week, excluding overtime. In para. 265. — (1) It also states, that an employer shall not — (a) dismiss or threaten to dismiss an employee; (b) discipline or suspend or threaten to discipline or suspend an employee, (c) impose any penalty upon an employee; (d) intimidate or coerce an employee; or (e) discriminate against an employee in any way.

The code states, that a person discriminates against another person if the first-mentioned person makes, on any of the grounds specified in subsection (2), any distinction, exclusion or preference, the intent or effect of which is to nullify or impair equality of opportunity or treatment in occupation or employment. (2) The grounds referred to in subsection (1) are — (a) race, sex, religion, colour, ethnic origin, social origin, political opinion or affiliation, disability, serious family responsibility, pregnancy, marital status, HIV/AIDS, trade union affiliation or activity, or age except for purposes of retirement and restrictions on work and employment of minors or for the protection of children and young persons.

Para 285.—(1) states that, without prejudice to the provisions under this Division, an employer shall not refuse to employ a person, demote or dismiss a female employee, alter the terms and conditions of her contract of employment, refuse her promotion or training or in other way discriminate against her because she is or was pregnant or for any reason connected with pregnancy.

Under this Project all consultants will be provided with a written contract, in accordance with the Labour Code, outlining terms and conditions for executing the particular work that they have been contracted for. The terms and conditions of employment will make adequate provisions for periods of rest per week, annual holiday, sick, maternity and vacation and bereavement leave as stipulated in the Labour Code.

## GRIEVANCE MECHANISM

In any working environment it is essential for both employers and employees to be fully conversant with all aspects of disciplinary processes, the grievance handling procedures and the legal requirements and rights involved. In implementing an effective dispute management system consideration must be given to the disputes resulting from the following:

* Disciplinary action
* Individual grievances
* Collective grievances and negotiation of collective grievances
* Gender-based violence, sexual exploitation and workplace sexual harassment

As mentioned previously, the Saint Lucia Labour Code, 2006[[7]](#footnote-7) will be utilized to address any issues of breaches in procedures or fulfillment of Contract requirements. Prior to the implementation of any contracts, consultants will be briefed on the laws of the land, on acceptable and unacceptable conduct and the avenues available for redress.

Grievances whether by project staff, consultants or stakeholders will be addressed through the following steps:

1. A Grievance complaint can be submitted in writing to the Grievance Committee. The Grievance Committee will be composed of representatives from the Ministry of Education, and from the Ministry of Equity, and the PIU. The ministry of education will be the Chair of the committee.
2. Investigation: A full investigation will be carried out by the Committee and all relevant evidence gathered. The findings will be sent to the aggrieved party in advance of the meeting.
3. The grievance matter will be addressed within a minimum of one (1) to fifteen (15) days depending on the nature of the matter reported.
4. Grievance Meeting: A grievance meeting will be arranged and the aggrieved party will be invited to present his/her case. The aggrieved party will be reminded of their statutory right to be accompanied.
5. Decision: The aggrieved party will be informed in writing of the decision reached.
6. If the issue cannot be resolved by the Committee then the matter will be referred to the Department of Labour for their action and ruling.
7. Appeal: The aggrieved party will be notified of their right to appeal against the outcome of the grievance procedure. If either party is not satisfied with the ruling by either the Committee or the Department of Labour the party may seek redress in the courts of the Country.

Documentation/records will be kept on all grievance matters including the outcomes and at every stage of the grievance process.

This Grievance Mechanism is provided for all direct workers and contracted workers (and, where relevant, their organizations) to raise workplace concerns. All workers will be informed of the grievance mechanism at the time of recruitment and the measures put in place to protect them against any reprisal for its use. The grievance mechanism will be easily accessible to all workers and does not impede access to other judicial or administrative remedies that might be available under the laws of Saint Lucia or through existing arbitration procedures, or substitute for grievance mechanisms provided through collective agreements.

## CONSULTANT MANAGEMENT

Consultants will be managed according to the terms and conditions stipulated in their signed contract. The Project Coordinator will be responsible for providing general oversight over the execution of the contacts. The relevant technical staff within the PIU will be responsible for overseeing the day to day execution of the contracts and for ensuring that the consultants are implementing the project activities according to their agreed upon Terms of Reference which will form part of the contract document. A copy of the Grievance Redress Mechanism and the Code of Conduct will be made available to all workers hired as part of the project. GRM and Code of Conducts will be available to the PIU-hired consultants.

## COMMUNITY WORKERS

The project doesn’t intend to be engaged with community workers.

## PRIMARY SUPPLY WORKERS

The project does not intend to be engaged with primary supplier workers. However, if such situation appears, contractor who subcontract the supply of materials and equipment will be responsible to include the same conditions and specifications on ESHS aspects to its subcontracting agreements, including and to prevent the use of child labor, forced labor and serious safety issues which may arise in relation to primary suppliers

1. The Project will not employ primary supplier, community labour or security forces. Government civil servants, who may provide support to the Project, will remain subject to the terms and conditions of their existing public sector employment agreement unless there has been an effective legal transfer of their employment or engagement to the project. ESS2 will not apply to such government civil servants, except for the provisions of Protecting the Work Force and Occupational Health and Safety. [↑](#footnote-ref-1)
2. Firm with persons with various skills [↑](#footnote-ref-2)
3. Firm with persons with various skills [↑](#footnote-ref-3)
4. Division 9 no. 122 and 127 speaks to the prohibition of child labour as well as the penalties for engaging in child and young persons labour. Part II no. 6 speaks to Prohibition against forced labour. [↑](#footnote-ref-4)
5. According to the Education Act ,no 41 of 1999, Division 3 27, the minimum school leaving age is 15. [↑](#footnote-ref-5)
6. Work considered hazardous for children is work that, by its nature or the circumstances in which it is carried out, is likely to jeopardize the health, safety, or morals of children. Examples of hazardous work activities prohibited for children include work: (a) with exposure to physical, psychological or sexual abuse; (b) underground, underwater, working at heights or in confined spaces; (c) with dangerous machinery, equipment or tools, or involving handling or transport of heavy loads; (d) in unhealthy environments exposing children to hazardous substances, agents, or processes, or to temperatures, noise or vibration damaging to health; or (e) under difficult conditions such as work for

   long hours, during the night or in confinement on the premises of the employer. [↑](#footnote-ref-6)
7. Division 1; Contracts of Employment, Division 8; Public Contracts, Division 10 ;Termination of Employment [↑](#footnote-ref-7)