Employment (Amendment) Bill

Bill No. 47/2018.

Read the first time on 2 October 2018.

A BILL

i n t i t u l e d

An Act to amend the Employment Act (Chapter 91 of the 2009 Revised Edition) and to make consequential and related amendments to certain other Acts.

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act is the Employment (Amendment) Act 2018 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

Amendment of section 2

2. Section 2 of the Employment Act is amended —

(*a*) by deleting the definition of "dismiss" in subsection (1) and substituting the following definition:

> "'dismiss" means to terminate the contract of service between an employer and an employee at the initiative of the employer, with or without notice and for cause or otherwise, and includes the resignation of an employee if the employee can show, on a balance of probabilities, that the employee did not resign voluntarily but was forced to do so because of any conduct or omission, or course of conduct or omissions, engaged in by the employer;";

(*b*) by deleting the word "include —" in the definition of "employee" in subsection (1) and substituting the words "include any of the following:";

(*c*) by deleting paragraph (*c*) of the definition of "employee" in subsection (1);

(*d*) by deleting the definitions of "medical officer" and "medical practitioner" in subsection (1) and substituting the following definitions:

> "'medical officer" means —
>
> (*a*) a medical practitioner employed by the Government or an approved medical institution; or
>
> (*b*) any other medical practitioner whom the Minister declares, by notification

in the *Gazette*, to be a medical officer for the purposes of this Act;

"medical practitioner" means a medical practitioner registered under the Medical Registration Act (Cap. 174), and includes a dentist registered under the Dental Registration Act (Cap. 76);";

(*e*) by inserting, immediately after the definition of "subcontractor for labour" in subsection (1), the following definition:

"'"Tribunal" means an Employment Claims Tribunal constituted under section 4 of the State Courts Act (Cap. 321);"; and

(*f*) by deleting subsection (2).

Amendment of section 14

3. Section 14 of the Employment Act is amended —

(*a*) by deleting subsection (2) and substituting the following subsection:

"(2) Despite subsection (1), but subject to section 3 of the Employment Claims Act 2016 (Act 21 of 2016), where a relevant employee considers that he has been dismissed without just cause or excuse by his employer, the employee may lodge a claim, under section 13 of that Act, for one of the following remedies:

(*a*) reinstatement in his former employment;

(*b*) compensation.";

(*b*) by deleting the words "12 months" in subsection (2A)(*a*) and substituting the words "6 months";

(*c*) by deleting subsections (3) to (7A) and substituting the following subsection:

"(3) If a Tribunal hearing the claim is satisfied that the employee has been dismissed without just cause or excuse, the Tribunal may, despite any rule of law or agreement to the contrary —

(*a*) in a claim for reinstatement of the employee in his former employment, direct the employer —

(i) to reinstate the employee in the employee's former employment; and

(ii) to pay the employee an amount equivalent to the wages that the employee would have earned, if the employee had not been dismissed; or

(*b*) in a claim for compensation, direct the employer to pay, as compensation to the employee, an amount of wages determined by the Tribunal."; and

(*d*) by deleting subsection (8) and substituting the following subsection:

"(8) For the purposes of an inquiry under subsection (1), the employer —

(*a*) may suspend the employee from work for —

(i) a period not exceeding one week; or

(ii) such longer period as the Commissioner may determine on an application by the employer; but

(*b*) must pay the employee at least half the employee's salary during the period the employee is suspended from work.".

Amendment of section 27

4. Section 27 of the Employment Act is amended —

(*a*) by deleting paragraph (*c*) of subsection (1);

(*b*) by inserting, immediately after the word "deductions" in subsection (1)(*d*) and (*e*), the words "made with the written consent of the employee";

(*c*) by deleting paragraph (*f*) of subsection (1) and substituting the following paragraph:

"(*f*) any deduction for the recovery of any advance, loan or unearned employment benefit, or for the adjustment of any overpayment of salary;";

(*d*) by deleting paragraph (*i*) of subsection (1) and substituting the following paragraph:

"(*i*) any deduction (other than a deduction mentioned in paragraphs (*a*) to (*h*), (*j*) and (*k*)) made with the written consent of the employee;";

(*e*) by deleting paragraph (*k*) of subsection (1) and substituting the following paragraph:

"(*k*) any other prescribed deductions.";

(*f*) by inserting, immediately after subsection (1), the following subsections:

"(1A) A written consent of an employee for any deduction mentioned in subsection (1)(*d*), (*e*), (*i*) or (*j*) may be withdrawn by the employee giving written notice of the withdrawal to the employer at any time before the deduction is made.

(1B) An employee cannot be penalised for withdrawing a written consent for any deduction mentioned in subsection (1)(*d*), (*e*), (*i*) or (*j*)."; and

(*g*) by inserting, immediately after subsection (2), the following subsection:

"(3) In subsection (1)(*f*), "employment benefit" —

(*a*) means any benefit that an employee derives from being employed, other than salary; and

(*b*) includes (but is not limited to) benefits such as the following:

(i) any annual leave in excess of the annual leave to which the employee is entitled under section 88A;

(ii) any flexible employment benefit (such as an allowance that can be utilised, at the employee's discretion, for any of certain purposes specified in the employee's contract of service).".

Amendment of section 30

5. Section 30 of the Employment Act is amended by deleting subsection (1).

Amendment of section 33

6. Section 33(1) of the Employment Act is amended by deleting paragraph (*b*) and substituting the following paragraph:

"(*b*) to every employee (other than a workman or a person employed in a managerial or an executive position) who receives a salary not exceeding $2,600 a month (excluding any overtime payment, bonus payment, annual wage supplement, productivity incentive payment and any allowance however described) or such other amount as the Minister may prescribe.".

Amendment of section 35

7. Section 35 of the Employment Act is amended by deleting paragraph (*b*) and substituting the following paragraph:

"(*b*) to every employee (other than a workman or a person employed in a managerial or an executive position) who receives a salary not exceeding $2,600 a month (excluding any overtime payment, bonus payment, annual wage supplement, productivity incentive payment and any allowance however described) or such other amount as the Minister may prescribe.".

Repeal of section 43

8. Section 43 of the Employment Act is repealed.

Amendment of section 53

9. Section 53 of the Employment Act is amended by deleting subsection (3).

Amendment of section 84

10. Section 84 of the Employment Act is amended by deleting subsections (2) to (7) and substituting the following subsections:

"(2) Subject to section 3 of the Employment Claims Act 2016, where a female employee in the circumstances mentioned in subsection (1)(*a*), (*b*) or (*c*) considers that a notice of dismissal given to her was not given for sufficient cause, the female employee may lodge a claim, under section 13 of that Act, for one of the following remedies:

(*a*) reinstatement in her former employment;

(*b*) compensation.

(3) If a Tribunal hearing the claim is satisfied that the female employee has been dismissed without sufficient cause, the Tribunal may, despite any rule of law or agreement to the contrary —

(*a*) in a claim for reinstatement of the employee in her former employment, direct the employer —

(i) to reinstate the employee in her former employment; and

(ii) to pay the employee an amount equivalent to the wages that the employee would have earned, if she had not been dismissed by the employer; or

(*b*) in a claim for compensation, direct the employer to pay, as compensation to the employee, an amount of wages determined by the Tribunal to be just and equitable having regard to all the circumstances of the case.".

Amendment of section 87A

11. Section 87A(3) of the Employment Act is amended by deleting "43" and substituting "88A".

Amendment of heading to Part X

12. The heading of Part X of the Employment Act is amended by inserting, immediately after the word "HOLIDAY", the words ", ANNUAL LEAVE".

Amendment of section 88

13. Section 88(4A) of the Employment Act is amended by deleting the words "an employee who is employed in a managerial or an executive position" and substituting the words "any employee (other than an employee to whom Part IV applies by virtue of section 35(*b*) or who is a workman mentioned in section 35(*a*))".

New section 88A

14. The Employment Act is amended by inserting, immediately after section 88, the following section:

"**Annual leave**

88A.—(1) An employee who has served an employer for a period of not less than 3 months is, in addition to the rest days, holidays and sick leave to which the employee is entitled under sections 36, 88 and 89, respectively, entitled to the following:

(*a*) 7 days of paid annual leave, for the first 12 months of continuous service with the same employer;

(*b*) subject to paragraph (*c*), an additional one day of paid annual leave, for every subsequent 12 months of continuous service with the same employer;

(*c*) a maximum of 14 days of paid annual leave.

(2) An employee who has served an employer for a period of not less than 3 months, but has not completed 12 months of continuous service in any year, is entitled to annual leave in proportion to the number of completed months of service in that year.

(3) In calculating the proportionate annual leave under subsection (2) —

(*a*) any fraction of a day that is less than one-half of a day must be disregarded; and

(*b*) where a fraction of a day is one-half or more, it must be regarded as one day.

(4) Where an employee is granted leave of absence without pay by an employer at the request of the employee, the period of the leave is to be disregarded for the purpose of computing the period of continuous service under this section.

(5) An employee forfeits the employee's entitlement to annual leave if the employee absents himself from work without the permission of the employer, or without reasonable excuse, for more than 20% of the working days in the months or year (as the case may be) in which the employee's entitlement to annual leave accrues.

(6) In the case of an employee to whom Part IV applies by virtue of section 35(*b*) or who is a workman mentioned in section 35(*a*) —

(*a*) the employer must grant, and the employee must take, the employee's paid annual leave not later than 12 months after the end of every 12 months of continuous service; and

(*b*) if the employee fails to take that leave by the end of that period, the employee ceases to be entitled to that leave.

(7) An employer must pay an employee the employee's gross rate of pay for every day of paid annual leave.

(8) If an employee is dismissed on any ground other than misconduct before the employee has taken all of the employee's paid annual leave, the employer must pay the employee the employee's gross rate of pay in respect of every day of that leave not taken by the employee.

(9) The Minister may, by notification in the *Gazette*, do any of the following:

(*a*) fix the periods when, and prescribe the manner in which, paid annual leave is to be granted to employees in different types of employment or in different classes of industries;

(*b*) suspend the application of any provision of this section to any class of employees, when the public interest so requires it.".

Amendment of section 89

15. Section 89 of the Employment Act is amended —

(*a*) by deleting the words "shall, after examination at the expense of the employer by a medical practitioner appointed by the employer or a medical officer, be entitled to such paid sick leave, as may be certified by the medical practitioner or medical officer" in subsections (1) and (2) and substituting in each case the words "is entitled, after examination by a medical practitioner, to such paid sick leave, as may be certified by the medical practitioner";

(*b*) by deleting subsection (3) and substituting the following subsection:

"(3) For the purposes of this section —

(*a*) an employee is hospitalised if the employee is warded in an approved hospital in such circumstances as may be prescribed; and

(*b*) an employee, who is discharged from an approved hospital after being warded in that approved hospital in accordance with paragraph (*a*), is deemed to be hospitalised for a continuous period, beginning immediately after that discharge, if the employee is certified, by a medical practitioner employed by that approved hospital —

(i) to be ill enough to need to remain hospitalised during that period; or

(ii) to need rest during that period in order to recover.";

(*c*) by deleting the words "appointed by the employer or a medical officer" in subsection (4)(*a*);

(*d*) by deleting paragraph (*b*) of subsection (4) and substituting the following paragraph:

"(*b*) which is certified by a medical practitioner not appointed by the employer, but of which the employee did not inform or attempt to inform the employer within 48 hours after its commencement,";

(*e*) by inserting, immediately after subsection (7), the following subsection:

"(7A) Where an employee has served an employer for a period of at least 3 months, the employer is liable to bear, or to reimburse the employee, the fees of an examination of the employee by a medical practitioner, if —

(*a*) the medical practitioner is appointed by the employer or is a medical officer; and

(*b*) after the examination, the employee is certified by the medical practitioner to be entitled to paid sick leave.";

(*f*) by deleting the words "For the purposes of subsections (1) and (2), an employer shall be deemed to fulfil the obligation imposed by those subsections to bear the fees of any medical examination of his employees" in subsection (8) and substituting the words "An employer is deemed to fulfil the employer's obligation under subsection (7A)";

(*g*) by deleting the words "or medical officer" in subsection (10); and

(*h*) by inserting, immediately after subsection (10), the following subsection:

"(11) In this section, "approved hospital" means any hospital or other medical institution that the Minister declares, by notification in the *Gazette*, to be an approved hospital.".

Amendment of section 90

16. Section 90(2) of the Employment Act is amended by deleting the words "terms of service relating to leave more favourable than those contained in section 89" in paragraphs (*a*) and (*b*) and substituting in each case the words "terms of service more favourable than those contained in sections 88A and 89".

New section 96A

17. The Employment Act is amended by inserting, immediately after section 96, the following section:

"**Employer's obligation to furnish information on retrenchment of employees**

96A.—(1) The Commissioner may, by notification in the *Gazette*, require any employer, or any employer in a class of employers, to furnish to the Commissioner, at such time and in such form as may be specified in the notification, such information on the retrenchment of any employee by the employer as may be specified in the notification.

(2) Every employer to whom the notification applies must comply with every requirement in the notification concerning the furnishing to the Commissioner of information on the retrenchment of any employee by the employer.".

Amendment of section 101

18. Section 101 of the Employment Act is amended by inserting, immediately after subsection (2), the following subsection:

"(3) Subsections (1) and (2) do not apply to any information furnished or required to be furnished under section 96A by an employer on the retrenchment of any employee by the employer.".

Amendment of section 102

19. Section 102 of the Employment Act is amended by inserting, immediately after subsection (4), the following subsection:

"(5) Subsections (1) to (4) do not apply to any information furnished under section 96A by an employer on the retrenchment of any employee by the employer.".

Amendment of section 126A

20. Section 126A of the Employment Act is amended by inserting, immediately after paragraph (*a*), the following paragraphs:

"(*aa*) a failure, by an employer to whom a notification under section 96A applies, to comply with any requirement in the notification concerning the

furnishing to the Commissioner of information on the retrenchment of any employee by the employer;

(*ab*) a contravention, by an employer of any provision of any regulations mentioned in section 139(2)(*aa*), that the Minister has prescribed under section 139(2B) as a contravention to which this section applies;".

Amendment of section 126B

21. Section 126B(1) of the Employment Act is amended by deleting the word "or" at the end of paragraph (*a*), and by inserting immediately thereafter the following paragraphs:

"(*aa*) each occasion of an alleged failure by the employer to comply with any requirement, in a notification under section 96A that applies to the employer, concerning the furnishing to the Commissioner of information on the retrenchment of any one employee by the employer;

(*ab*) each occasion of an alleged contravention, of any provision of any regulations mentioned in section 139(2)(*aa*), that the Minister has prescribed under section 139(2B) as a contravention to which section 126A applies, by the employer; or".

Amendment of section 139

22. Section 139 of the Employment Act is amended —

(*a*) by inserting, immediately after paragraph (*a*) of subsection (2), the following paragraph:

"(*aa*) regulate the conduct of an employer towards an employee, for the purposes of protecting the employee from any employment practice that may adversely affect the wellbeing of the employee;";

(*b*) by inserting, immediately after paragraph (*e*) of subsection (2), the following paragraph:

"(*ea*) prescribe any deduction that may be made under section 27(1)(*k*), and the conditions for the making of that deduction;"; and

(*c*) by inserting, immediately after subsection (2A), the following subsection:

"(2B) The Minister may, in making any regulations mentioned in subsection (2)(*aa*), prescribe any contravention of any provision of those regulations as a contravention to which section 126A applies, instead of providing for that contravention to be an offence mentioned in subsection (2A).".

Repeal and re-enactment of section 140

23. Section 140 of the Employment Act is repealed and the following section substituted therefor:

"**Amendment of Schedules**

140.—(1) The Minister may, by order in the *Gazette*, amend any of the Schedules.

(2) The Minister may, in an order under subsection (1), make such provisions of a saving or transitional nature consequent to the enactment of that order as the Minister may consider necessary or expedient.".

Amendment of Fourth Schedule

24. The Fourth Schedule to the Employment Act is amended —

(*a*) by deleting the words "whose monthly basic rate of pay is less than $2,250" in the first column of item 2 and substituting the words "employed on a monthly basic rate of pay";

(*b*) by deleting item 3; and

(*c*) by deleting the words ", or the hourly basic rate of pay of an employee specified in this column for item 3, whichever is the lower" in the second column of items 5, 7 and 9.

Consequential and related amendments to Child Development Co-Savings Act

25. The Child Development Co-Savings Act (Cap. 38A, 2002 Ed.) is amended —

(*a*) by deleting subsection (3) of section 2 and substituting the following subsections:

"(3) The Minister may, by order in the *Gazette*, amend the Schedule.

(4) The Minister may, in an order under subsection (3), make such provisions of a saving or transitional nature consequent to the enactment of that order as the Minister may consider necessary or expedient.";

(*b*) by deleting subsection (8) of section 9 and substituting the following subsection:

"(8) Despite subsection (7), "total income" in subsection (5A) excludes the gross rate of pay that a female employee is entitled to receive from her employer in respect of the period she was employed by that employer during the period prescribed for the purposes of subsection (5A), if —

(*a*) upon the making of any representations to the Minister charged with the responsibility for manpower under section 35 of the Industrial Relations Act (Cap. 136), that Minister is satisfied that the female employee was dismissed with just cause or excuse by that employer before her confinement; or

(*b*) an Employment Claims Tribunal has decided, after hearing a claim mentioned in section 14(2) or 84(2) of the Employment Act, that the female employee was dismissed with just cause

or excuse, or for sufficient cause, by that employer before her confinement.";

(*c*) by deleting paragraph (*a*) of section 10(3) and substituting the following paragraph:

"(*a*) by the Minister charged with the responsibility for manpower under section 35 of the Industrial Relations Act;";

(*d*) by deleting the words "Minister for Manpower" in section 12(2) and (3) and substituting in each case the words "Minister charged with the responsibility for manpower";

(*e*) by deleting "43" in sections 12B(7)(*a*) and 12D(4)(*a*) and substituting in each case "88A"; and

(*f*) by deleting subsection (1B) of section 17.

Consequential and related amendments to Employment Claims Act 2016

26.—(1) Section 2(1) of the Employment Claims Act 2016 (Act 21 of 2016) is amended —

(*a*) by deleting the definitions of "specified employment dispute" and "specified statutory dispute" and substituting the following definitions:

" "specified employment dispute" means a specified contractual dispute, a specified statutory dispute or a wrongful dismissal dispute;

"specified statutory dispute" means a dispute, relating to a payment of an amount of money, about any matter specified in the Second Schedule;";

(*b*) by deleting the definition of "tripartite guidelines" and substituting the following definitions:

" "tripartite guidelines on re-employment" means the guidelines relating to re-employment

issued under section 11B of the Retirement and Re-employment Act (Cap. 274A);

"tripartite guidelines on wrongful dismissal" means the guidelines issued under section 34A on what constitutes wrongful dismissal;"; and

(*c*) by deleting the full-stop at the end of the definition of "workman" and substituting a semi-colon, and by inserting immediately thereafter the following definition:

" "wrongful dismissal dispute" means a dispute, relating to the dismissal of an employee, specified in the Third Schedule.".

(2) Section 3 of the Employment Claims Act 2016 is amended —

(*a*) by inserting, immediately after paragraph (*c*) of subsection (2), the following paragraphs:

"(*ca*) for any wrongful dismissal dispute in relation to which an employee may lodge a claim mentioned in section 14(2) of the Employment Act — not later than one month after the date of the dismissal of the employee;

(*cb*) for any wrongful dismissal dispute in relation to which a female employee may lodge a claim mentioned in section 84(2) of the Employment Act — within 2 months after the date of the employee's confinement;";

(*b*) by deleting paragraph (*d*) of subsection (2) and substituting the following paragraph:

"(*d*) for any specified employment dispute (not being a dispute mentioned in paragraph (*a*), (*b*), (*c*), (*ca*) or (*cb*)) where an employment relationship has ended (whether due to the retirement of the employee, or the expiry or

termination of the contract of service, or otherwise) — not later than 6 months after the last day of employment of the employee;";

(*c*) by deleting sub-paragraph (i) of subsection (3)(*a*) and substituting the following sub-paragraph:

"(i) if there is a claim for an amount relating to the dispute, that claim satisfies the requirements in section 12(2), (3) and (4);"; and

(*d*) by deleting paragraph (*c*) of subsection (3) and substituting the following paragraph:

"(*c*) must not list a specified employment dispute if —

(i) there is a claim for an amount relating to the dispute; and

(ii) under section 16, that claim cannot be lodged by the claimant with a tribunal; and".

(3) Section 4 of the Employment Claims Act 2016 is amended —

(*a*) by deleting the words "subsection (5)(*a*) or (*b*)" in subsection (4)(*a*) and (*b*) and substituting in each case the words "subsection (5)(*a*), (*b*) or (*c*)";

(*b*) by deleting the word "or" at the end of subsection (5)(*a*); and

(*c*) by deleting the full-stop at the end of paragraph (*b*) of subsection (5) and substituting the word "; or", and by inserting immediately thereafter the following paragraph:

"(*c*) the same claimant has submitted to the Commissioner 2 or more mediation requests for the mediation under this Part of specified employment disputes (each concerning the recovery, under section 65

of the Employment Act (Cap. 91), of the same salary) with different respondents.".

(4) Section 7(1) of the Employment Claims Act 2016 is amended by deleting paragraph (*b*) and substituting the following paragraphs:

"(*b*) the total amount payable to a party under the settlement agreement, in respect of every specified contractual dispute (if any) and every specified statutory dispute (if any) settled at the mediation, must not exceed the prescribed claim limit in section 12(7)(*a*) that is applicable to that party;

(*ba*) the total amount payable to a party under the settlement agreement, in respect of every wrongful dismissal dispute (if any) settled at the mediation, must not exceed the prescribed claim limit in section 12(7)(*b*) that is applicable to that party; and".

(5) Section 12 of the Employment Claims Act 2016 is amended —

(*a*) by deleting the words "the amount claimed" in subsection (2)(*a*) and substituting the words "an amount claimed (if any)";

(*b*) by deleting subsection (3) and substituting the following subsection:

"(3) The claim must be for either or both of the following:

(*a*) one or more amounts alleged to be payable by the respondent to the claimant;

(*b*) reinstatement, by the respondent, of the claimant in the claimant's former employment, in a case where the claim is lodged in respect of a wrongful dismissal dispute.";

(*c*) by deleting subsection (7) and substituting the following subsection:

"(7) The total amount alleged to be payable under the claim must satisfy the following conditions:

(*a*) the total amount alleged to be payable under the claim, in respect of every specified contractual dispute (if any) and every specified statutory dispute (if any) for which the claim is lodged, must not exceed the prescribed claim limit applicable to the claimant for the purposes of this paragraph;

(*b*) the total amount alleged to be payable under the claim, in respect of every wrongful dismissal dispute (if any) for which the claim is lodged, must not exceed the prescribed claim limit applicable to the claimant for the purposes of this paragraph.”; and

(*d*) by deleting the words “claim limit in subsection (7)” in subsection (8)(*e*) and substituting the words “claim limits in subsection (7)(*a*) and (*b*)”.

(6) Section 15 of the Employment Claims Act 2016 is amended —

(*a*) by deleting subsection (1) and substituting the following subsection:

“(1) Where —

(*a*) the total amount alleged to be payable under a claim, in respect of every specified contractual dispute (if any) and every specified statutory dispute (if any) for which the claim is lodged, exceeds the prescribed claim limit in section 12(7)(*a*) that is applicable to the claimant; or

(*b*) the total amount alleged to be payable under a claim, in respect of every wrongful dismissal dispute (if any) for which the claim is lodged, exceeds the prescribed claim limit in section 12(7)(*b*) that is applicable to the claimant,

the claimant may abandon the excess amount."; and

(*b*) by deleting paragraph (*a*) of subsection (2) and substituting the following paragraph:

"(*a*) the requirement in section 12(7) is deemed to be satisfied in relation to the claim;".

(7) Section 16 of the Employment Claims Act 2016 is amended —

(*a*) by deleting the words "for an amount" in subsections (1) and (2);

(*b*) by deleting the words "that amount" in subsections (1)(*a*) and (2) and substituting in each case the words "that claim";

(*c*) by deleting sub-paragraphs (i) and (ii) of subsection (3)(*a*);

(*d*) by deleting the words "or that referral (as the case may be)" in subsections (3)(*b*)(i) and (ii) and (4)(*b*);

(*e*) by deleting sub-paragraphs (i) and (ii) of subsection (4)(*a*); and

(*f*) by inserting, immediately after subsection (4), the following subsections:

"(4A) Where an employee is dismissed, the employee cannot lodge with a tribunal a claim relating to a wrongful dismissal dispute, if —

(*a*) the employee has made representations in writing under section 35(3) of the Industrial Relations Act to the Minister mentioned in that provision; and

(*b*) either of the following applies:

(i) the employee does not withdraw those representations;

(ii) the Minister concerned makes a decision on those representations.

(4B) Where an employee is dismissed, and the employee lodges with a tribunal a claim relating to a wrongful dismissal dispute —

(*a*) the claim is deemed to be discontinued, if the employee makes representations in writing under section 35(3) of the Industrial Relations Act to the Minister mentioned in that provision; and

(*b*) the claim is deemed to be discontinued with effect from the date on which the employee makes those representations.".

(8) Section 18 of the Employment Claims Act 2016 is amended —

(*a*) by inserting, immediately after the words "subsections (2)," in subsection (1), "(2A),"; and

(*b*) by inserting, immediately after subsection (2), the following subsection:

"(2A) A tribunal may permit an officer appointed under section 3(2) of the Employment Act to participate in any proceedings before a tribunal by doing one or more of the following:

(*a*) giving evidence in the proceedings;

(*b*) producing any document, record or thing that is relevant to the proceedings;

(*c*) making submissions in the proceedings.".

(9) Section 20 of the Employment Claims Act 2016 is amended —

(*a*) by inserting, immediately after the words "tripartite guidelines" in subsection (6), the words "on re-employment"; and

(*b*) by inserting, immediately after subsection (6), the following subsection:

"(6A) When deciding any claim involving a wrongful dismissal dispute, a tribunal —

(*a*) is to have regard to the tripartite guidelines on wrongful dismissal; and

(*b*) if any compensation is claimed, is to calculate the amount of that compensation in accordance with any regulations made under section 34(1).".

(10) Section 21 of the Employment Claims Act 2016 is amended by inserting, immediately after subsection (1), the following subsection:

"(1A) A tribunal may draw such inferences as the tribunal thinks fit from a party's failure to comply with any obligation of that party under any written law specified in the Fourth Schedule, including (but not limited to) an inference that any evidence that is not available on account of that party's failure to comply with that obligation would, if produced, have been unfavourable to that party.".

(11) Section 22 of the Employment Claims Act 2016 is amended —

(*a*) by deleting the full-stop at the end of paragraph (*c*) of subsection (1) and substituting a semi-colon, and by inserting immediately thereafter the following paragraph:

"(*d*) an order requiring an employer to reinstate an employee in the employee's former employment."; and

(*b*) by deleting subsection (4) and substituting the following subsections:

"(4) The total amount of money that a tribunal orders to be paid to a party under subsection (1)(*a*), in respect of every specified contractual dispute (if any) and every specified statutory dispute (if any) for which a claim is lodged, must not exceed the prescribed claim limit in section 12(7)(*a*) that is applicable to the party.

(4A) The total amount of money that a tribunal orders to be paid to a party under subsection (1)(*a*), in respect of every wrongful dismissal dispute (if any) for which a claim is lodged, must not exceed the prescribed claim limit in section 12(7)(*b*) that is applicable to the party.".

(12) Section 25 of the Employment Claims Act 2016 is amended —

(*a*) by inserting, immediately after the words "tripartite guidelines" in subsection (3), the words "on re-employment"; and

(*b*) by inserting, immediately after subsection (3), the following subsection:

"(4) When deciding an appeal against an order made by a tribunal on a claim involving a wrongful dismissal dispute, the High Court —

(*a*) is to have regard to the tripartite guidelines on wrongful dismissal; and

(*b*) if any compensation is claimed, is to calculate the amount of that compensation in accordance with any regulations made under section 34(1).".

(13) The Employment Claims Act 2016 is amended by renumbering section 27 as subsection (1) of that section, and by inserting immediately thereafter the following subsection:

"(2) In any proceedings under this Act before a tribunal or the High Court, the following apply:

(*a*) where an employee is dismissed without notice by an employer under section 14(1) of the Employment Act, and the employee lodges a claim mentioned in section 14(2) of that Act against the employer — the employer bears the burden of proving the allegation that the employee was dismissed with just cause or excuse;

(*b*) where an employee is dismissed with notice by an employer, and the notice of dismissal is or purports to be given on the ground that there has been poor performance or misconduct by the employee — the employer bears the burden of proving that ground for giving the notice of dismissal;

(*c*) where a notice of dismissal is given to a female employee by an employer in the circumstances mentioned in section 84(1)(*a*), (*b*) or (*c*) of the Employment Act, and the female employee lodges a claim mentioned in section 84(2) of that Act against the employer — the employer bears the burden of proving the allegation that the female employee was dismissed with sufficient cause;

(*d*) where a notice of dismissal is given to a female employee mentioned in section 12(1) of the Child Development Co-Savings Act by an employer in the circumstances mentioned in section 84(1)(*a*), (*b*) or (*c*) of the Employment Act (as applied to the female employee), and the female employee lodges a claim mentioned in section 84(2) of the Employment Act (as applied to the female employee) against the employer — the employer bears the burden of proving the allegation that the female employee was dismissed with sufficient cause.".

(14) Section 29 of the Employment Claims Act 2016 is amended by inserting, immediately after subsection (1), the following subsection:

"(1A) Despite section 18, a tribunal magistrate or a Registrar may publish information relating to an order or a decision of a tribunal.".

(15) Section 32(1) of the Employment Claims Act 2016 is amended by deleting the words "either or both of the First and Second Schedules" and substituting the words "any of the Schedules".

(16) Section 34(1) of the Employment Claims Act 2016 is amended by inserting, immediately after paragraph (*a*), the following paragraph:

"(*aa*) to prescribe how compensation is to be computed in a claim relating to a wrongful dismissal dispute;".

(17) The Employment Claims Act 2016 is amended by inserting, immediately after section 34, the following section:

"**Tripartite guidelines on wrongful dismissal**

34A.—(1) The Minister may issue guidelines on what constitutes wrongful dismissal in the form of tripartite guidelines.

(2) Upon the publication of those guidelines in the *Gazette*, regard may be had to those guidelines for the purposes of sections 20(6A) and 25(4).".

(18) The Second Schedule to the Employment Claims Act 2016 is amended —

(*a*) by deleting the words "section 43(1), (2), (6) and (7)" in item 23 and substituting the words "section 88A(1), (2), (6) and (7)"; and

(*b*) by deleting the words ", when employed in a managerial or an executive position," in items 30A and 36A.

(19) The Employment Claims Act 2016 is amended by inserting, immediately after the Second Schedule, the following Schedules:

"THIRD SCHEDULE

Section 2(1)

WRONGFUL DISMISSAL DISPUTES

1. Any dispute, in relation to which an employee may lodge a claim mentioned in section 14(2) of the Employment Act, over whether the employee has been dismissed without just cause or excuse by an employer.

2. Any dispute, in relation to which a female employee may lodge a claim mentioned in section 84(2) of the Employment Act, over whether a notice of dismissal given by an employer to the female employee in the circumstances mentioned in section 84(1)(*a*), (*b*) or (*c*) of that Act was or was not given for sufficient cause.

3. Any dispute, in relation to which a female employee mentioned in section 12(1) of the Child Development Co-Savings Act may lodge a claim mentioned in section 84(2) of the Employment Act (as applied to the female employee), over whether a notice of dismissal given by an employer to the female employee in the circumstances mentioned in section 84(1)(*a*), (*b*) or (*c*) of the Employment Act (as applied to the female employee) was or was not given for sufficient cause.

FOURTH SCHEDULE

Section 21(1A)

SPECIFIED OBLIGATIONS UNDER WRITTEN LAW

1. An employer's obligations under sections 95, 95A and 96 of the Employment Act

2. An employer's obligations under paragraph 6A of Part IV of the Fourth Schedule to the Employment of Foreign Manpower (Work Passes) Regulations 2012 (G.N. No. S 569/2012)

3. An employer's obligations under paragraph 5 of Part II of the Fifth Schedule to the Employment of Foreign Manpower (Work Passes) Regulations 2012".

Related amendments to Industrial Relations Act

27. The Industrial Relations Act (Cap. 136, 2004 Ed.) is amended —

(*a*) by deleting the full-stop at the end of the definition of "tripartite mediation advisor" in section 30F and substituting a semi-colon, and by inserting immediately thereafter the following definition:

> "'"wrongful dismissal dispute" has the same meaning as in section 2(1) of the Employment Claims Act 2016.";

(*b*) by deleting the word "or" at the end of section 30G(1)(*d*);

(*c*) by deleting the comma at the end of paragraph (*e*) of section 30G(1) and substituting the word "; or", and by inserting immediately thereafter the following paragraph:

> "(*f*) any wrongful dismissal dispute,";

(*d*) by deleting paragraphs (*a*) and (*b*) of section 30G(2) and substituting the following paragraphs:

> "(*a*) any wrongful dismissal dispute in relation to which an employee may lodge a claim mentioned in section 14(2) of the Employment Act, in a case where the Commissioner receives a notification under section 30H(2) relating to that dispute later than one month after the date of the dismissal of the employee;
>
> (*b*) any wrongful dismissal dispute in relation to which a female employee may lodge a claim mentioned in section 84(2) of the Employment Act, in a case where the Commissioner receives a notification under section 30H(2) relating to that dispute later than 2 months after the date of the employee's confinement;
>
> (*c*) any dispute (not being a wrongful dismissal dispute mentioned in paragraph (*a*) or (*b*)) in a case where —

(i) the employment relationship has ended (whether due to the retirement of the employee, or the expiry or termination of the contract of service, or otherwise); and

(ii) the Commissioner receives a notification under section 30H(2) relating to that dispute later than 6 months after the last day of employment of the employee;

(*d*) any other dispute, in a case where the Commissioner receives a notification under section 30H(2) relating to that dispute later than one year after the date on which the material facts giving rise to the dispute occurred."; and

(*e*) by deleting paragraphs (*a*) and (*b*) of section 30G(3) and substituting the following paragraphs:

"(*a*) the period of 6 months mentioned in subsection (2)(*c*)(ii);

(*b*) the period of one year mentioned in subsection (2)(*d*).".

Consequential amendments to Retirement and Re-employment Act

28. The Retirement and Re-employment Act (Cap. 274A, 2012 Ed.) is amended —

(*a*) by deleting the words "section 43(1)" in sections 7B(2)(*a*) and 7C(5)(*a*) and substituting in each case the words "section 88A(1)";

(*b*) by deleting the words "section 14(2) of the Employment Act (Cap. 91) or" in sections 8B(3)(*b*) and 8C(3)(*b*); and

(*c*) by deleting the words "section 14(2) of the Employment Act or" in section 8B(4).

Saving and transitional provisions

29.—(1) Despite section 3(*a*) and (*c*), section 14(2) and (3) to (7A) of the Employment Act as in force immediately before the date of commencement of section 3(*a*) and (*c*) continues to apply in any case where, before that date, a relevant employee (within the meaning given by section 14(2A) of that Act as in force immediately before that date) makes representations in writing to the Minister to be reinstated in the employee's former employment.

(2) Section 3(*b*) applies to an employee regardless whether the employee commenced employment before, on or after the date of commencement of section 3(*b*).

(3) Despite section 10, section 84(2) to (7) of the Employment Act as in force immediately before the date of commencement of section 10 continues to apply in any case where any question, as to whether a notice of dismissal (given to a female employee in the circumstances mentioned in section 84(1) of that Act) was or was not given for sufficient cause, is referred before that date to the Minister under section 84(2) of that Act as in force immediately before that date.

(4) For a period of 2 years after the date of commencement of any provision of this Act, the Minister may, by regulations, prescribe such additional provisions of a saving or transitional nature consequent on the enactment of that provision as the Minister may consider necessary or expedient.

EXPLANATORY STATEMENT

This Bill seeks to amend the Employment Act (Cap. 91) for the following main purposes:

(*a*) to restate what constitutes a dismissal of an employee (see clause 2(*a*));

(*b*) to enable a person who is employed in a managerial or an executive position, and who receives a salary exceeding $4,500 a month (excluding overtime payments, bonus payments, annual wage supplements, productivity incentive payments and any allowance) to

be regarded as an employee for the purposes of the Act (see clause 2(*b*), (*c*) and (*f*));

(*c*) to provide for any dispute (relating to dismissal) under section 14 or 84 to be dealt with by an Employment Claims Tribunal instead of the Minister (see clauses 3(*a*) and (*c*) and 10);

(*d*) to restate when deductions may be made by an employer from the salary of an employee (see clause 4);

(*e*) to extend the application of section 33 and Part IV to every employee (other than a workman or a person employed in a managerial or an executive position) who receives a salary not exceeding $2,600 a month (see clauses 6 and 7);

(*f*) to extend the statutory entitlement to paid annual leave to every employee to whom the Act applies (see clauses 8 and 14);

(*g*) to extend to every employee to whom the Act applies (other than an individual to whom Part IV applies), and who is required by the employee's employer to work on a public holiday, the option of being given part of a day off on a working day, instead of a day off in substitution for that holiday, or an extra day's salary at the basic rate of pay (see clause 13);

(*h*) to enable any medical practitioner (being a medical practitioner registered under the Medical Registration Act (Cap. 174) or a dentist registered under the Dental Registration Act (Cap. 76)) to certify an employee's entitlement to paid sick leave (see clauses 2(*d*) and 15(*a*), (*c*), (*d*) and (*g*));

(*i*) to restate when an employee is to be treated as hospitalised for the purposes of determining the employee's entitlement under section 89 to paid sick leave (see clause 15(*b*) and (*h*));

(*j*) to make an employer liable to bear, or to reimburse an employee, the fees of any examination of the employee by a medical practitioner, if the employee has served the employer for a period of at least 3 months, the medical practitioner is appointed by the employer or is a medical officer, and after the examination, the employee is certified by the medical practitioner to be entitled to paid sick leave (see clause 15(*e*) and (*f*));

(*k*) to provide for an employer to furnish information on the retrenchment of any employee by the employer, if required to do so by the Commissioner for Labour (Commissioner), and to make non-compliance with any such requirement a civil contravention under section 126A (see clauses 17 to 21);

(*l*) to empower the Minister to make regulations to regulate the conduct of an employer towards an employee, for the purposes of protecting the employee from any employment practice that may adversely affect the wellbeing of the employee (see clause 22(*a*)); and to make any contravention of any provision of those regulations a civil contravention under section 126A (instead of an offence) (see clauses 20, 21 and 22(*c*));

(*m*) to empower the Minister to amend any of the Schedules to the Act (instead of only the First and Second Schedules, as provided under the present law) by order in the *Gazette*, and to make provisions of a saving or transitional nature consequent to the enactment of any such order, so as to facilitate the expeditious alteration of technical details in the Third and Fourth Schedules to the Act, such as how certain things specified in those Schedules are to be calculated (see clause 23).

The Bill also makes —

(*a*) consequential amendments to the Retirement and Re-employment Act (Cap. 274A) (see clause 28);

(*b*) consequential and related amendments to the Child Development Co-Savings Act (Cap. 38A) and the Employment Claims Act 2016 (Act 21 of 2016) (see clauses 25 and 26, respectively); and

(*c*) amendments to the Industrial Relations Act (Cap. 136) that are related to certain amendments to the Employment Claims Act 2016 (see clause 27).

Clause 1 relates to the short title and commencement.

Clause 2(*a*) replaces the definition of "dismiss" in section 2(1) to restate what constitutes a dismissal of an employee. Under the new definition, a dismissal is not restricted to the termination of a contract of service at the initiative of an employer, with or without notice and for cause or otherwise, but includes the resignation of an employee if the employee can show, on a balance of probabilities, that the employee did not resign voluntarily but was forced to do so because of any conduct or omission, or course of conduct or omissions, engaged in by the employer.

Clause 2(*b*) and (*c*) amends the definition of "employee" in section 2(1), and clause 2(*f*) deletes section 2(2), to enable a person who is employed in a managerial or an executive position, and who receives a salary exceeding $4,500 a month (excluding overtime payments, bonus payments, annual wage supplements, productivity incentive payments and any allowance) to be regarded as an employee for the purposes of the Act.

Clause 2(*d*) replaces the definitions of "medical officer" and "medical practitioner" in section 2(1) —

(*a*) to extend the definition of "medical practitioner" to include, in addition to a medical practitioner registered under the Medical Registration Act, a dentist registered under the Dental Registration Act; and

(*b*) to make an editorial change to the definition of "medical officer" that is consequential to the extension of the definition of "medical practitioner".

Clause 2(*e*) inserts a new definition for "Tribunal" in section 2(1) to support the amendments to sections 14 and 84 by clauses 3(*c*) and 10, respectively.

Clause 3(*a*) replaces section 14(2), and clause 3(*c*) replaces section 14(3) and deletes section 14(4) to (7A), to provide for any dispute under section 14 (relating to whether a relevant employee has been dismissed by an employer without just cause or excuse) to be dealt with by an Employment Claims Tribunal instead of the Minister.

The relevant employee may lodge a claim under section 13 of the Employment Claims Act 2016 for reinstatement in the employee's former employment or for compensation, but not both. Before lodging the claim, the employee must comply with the applicable requirements of section 3 of the Employment Claims Act 2016.

Clause 3(*b*) amends section 14(2A)(*a*) to reduce the minimum period, for which an employee mentioned in that provision must have served an employer in order to be a "relevant employee" and thereby rely on the process in section 14(2), from 12 months to 6 months.

Clause 3(*d*) replaces section 14(8) to enable an employer, for the purposes of an inquiry under section 14(1), to suspend an employee from work for a period not exceeding one week (as provided under the present law), or for such longer period as the Commissioner may determine on an application by the employer. In either case, the employer must pay the employee not less than half the employee's salary during the period in which the employee is suspended from work (as provided under the present law).

Clause 4 amends section 27 to restate when deductions may be made by an employer from the salary of an employee.

Clause 4(*a*) and (*d*) deletes section 27(1)(*c*) and replaces section 27(1)(*i*), respectively, to consolidate certain provisions relating to deductions that may be made at the request of the employee.

Clause 4(*b*) amends section 27(1)(*d*) and (*e*) to improve protection for an employee by requiring that any deductions under section 27(1)(*d*) or (*e*) be made with the employee's written consent.

Clause 4(*c*) replaces section 27(1)(*f*) to enable, in addition to a deduction for the recovery of any advance or loan or for the adjustment of any overpayment of salary (as provided under the present law), a deduction for the recovery of any unearned employment benefit.

Clause 4(*e*) replaces section 27(1)(*k*), and clause 22(*b*) inserts a new section 139(2)(*ea*), to enable the Minister to prescribe any deduction (other than the deductions mentioned in section 27(1)(*a*) to (*j*)) from the salary of an employee, and the conditions for the making of that deduction, by regulations made under section 139.

Clause 4(*f*) inserts new section 27(1A) and (1B) —

(*a*) to expressly enable an employee to withdraw a written consent for a deduction mentioned in section 27(1)(*d*), (*e*), (*i*) or (*j*) by giving written notice of the withdrawal to the employer at any time before the deduction is made; and

(*b*) to prevent an employee from being penalised for withdrawing such a written consent.

Clause 4(*g*) inserts a new section 27(3) to define "employment benefit" for the new section 27(1)(*f*) inserted by clause 4(*c*).

Clause 5 deletes section 30(1), which is no longer required because a deduction under section 27(1)(*d*) or (*e*) (as amended by clause 4(*b*)) can only be made with the written consent of the employee.

Clause 6 replaces section 33(1)(*b*) so that section 33 and Part IV apply to the same persons.

Clause 7 replaces section 35(*b*) to extend the application of Part IV to every employee (other than a workman or a person employed in a managerial or an executive position) who receives a salary not exceeding $2,600 a month. The existing section 2(2) prevents Part IV from applying to a person employed in a managerial or an executive position who receives a salary not exceeding $2,500 a month. The new section 35(*b*) continues to prevent Part IV from applying to such a person, when the existing section 2(2) is deleted by clause 2(*f*).

Clause 8 repeals section 43, and clause 14 inserts a new section 88A, to extend the statutory entitlement to paid annual leave to every employee to whom the Act applies. As the existing section 43 is contained in Part IV, the existing provisions in the Act on paid annual leave only apply to an employee to whom Part IV applies by virtue of section 35(*b*) or who is a workman mentioned in section 35(*a*).

Although the new section 88A generally applies to every employee, the new section 88A(6) (which specifies when an employer must grant, and an employee must take, the employee's paid annual leave, and provides for the cessation of the employee's entitlement if the employee fails to take that leave by the end of the

period specified for taking that leave) is restricted to an employee to whom Part IV applies by virtue of section 35(*b*) or who is a workman mentioned in section 35(*a*).

The new section 88A also differs from the existing section 43 by empowering the Minister to, by notification in the *Gazette*, suspend the application of any provision of the new section 88A to any class of employees, when the public interest so requires it.

Clause 9 deletes section 53(3), and clause 16 amends section 90(2), to make changes that are consequential to the repeal of section 43, and the replacement of the repealed section by the new section 88A, respectively. The amended section 90(2) confirms that an employer may negotiate for and agree to, and may grant, terms of service more favourable than those contained in the new section 88A, without contravening section 90(1).

Clause 10 replaces section 84(2) and (3) and deletes section 84(4) to (7) to provide for any dispute under section 84 (relating to whether a notice of dismissal given to a female employee in the circumstances mentioned in section 84(1) was or was not given for sufficient cause) to be dealt with by an Employment Claims Tribunal instead of the Minister.

The female employee may lodge a claim under section 13 of the Employment Claims Act 2016 for reinstatement in the employee's former employment or for compensation, but not both. Before lodging the claim, the female employee must comply with the applicable requirements of section 3 of the Employment Claims Act 2016.

Clause 11 amends section 87A(3) to make a change that is consequential to the replacement of section 43 by the new section 88A.

Clause 12 amends the heading of Part X to refer to "ANNUAL LEAVE", as a consequence of the insertion of the new section 88A in that Part.

Clause 13 amends section 88(4A) to extend to every employee to whom the Act applies (other than an employee to whom Part IV applies by virtue of section 35(*b*) or who is a workman mentioned in section 35(*a*)), and who is required by the employer to work on a public holiday, the option of being given part of a day off on a working day, instead of a day off in substitution for that holiday, or an extra day's salary at the basic rate of pay.

Clause 15(*a*), (*c*), (*d*) and (*g*) amends section 89(1), (2), (4)(*a*) and (*b*) and (10) —

(*a*) to enable any medical practitioner to certify an employee's entitlement to paid sick leave; but

(*b*) requires an employee who is absent on sick leave, which is certified by a medical practitioner not appointed by the employer, to inform or attempt to inform the employer within 48 hours after its

commencement, failing which the employee is deemed to be absent from work without the permission of the employer and without reasonable excuse.

Clause 15(*b*) replaces section 89(3), and clause 15(*h*) inserts a new section 89(11), to restate when an employee is to be treated as hospitalised for the purposes of determining the employee's entitlement under section 89 to paid sick leave.

Under the new section 89(3) —

(*a*) an employee is hospitalised if the employee is warded in an approved hospital in such circumstances as may be prescribed; and

(*b*) an employee who is discharged from an approved hospital after being so warded is deemed to be hospitalised for a continuous period, beginning immediately after that discharge, if the employee is certified, by a medical practitioner employed by that approved hospital —

(i) to be ill enough to need to remain hospitalised during that period; or

(ii) to need rest during that period in order to recover.

The new section 89(11) enables the Minister to declare, by notification in the *Gazette*, any hospital or other medical institution to be an approved hospital.

Clause 15(*e*) inserts a new section 89(7A), and clause 15(*f*) amends section 89(8), to make an employer liable to bear, or to reimburse an employee, the fees of any examination of the employee by a medical practitioner, if —

(*a*) the employee has served the employer for a period of at least 3 months;

(*b*) the medical practitioner is appointed by the employer or is a medical officer; and

(*c*) after the examination, the employee is certified by the medical practitioner to be entitled to paid sick leave.

Clause 17 inserts a new section 96A to provide for an employer to furnish information on the retrenchment of any employee by the employer, if required to do so by the Commissioner.

Clauses 18 and 19 insert new sections 101(3) and 102(5) to provide that sections 101(1) and (2) and 102(1) to (4), respectively, do not apply to any information furnished under the new section 96A.

Clauses 20 and 21 insert new sections 126A(*aa*) and 126B(1)(*aa*), respectively —

(*a*) to make a failure, by an employer to whom a notification under the new section 96A applies, to comply with any requirement in the notification concerning the furnishing to the Commissioner of information on the retrenchment of any employee by the employer, a civil contravention under section 126A; and

(*b*) to enable an authorised officer to issue a contravention notice under section 126B(1) for each occasion of an alleged failure by the employer to comply with that requirement.

Clause 22(*a*) inserts a new section 139(2)(*aa*) to empower the Minister to make regulations to regulate the conduct of an employer towards an employee, for the purposes of protecting the employee from any employment practice that may adversely affect the wellbeing of the employee.

Clause 22(*c*) inserts a new section 139(2B) to empower the Minister, when making any regulations mentioned in the new section 139(2)(*aa*), to prescribe any contravention of any provision of those regulations as a contravention to which section 126A applies (instead of an offence).

Clauses 20 and 21 also insert new sections 126A(*ab*) and 126B(1)(*ab*), respectively —

(*a*) to make a contravention by an employer of any provision of any regulations mentioned in the new section 139(2)(*aa*), that the Minister has prescribed under the new section 139(2B) as a contravention to which section 126A applies, a civil contravention under section 126A; and

(*b*) to enable an authorised officer to issue a contravention notice under section 126B(1) for each occasion of an alleged contravention of that nature by the employer.

Clause 23 replaces section 140 to empower the Minister to amend any of the Schedules (instead of only the First and Second Schedules, as provided under the present law) by order in the *Gazette*, and to make provisions of a saving or transitional nature consequent to the enactment of any such order. This facilitates the expeditious alteration of technical details in the Third and Fourth Schedules, such as how certain things specified in those Schedules are to be calculated.

Clause 24 amends the Fourth Schedule —

(*a*) by amending item 2 and deleting item 3, so that a single formula applies to the calculation of the hourly basic rate of pay of a non-workman, regardless of the amount of the non-workman's monthly basic rate of pay; and

(*b*) to make consequential amendments to items 5, 7 and 9.

Clause 25 makes amendments to the Child Development Co-Savings Act that are consequential or related to certain amendments to the Employment Act.

Clause 25(*a*) replaces section 2(3) of the Child Development Co-Savings Act, and inserts a new section 2(4) into that Act, to empower the Minister charged with the responsibility for family development to amend the Schedule to that Act by order in the *Gazette*, and to make provisions of a saving or transitional nature consequent to the enactment of any such order. As clause 23 replaces section 140 of the Employment Act to enable the Minister to, among other things, amend the Third and Fourth Schedules to the Employment Act to specify certain matters for employees with different weekly work patterns, clause 25(*a*) makes a similar amendment to section 2 of the Child Development Co-Savings Act, so as to empower the Minister charged with the responsibility for family development to amend the Schedule to the Child Development Co-Savings Act to specify how a weekly index is to be determined for employees with different weekly work patterns.

Clause 25(*b*) and (*c*) replaces sections 9(8) and 10(3)(*a*), respectively, of the Child Development Co-Savings Act to make changes that are consequential to the amendment of section 84 by clause 10.

Clause 25(*d*) makes editorial changes to section 12(2) and (3) of the Child Development Co-Savings Act, so that the references to the Minister mentioned in section 12(2) and (3) of that Act are consistent with the references to the Minister mentioned in the new sections 9(8) and 10(3)(*a*) of that Act (inserted by clause 25(*c*) and (*d*)).

Clause 25(*e*) amends sections 12B(7)(*a*) and 12D(4)(*a*) of the Child Development Co-Savings Act to make changes that are consequential to the changes made by clauses 8 and 14.

Clause 25(*f*) deletes section 17(1B) of the Child Development Co-Savings Act as a consequence of the amendment of section 84 by clause 10.

Clause 26 makes amendments to the Employment Claims Act 2016 that are consequential or related to certain amendments to the Employment Act, mainly to facilitate the mediation under Part 2 of that Act, and the lodgment with an Employment Claims Tribunal, of a claim mentioned in the amended section 14(2) or 84(2) of the Employment Act.

Clause 26(1)(*c*) and (19) inserts a new definition for "wrongful dismissal dispute" in section 2(1) of the Employment Claims Act 2016, and a new Third Schedule to that Act, respectively, to specify what constitutes a wrongful dismissal dispute. The new definition of "wrongful dismissal dispute" supports the amendments to the Employment Claims Act 2016 that facilitate the mediation under Part 2 of that Act, and the lodgment with an Employment Claims Tribunal, of a claim mentioned in the amended section 14(2) or 84(2) of the Employment Act.

Clause 26(1)(*a*) replaces the definitions of "specified employment dispute" and "specified statutory dispute" in section 2(1) of the Employment Claims Act 2016, so as to make changes that are consequential to the insertion of the definition of "wrongful dismissal dispute" in section 2(1) of that Act.

Clause 26(1)(*b*) replaces the existing definition of "tripartite guidelines" in section 2(1) of the Employment Claims Act 2016 with new definitions for "tripartite guidelines on re-employment" and "tripartite guidelines on wrongful dismissal", so as to distinguish between the 2 types of tripartite guidelines that will be mentioned in that Act.

Clause 26(2) amends section 3 of the Employment Claims Act 2016 —

(*a*) by inserting a new section 3(2)(*ca*) and (*cb*) to specify the time by which a mediation request for a wrongful dismissal dispute must be submitted to the Commissioner;

(*b*) to replace section 3(2)(*d*) as a consequence of the insertion of the new section 3(2)(*ca*) and (*cb*); and

(*c*) to replace section 3(3)(*a*)(i) and (3)(*c*), as a wrongful dismissal dispute may be confined to a claim for reinstatement in an employee's former employment, and may not contain a claim for any amount relating to the dispute.

Clause 26(3) amends section 4 of the Employment Claims Act 2016 —

(*a*) by inserting a new section 4(5)(*c*) to enable 2 or more mediation requests, submitted by the same claimant to the Commissioner, for the mediation under Part 2 of that Act of specified employment disputes (each concerning the recovery, under section 65 of the Employment Act of the same salary) with different respondents, to be referred to and dealt with by the same approved mediator; and

(*b*) to make consequential changes to section 4(4)(*a*) and (*b*) and (5)(*a*) and (*b*).

Clause 26(4) replaces section 7(1)(*b*) of the Employment Claims Act 2016 with a new section 7(1)(*b*) and (*ba*), so that —

(*a*) the prescribed claim limit that the total amount payable to a party under a settlement agreement, in respect of every specified contractual dispute (if any) and every specified statutory dispute (if any) settled at a mediation, must not exceed; and

(*b*) the prescribed claim limit that the total amount payable to a party under a settlement agreement, in respect of every wrongful dismissal dispute (if any) settled at a mediation, must not exceed,

are 2 separate claim limits that are independent of each other.

Clause 26(5) amends section 12 of the Employment Claims Act 2016 —

(*a*) by replacing section 12(3) to enable a claim to be for either or both of the following:

(i) one or more amounts alleged to be payable by the respondent to the claimant;

(ii) reinstatement, by the respondent, of the claimant in the claimant's former employment (if the claim is lodged for a wrongful dismissal dispute);

(*b*) by making a change to section 12(2)(*a*) to address the fact that a wrongful dismissal dispute may be confined to a claim for reinstatement in an employee's former employment, and may not contain a claim for any amount relating to the dispute;

(*c*) by replacing section 12(7), so that —

(i) the prescribed claim limit that the total amount alleged to be payable under the claim, in respect of every specified contractual dispute (if any) and every specified statutory dispute (if any) for which the claim is lodged, must not exceed; and

(ii) the prescribed claim limit that the total amount alleged to be payable under the claim, in respect of every wrongful dismissal dispute (if any) for which the claim is lodged, must not exceed,

are 2 separate claim limits that are independent of each other; and

(*d*) to make a consequential change to section 12(8)(*e*) that follows from the provision of 2 separate and independent claim limits in the new section 12(7)(*a*) and (*b*).

Clause 26(6) replaces section 15(1) and (2)(*a*) of the Employment Claims Act 2016 to make consequential changes that follow from the provision of 2 separate and independent claim limits in the new section 12(7)(*a*) and (*b*) of that Act (to be inserted by clause 26(5)(*c*)).

Clause 26(7) amends section 16 of the Employment Claims Act 2016 —

(*a*) to make changes to section 16(1) and (2) to address the fact that a wrongful dismissal dispute may be confined to a claim for reinstatement in an employee's former employment, and may not contain a claim for any amount relating to the dispute;

(*b*) to make changes to section 16(3)(*a*) and (*b*) and (4)(*a*) and (*b*) that are consequential to the replacement of sections 14(2) and 84(2) of the Employment Act by clauses 3(*a*) and 10, respectively; and

(*c*) by inserting a new section 16(4A) and (4B) to prevent a dismissed employee from concurrently lodging a claim with an Employment Claims Tribunal and making representations to the Minister under section 35(3) of the Industrial Relations Act.

Clause 26(8) amends section 18 of the Employment Claims Act 2016 —

(*a*) to enable an Employment Claims Tribunal to permit an officer appointed under section 3(2) of the Employment Act to participate in any proceedings before the Tribunal by doing one or more of the following:

(i) giving evidence in the proceedings;

(ii) producing any document, record or thing that is relevant to the proceedings;

(iii) making submissions in the proceedings; and

(*b*) to make a consequential change to section 18(1).

Clause 26(9)(*a*) amends section 20(6) of the Employment Claims Act 2016 to clarify that the tripartite guidelines mentioned in that provision are tripartite guidelines on re-employment.

Clause 26(9)(*b*) inserts a new section 20(6A) into the Employment Claims Act 2016 to require an Employment Claims Tribunal, when deciding any claim involving a wrongful dismissal dispute, to have regard to the tripartite guidelines on wrongful dismissal, and to calculate any compensation in accordance with any regulations made under section 34(1) of that Act (as amended by clause 26(16)).

Clause 26(10) inserts a new section 21(1A) into the Employment Claims Act 2016 to allow an Employment Claims Tribunal to draw such inferences as it thinks fit from a party's failure to comply with any obligation of that party under any written law specified in the new Fourth Schedule to that Act (to be inserted by clause 26(19)), including (but not limited to) an inference that any evidence that is not available on account of that party's failure to comply with that obligation would, if produced, have been unfavourable to that party.

Clause 26(11) amends section 22 of the Employment Claims Act 2016 —

(*a*) by inserting a new section 22(1)(*d*) to empower an Employment Claims Tribunal to make an order requiring an employer to reinstate an employee in the employee's former employment; and

(*b*) by replacing section 22(4), and inserting a new section 22(4A), to make changes (to the total amount of money that an Employment Claims Tribunal may order to be paid) that follow from the provision of 2 separate and independent claim limits in the new section 12(7)(*a*) and (*b*) of that Act (to be inserted by clause 26(5)(*c*)).

Clause 26(12)(*a*) amends section 25(3) of the Employment Claims Act 2016 to clarify that the tripartite guidelines mentioned in that provision are tripartite guidelines on re-employment.

Clause 26(12)(*b*) inserts a new section 25(4) into the Employment Claims Act 2016 to require the High Court, when deciding an appeal against an order made on a claim involving a wrongful dismissal dispute, to have regard to the tripartite guidelines on wrongful dismissal, and to calculate any compensation in accordance with any regulations made under section 34(1) of that Act (as amended by clause 26(16)).

Clause 26(13) renumbers section 27 of the Employment Claims Act 2016 as section 27(1) of that Act, and inserts a new section 27(2) into that Act, to make an employer bear the burden of proving certain allegations in a claim involving a wrongful dismissal dispute, in proceedings under that Act before an Employment Claims Tribunal or the High Court.

Clause 26(14) inserts a new section 29(1A) into the Employment Claims Act 2016 to enable a tribunal magistrate, or the registrar, a deputy registrar or an assistant registrar for the Employment Claims Tribunals, to publish information relating to an order or a decision of an Employment Claims Tribunal.

Clause 26(15) amends section 32(1) of the Employment Claims Act 2016 to empower the Minister to amend any of the Schedules to that Act by order in the *Gazette*, so as to enable the Minister to also amend the new Third and Fourth Schedules to that Act (to be inserted by clause 26(18)).

Clause 26(16) inserts a new section 34(1)(*aa*) into the Employment Claims Act 2016 to enable the Minister to make regulations to prescribe how compensation is to be computed in a claim relating to a wrongful dismissal dispute.

Clause 26(17) inserts a new section 34A into the Employment Claims Act 2016 to enable the Minister to issue tripartite guidelines on wrongful dismissal.

Clause 26(18) amends the Second Schedule to the Employment Claims Act 2016 —

(*a*) to make a change to item 23 that is consequential to the repeal of section 43 of the Employment Act (by clause 8) and the replacement of the repealed section by the new section 88A of the Employment Act (to be inserted by clause 14);

(*b*) to make a change to item 30A that is consequential to the amendment of section 88(4A) of the Employment Act (by clause 13); and

(*c*) to make a change to item 36A for consistency with the change to item 30A.

Clause 26(19) inserts —

(*a*) a new Third Schedule to the Employment Claims Act 2016 to specify the types of wrongful dismissal disputes for the new definition of "wrongful dismissal dispute" to be inserted in section 2(1) of that Act (by clause 26(1)(*c*)); and

(*b*) a new Fourth Schedule to specify the obligations under written law mentioned in the new section 21(1A) of the Employment Claims Act 2016 (to be inserted by clause 26(10)).

Clause 27 makes amendments to the Industrial Relations Act that are related to certain amendments made by clause 26 to the Employment Claims Act 2016.

Clause 27(*a*) amends section 30F of the Industrial Relations Act to insert a new definition for "wrongful dismissal dispute", so as to support the amendments to section 30G(1) and (2) of that Act by clause 27(*c*) and (*d*). Under that definition, "wrongful dismissal dispute" has the meaning given by section 2(1) of the Employment Claims Act 2016.

Clause 27(*b*) and (*c*) amends section 30G(1) of the Industrial Relations Act to enable any wrongful dismissal dispute to be the subject of tripartite mediation.

Clause 27(*d*) replaces section 30G(2)(*a*) and (*b*) of the Industrial Relations Act, and inserts a new section 30G(2)(*c*) and (*d*) of that Act, to prevent the following disputes from being the subject of tripartite mediation:

(*a*) any wrongful dismissal dispute in relation to which an employee may lodge a claim mentioned in section 14(2) of the Employment Act, in a case where the Commissioner receives a notification under section 30H(2) of the Industrial Relations Act relating to that dispute later than one month after the date of the dismissal of the employee;

(*b*) any wrongful dismissal dispute in relation to which a female employee may lodge a claim mentioned in section 84(2) of the Employment Act, in a case where the Commissioner receives a notification under section 30H(2) of the Industrial Relations Act relating to that dispute later than 2 months after the date of the employee's confinement;

(*c*) any dispute (not being a wrongful dismissal dispute mentioned above) in a case where —

(i) the employment relationship has ended (whether due to the retirement of the employee, or the expiry or termination of the contract of service, or otherwise); and

(ii) the Commissioner receives a notification under section 30H(2) of the Industrial Relations Act relating to that dispute later than 6 months after the last day of employment of the employee;

(*d*) any other dispute, in a case where the Commissioner receives a notification under section 30H(2) of the Industrial Relations Act relating to that dispute later than one year after the date on which the material facts giving rise to the dispute occurred.

Clause 27(*e*) replaces section 30G(3)(*a*) and (*b*) of the Industrial Relations Act to make amendments that are consequential to the renumbering of the existing section 30G(2)(*a*) and (*b*) of that Act as the new section 30G(2)(*d*) and (*c*), respectively, of that Act, by clause 27(*d*).

Clause 28 makes amendments to the Retirement and Re-employment Act that are consequential to certain amendments to the Employment Act.

Clause 28(*a*) amends sections 7B(2)(*a*) and 7C(5)(*a*) of the Retirement and Re-employment Act to make changes that are consequential to the repeal of section 43 of the Employment Act (by clause 8) and the replacement of the repealed section by the new section 88A of the Employment Act (to be inserted by clause 14).

Clause 28(*b*) and (*c*) makes amendments to sections 8B(3)(*b*) and (4) and 8C(3)(*b*) of the Retirement and Re-employment Act that are consequential to the replacement of section 14(2) of the Employment Act by clause 3(*a*).

Clause 29 contains saving and transitional provisions relating to certain amendments in the Bill. The clause also gives the Minister power to make regulations of a saving and transitional nature.

EXPENDITURE OF PUBLIC MONEY

This Bill will involve the Government in extra financial expenditure, the exact amount of which cannot at present be ascertained.