



THE STATUTES OF THE REPUBLIC OF SINGAPORE

EMPLOYMENT CLAIMS ACT 2016

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Employment Claims Act 2016

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An Act to facilitate the expeditious resolution of employment disputes by providing for the mediation of such disputes, for the constitution, jurisdiction and powers of and administration of justice in the Employment Claims Tribunals, and for related matters.

[1 April 2017]

PART 1
PRELIMINARY

Short title

1. This Act is the Employment Claims Act 2016.

Interpretation

- 2.—(1) In this Act, unless the context otherwise requires —

“approved mediator” means any individual approved by the Commissioner as a mediator for one or more of the following:

- (a) a mediation under Part 2 of a specified employment dispute;
- (b) a tripartite mediation;
- (c) a mediation mentioned in section 115(2A) of the Employment Act 1968;
- (d) a consultation or conciliation under section 8A(5) of the Retirement and Re-employment Act 1993;
- (e) a mediation or conciliation of any dispute under any other written law that the Commissioner may determine, being a written law relating to employment, employment terms or the relations between employers and employees;

“authorised person” means an individual appointed under section 3(3) of the Employment Act 1968 as an authorised person for the purpose of carrying out any function or duty of the Commissioner under this Act;

“claim” means a claim lodged with a tribunal, and includes a counterclaim lodged with a tribunal;

“claim referral certificate” means a claim referral certificate issued under —

- (a) section 6(2) or 7(7)(a); or
- (b) section 30H(6) of the Industrial Relations Act 1960;

“claimant” means a person who lodges a claim with a tribunal, and includes, for the purposes of Part 2, a person who intends to lodge a claim with a tribunal;

“Commissioner” means the Commissioner for Labour appointed under section 3(1) of the Employment Act 1968;

“contract of service” means an agreement, whether oral or written and whether express or implied, by which a person agrees to employ an individual, and that individual agrees to serve that person, and includes an apprenticeship agreement;

“court” means any court of competent jurisdiction in Singapore;

“employee” means an individual who has entered into and works under a contract of service with an employer, and includes —

- (a) any employee of the Government within a category, class or description of such employees prescribed to be employees for the purposes of this Act; and
- (b) for an employment dispute relating to the termination of a contract of service or any mediation request submitted or claim made after the end of a contract of service, the former employee who worked under that contract of service, even though the relationship between employee and employer has ended;

“employer” means any person who employs an individual under a contract of service, and includes —

- (a) the Government in respect of any category, class or description of employees of the Government prescribed to be employees for the purposes of this Act;
- (b) a statutory body;
- (c) a person duly authorised by an employer to be the employer’s agent or manager;
- (d) a person who owns, carries on or is responsible for the management of the profession, business, trade or work in which that individual is or was engaged; and

- (e) for an employment dispute relating to the termination of a contract of service or any mediation request submitted or claim made after the end of a contract of service, the former employer, even though the relationship between employee and employer has ended;

“employment assistance payment” has the meaning given by section 2(1) of the Retirement and Re-employment Act 1993;

“Industrial Arbitration Court” means an Industrial Arbitration Court established under section 3 of the Industrial Relations Act 1960;

“mediation” includes —

- (a) the undertaking of any activity for the purpose of promoting the discussion and settlement of disputes;
- (b) the bringing together of the parties to any dispute for that purpose, either at the request of one of the parties to the dispute or on an order of a tribunal under this Act; and
- (c) the follow-up of any matter which is the subject of any such discussion or settlement;

“mediation request” means a request for a mediation under Part 2;

“mediation session” means a meeting between 2 or more parties to a dispute for the purposes of a mediation;

“Registrar” means the registrar, a deputy registrar or an assistant registrar for the tribunals;

“Registry” means the registry established under section 10(1) for the tribunals;

“respondent” means a person against whom a claim is made, or who is joined in the capacity of a respondent, and includes, for the purposes of Part 2, a person against whom a claimant intends to make a claim;

- “salary” has the meaning given by section 2(1) of the Employment Act 1968;
- “specified contractual dispute” means a dispute, relating to a payment of an amount of money, which arises out of or in the course of employment under a contract of service, about any matter specified in the First Schedule;
- “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;
- “tribunal” means a subordinate court called an Employment Claims Tribunal constituted under section 4 of the State Courts Act 1970;
- “tribunal magistrate” means a tribunal magistrate appointed under section 9(1)(a) or designated under section 9(5);
- “tripartite guidelines on re-employment” means the guidelines relating to re-employment issued under section 11B of the Retirement and Re-employment Act 1993;
- “tripartite guidelines on wrongful dismissal” means the guidelines issued under section 35 on what constitutes wrongful dismissal;
- “tripartite mediation” has the meaning given by section 30F of the Industrial Relations Act 1960;
- “workman” has the meaning given by section 2(1) of the Employment Act 1968;
- “wrongful dismissal dispute” means a dispute, relating to the dismissal of an employee, specified in the Third Schedule.

[55/2018]

(2) When this Act is applied to a counterclaim lodged with a tribunal —

- (a) any reference to a claimant is a reference to a person making the counterclaim; and
 - (b) any reference to a respondent is a reference to a person against whom the counterclaim is made.
- (3) Any Deputy Commissioner for Labour, Principal Assistant Commissioner for Labour or Assistant Commissioner for Labour appointed under section 3(1) of the Employment Act 1968 may, if authorised by the Commissioner, carry out any function or duty, and exercise any power, of the Commissioner under this Act.

PART 2

MEDIATION OF EMPLOYMENT DISPUTES

Mediation of specified employment dispute

3.—(1) Before a claimant lodges a claim against a respondent, the claimant must submit to the Commissioner a mediation request relating to every specified employment dispute for which the claim will be lodged.

(2) The mediation request must be submitted to the Commissioner in the prescribed manner by the following time:

- (a) for any specified employment dispute concerning the recovery, under section 65 of the Employment Act 1968, of salary — within the period mentioned in section 65(2A) of that Act or, if that period is extended under section 65(2B) of that Act, within the extended period;
- (b) for any re-employment dispute described in section 8A(3) of the Retirement and Re-employment Act 1993 — not later than 6 months after the last day of employment of the employee;
- (c) for any re-employment dispute under section 8B(7) of the Retirement and Re-employment Act 1993 — within the time determined under section 8B(8) of that Act;
- (d) for any wrongful dismissal dispute in relation to which an employee may lodge a claim mentioned in section 14(2) of

the Employment Act 1968 — not later than one month after the date of the dismissal of the employee;

- (e) 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 1968 — within 2 months after the date of the employee's confinement;
- (f) for any specified employment dispute (not being a dispute mentioned in paragraph (a), (b), (c), (d) or (e)) 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;
- (g) for any other specified employment dispute — not later than one year after the date on which the material facts giving rise to the earliest specified employment dispute listed in the mediation request occurred.

[55/2018]

(3) The mediation request —

- (a) subject to paragraphs (b) and (c), must list every specified employment dispute in relation to which all of the following requirements are satisfied at the time the mediation request is submitted to the Commissioner:
 - (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);
 - (ii) the material facts giving rise to the dispute occurred not earlier than one year before the date on which that request is submitted to the Commissioner in accordance with subsection (2);
 - (iii) the dispute is not listed in an earlier mediation request (relating to specified employment disputes between the same claimant and the respondent) already accepted by the Commissioner and is not withdrawn before the date of the first mediation

session to be conducted pursuant to the earlier mediation request;

- (b) must not list a specified employment dispute if —
 - (i) paragraph (a) requires an earlier mediation request that was submitted by the claimant and accepted by the Commissioner to list the dispute; and
 - (ii) the requirements prescribed for this sub-paragraph are not satisfied in relation to the dispute;
- (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
- (d) must be accompanied by the prescribed fee for a mediation under this Part.

[55/2018]

(4) The Commissioner may —

- (a) refuse to accept a mediation request if —
 - (i) that request does not comply with the requirements in subsections (2) and (3); or
 - (ii) the requirement in section 12(7) cannot be satisfied in relation to that claim;
- (b) waive, remit or refund, wholly or in part, the fee mentioned in subsection (3)(d); and
- (c) pay the whole or a part of the fee mentioned in subsection (3)(d) to a person who is prescribed, or who belongs to a class of persons that is prescribed, in lieu of the Consolidated Fund.

(5) Upon accepting the mediation request, the Commissioner must, as soon as reasonably practicable, refer every specified employment dispute listed in that request for mediation by an approved mediator.

- (6) Regulations made under section 34 may —
- (a) prescribe the manner in which a mediation request is to be submitted to the Commissioner;
 - (b) prescribe the persons (or classes of persons) who may submit a mediation request relating to a specified employment dispute on behalf of a claimant, the classes of claimants on whose behalf any such mediation request may be submitted, and the categories of specified employment disputes to which any such mediation request may relate, including different persons (or classes of persons) for different classes of claimants and different categories of specified employment disputes;
 - (c) prescribe the requirements mentioned in subsection (3)(b)(ii);
 - (d) prescribe the fee mentioned in subsection (3)(d), including different fees for different classes of claimants and respondents and different categories of specified employment disputes;
 - (e) prescribe any person or class of persons mentioned in subsection (4)(c);
 - (f) provide for the review by the Commissioner of any decision made by the Commissioner under subsection (4)(a) or (b), and the time within which the application for the review must be made; and
 - (g) provide for the amendment of the list of specified employment disputes in a mediation request accepted by the Commissioner.
- (7) The Minister may, by order in the *Gazette*, lengthen or shorten one or more of the following periods, either absolutely or for any class of claimants, any class of respondents and any category of specified employment disputes:
- (a) the period of 6 months mentioned in subsection (2)(f);
 - (b) the period of one year mentioned in subsection (2)(g);
 - (c) the period of one year mentioned in subsection (3)(a)(ii).

(8) This section does not apply to a claim if a tripartite mediation has been conducted in an endeavour to reach a settlement in respect of the specified employment disputes to which the claim relates.

Conduct of mediation sessions

4.—(1) An approved mediator must conduct the first mediation session for a specified employment dispute as soon as is reasonably practicable after that dispute is referred under section 3(5), 7(5)(b)(ii) or 22(8) to the approved mediator.

(2) Despite subsection (1), an approved mediator need not conduct any mediation session for a specified employment dispute, if the approved mediator is satisfied that there is no reasonable prospect of settling the dispute through mediation.

(3) Each mediation session must be held in private.

(4) Despite subsection (3) —

- (a) the Commissioner may refer all of the specified employment disputes mentioned in subsection (5)(a), (b) or (c) for mediation by the same approved mediator; and
- (b) that approved mediator may conduct the mediation sessions for all of the specified employment disputes mentioned in subsection (5)(a), (b) or (c) together at the same time and place.

[55/2018]

(5) Subsection (4) applies where —

- (a) 2 or more claimants have submitted to the Commissioner mediation requests for the mediation under this Part of specified employment disputes with the same respondent, and the Commissioner is satisfied that all of those disputes are similar in nature;
- (b) 2 claimants intend to lodge claims against each other, and each claimant has submitted to the Commissioner a mediation request for the mediation under this Part of that claimant's specified employment disputes with the other claimant; or

- (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 1968, of the same salary) with different respondents.

[55/2018]

(6) Regulations made under section 34 may provide for any matter relating to the conduct of a mediation session.

Representation at mediation under this Part

5.—(1) Except as provided in subsections (2) and (3), a party to a mediation under this Part —

- (a) must act in person;
- (b) cannot be represented by an advocate and solicitor; and
- (c) cannot be represented by an agent, whether paid or otherwise.

(2) A party other than an individual may be represented —

- (a) if the party is the Government, by a public officer;
- (b) if the party is a body corporate, by an officer, or a full-time employee, of the body corporate;
- (c) if the party is a partnership, by a partner, or a full-time employee, of the partnership;
- (d) if the party is an unincorporated association, by a member of the governing body, or a full-time employee, of the unincorporated association; or
- (e) by any other individual prescribed by regulations made under section 34.

(3) A party who is an individual may be represented by any other individual prescribed by regulations made under section 34.

(4) For the purposes of subsections (2)(e) and (3), the regulations made under section 34 may prescribe different individuals for different parties and different circumstances.

(5) In this section —

“body corporate” includes a limited liability partnership as defined in section 2(1) of the Limited Liability Partnerships Act 2005;

“officer”, in relation to a body corporate, means a director, partner, member of the committee of management, chief executive, manager, secretary or other similar officer of the body corporate.

Claim referral certificate

6.—(1) This section applies where —

(a) a claimant submits to the Commissioner a mediation request; and

(b) the Commissioner refers any specified employment dispute listed in that request to an approved mediator.

(2) The approved mediator to whom is referred any specified employment dispute in a mediation request must issue to the claimant a claim referral certificate in respect of every unresolved specified employment dispute listed in the mediation request, if —

(a) the respondent is given reasonable notice of, but does not attend, the mediation for that dispute;

(b) no settlement is reached at the end of the mediation in relation to one or more of the specified employment disputes listed in the mediation request; or

(c) the approved mediator is satisfied that there is no reasonable prospect of settling through mediation the specified employment dispute.

(3) Despite subsection (2), if a claimant submits a mediation request but, without reasonable excuse, fails to attend any mediation session to which that request relates, the approved mediator may —

(a) discontinue the mediation; and

- (b) refuse to issue to the claimant a claim referral certificate in respect of all or any of the unresolved specified employment disputes listed in that request.

(4) In this section, a specified employment dispute listed in a mediation request is unresolved if the dispute —

- (a) is not settled; and
- (b) is not withdrawn from the list of specified employment disputes in the mediation request.

Settlement of specified employment dispute

7.—(1) Where a specified employment dispute is settled at a mediation under this Part, or at a tripartite mediation conducted by an approved mediator —

- (a) the parties to the settlement must enter into a settlement agreement in the form prescribed by Rules of Court made under section 33;
- (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;
- (c) 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
- (d) the settlement agreement must be signed by or on behalf of each party.

[55/2018]

(2) A District Court may register a settlement agreement on the application of any party to the settlement agreement, but may refuse to register if the application is not made within the period prescribed by Rules of Court made under section 33 for this purpose.

(3) Where the settlement agreement is registered in a District Court —

- (a) the settlement agreement is, for the purposes of execution or enforcement, of the same force and effect as if the settlement agreement had been a judgment given in the District Court and entered on the date of the registration;
[Act 25 of 2021 wef 01/04/2022]
- (b) proceedings may be taken on the settlement agreement as if the settlement agreement had been a judgment given in the District Court; and
- (c) any amount (payable to a person) for which the settlement agreement is registered carries interest as if that amount was a judgment debt.

(4) Where a settlement agreement is registered in a District Court, any party to the settlement agreement may, within the period prescribed by Rules of Court made under section 33, apply to a District Court to set aside the registration of the settlement agreement.

(5) A District Court hearing an application under subsection (4) may, if any condition in subsection (6) is satisfied —

- (a) set aside the registration of the settlement agreement; and
- (b) do either or both of the following:
 - (i) set aside the settlement agreement;
 - (ii) refer any specified employment dispute purportedly resolved by the settlement agreement for mediation under this Part (if the settlement agreement arose from a mediation under this Part) or for tripartite mediation to be conducted by an approved mediator (if the settlement agreement arose from a tripartite mediation conducted by an approved mediator), with or without the consent of the parties to the settlement agreement.

(6) For the purposes of subsection (5), the conditions are as follows:

- (a) the settlement agreement is void or voidable because of incapacity, fraud, misrepresentation, duress, coercion, mistake or any other ground for invalidating a contract;
- (b) the settlement agreement includes subject matter that does not relate to a specified employment dispute;
- (c) any term of the settlement agreement is not capable of enforcement as an order made by a District Court;
- (d) the registration of the settlement agreement is contrary to public policy.

(7) Where a District Court sets aside under subsection (5)(b)(i) a settlement agreement, and refers under subsection (5)(b)(ii) any specified employment dispute purportedly resolved by the settlement agreement for mediation under this Part, the following apply:

- (a) the approved mediator must issue to the claimant a claim referral certificate in respect of every unresolved specified employment dispute referred by the District Court, if —
 - (i) the respondent is given reasonable notice of, but does not attend, the mediation;
 - (ii) no settlement is reached at the end of the mediation in relation to one or more of the specified employment disputes referred by the District Court; or
 - (iii) the approved mediator is satisfied that there is no reasonable prospect of settling through mediation one or more of the specified employment disputes referred by the District Court;
- (b) despite paragraph (a), if the claimant, without reasonable excuse, fails to attend any mediation session, the approved mediator may —
 - (i) discontinue the mediation; and
 - (ii) refuse to issue to the claimant a claim referral certificate in respect of all or any of the unresolved

specified employment disputes referred by the District Court.

(8) In subsection (7), a specified employment dispute is unresolved if the dispute is not settled and is not withdrawn by the claimant.

(9) To avoid doubt, where a District Court sets aside under subsection (5)(b)(i) a settlement agreement, and refers under subsection (5)(b)(ii) any specified employment dispute purportedly resolved by the settlement agreement for tripartite mediation to be conducted by an approved mediator, section 30H(3) to (9) of the Industrial Relations Act 1960 applies to that dispute as it applies to a dispute of which the Commissioner is notified under section 30H(2) of that Act.

PART 3

EMPLOYMENT CLAIMS

Division 1 — Establishment of tribunals and appointments

Establishment of tribunals

8. The President may, under section 4 of the State Courts Act 1970, constitute one or more Employment Claims Tribunals.

Appointment and qualifications of tribunal magistrate

9.—(1) A tribunal is presided over by —

(a) a tribunal magistrate appointed by the President on the recommendation of the Chief Justice; or

(b) a tribunal magistrate designated under subsection (5).

(2) An individual is eligible for appointment under subsection (1)(a) as a tribunal magistrate if the individual is a qualified person as defined in section 2(1) of the Legal Profession Act 1966.

(3) An individual appointed under subsection (1)(a) as a tribunal magistrate holds office for a term specified in the individual's instrument of appointment, and may be re-appointed.

(4) Despite subsection (3), the President may, on the recommendation of the Chief Justice, at any time revoke the appointment under subsection (1)(a) of a tribunal magistrate.

(5) The Presiding Judge of the State Courts may designate any District Judge as a tribunal magistrate.

(6) Any individual appointed under subsection (1)(a) or designated under subsection (5) as a tribunal magistrate may, although the period of the individual's appointment or designation has expired, or the individual's appointment or designation has been revoked, sit as a tribunal magistrate for the purpose of giving judgment or otherwise in relation to any case heard by the individual as a tribunal magistrate.

Registry

10.—(1) A registry is established for the tribunals.

(2) The Registry keeps all records of the tribunals.

Registrar, deputy registrars, assistant registrars and other officers

11.—(1) The registrar of the State Courts is the registrar for the tribunals.

(2) The Chief Justice may appoint deputy registrars, assistant registrars and other officers for the tribunals to assist the registrar for the tribunals in the administration of this Part and the Registry.

(3) To the extent authorised by this Act or by Rules of Court made under section 33, the jurisdiction and powers of a tribunal may be exercised by the registrar for the tribunals.

(4) All the powers and duties of the registrar for the tribunals may be exercised and performed by a deputy registrar or an assistant registrar for the tribunals.

Division 2 — Jurisdiction of tribunals

Jurisdiction of tribunal to hear and determine claims

12.—(1) Subject to this Act, a tribunal has jurisdiction to hear and determine any claim in relation to which all applicable requirements

set out in subsections (2) to (7) are satisfied, regardless whether the dispute giving rise to the claim arose before, on or after 1 April 2017.

(2) The claim must be made —

- (a) by an employee who is prescribed or belongs to a prescribed class of employees (or a person entitled under any written law to receive an amount claimed (if any) in place of the employee) against the employer of the employee;
- (b) by an employee who is prescribed or belongs to a prescribed class of employees (or a person entitled under any written law to receive the amount claimed in place of the employee) against a person liable under section 65 of the Employment Act 1968 for the employee's salary; or
- (c) by an employer who is prescribed or belongs to a prescribed class of employers (or a person entitled under any written law to receive the amount claimed in place of the employer) against an employee of the employer for an amount relating to a specified employment dispute concerning —
 - (i) any matter specified in item 17 of the First Schedule or item 14 or 16 of the Second Schedule; or
 - (ii) any other matter specified in the First or Second Schedule that is prescribed for the purposes of this sub-paragraph.

[55/2018]

(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.

[55/2018]

(4) Each amount alleged to be payable under the claim must relate to a specified employment dispute.

(5) The claim must be supported by a claim referral certificate issued in respect of every specified employment dispute for which the claim is lodged.

(6) The claim must be lodged with the tribunal within the prescribed period after the date of issue of the claim referral certificate supporting the claim.

(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.

[55/2018]

(8) Regulations made under section 34 may —

- (a) prescribe different employees or classes of employees for different categories of claims or different categories of specified employment disputes;
- (b) prescribe different employers or classes of employers for different categories of claims or different categories of specified employment disputes;
- (c) prescribe any matter mentioned in subsection (2)(c)(ii);
- (d) prescribe the period in subsection (6), including different periods for different categories of claims and different circumstances; and
- (e) prescribe the claim limits in subsection (7)(a) and (b), including different claim limits for different classes of claimants and different circumstances.

[55/2018]

Lodging of claim

13.—(1) A claim is lodged with a tribunal by filing the claim with the Registry.

(2) Every claim —

(a) must be filed in the form and manner —

(i) prescribed by Rules of Court made under section 33;
or

(ii) specified in practice directions issued by the registrar of the State Courts; and

(b) must be accompanied by —

(i) a claim referral certificate issued in respect of every specified employment dispute for which the claim is lodged;

(ii) any other documents that may be —

(A) prescribed by Rules of Court made under section 33; or

(B) specified in practice directions issued by the registrar of the State Courts; and

(iii) the court fee (if any) prescribed by Rules of Court made under section 33.

No division of claim

14. A claim cannot be divided and pursued in separate proceedings before a tribunal if the only reason for doing so is to bring the total amount alleged to be payable in each of those proceedings within the jurisdiction of a tribunal.

Claimant may abandon part of claim

15.—(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.

[55/2018]

(2) If the claimant abandons the excess amount —

- (a) the requirement in section 12(7) is deemed to be satisfied in relation to the claim;
- (b) the tribunal has jurisdiction to hear and determine the claim; and
- (c) an order of the tribunal in relation to the claim fully discharges all demands in respect of the claim.

[55/2018]

(3) Where the claimant has abandoned the excess amount, the claimant cannot recover that amount in a tribunal or any other court.

Other proceedings relating to claim

16.—(1) A claim relating to a specified employment dispute cannot be lodged with a tribunal if —

- (a) any proceedings relating to that claim are pending in, or have been heard and determined by, any other court or an Industrial Arbitration Court; or
- (b) a claim lodged under section 119 of the Employment Act 1968 in respect of that dispute is pending, or the Commissioner has inquired into and decided that dispute under section 115 of that Act.

[55/2018]

(2) Despite any other written law, where a claim relating to a specified employment dispute is lodged with a tribunal, no proceedings relating to that claim can be commenced in any other court or an Industrial Arbitration Court by either party against the

other, unless the claim is withdrawn, discontinued or dismissed for lack of jurisdiction.

[55/2018]

(3) Where an employee is dismissed, the employee cannot lodge with a tribunal a claim for any amount relating to a specified employment dispute concerning a matter specified in item 17 of the First Schedule, or item 13 or 15 of the Second Schedule, that arises from that dismissal, if —

(a) the employee —

- (i) has made representations in writing under section 35(3) of the Industrial Relations Act 1960 to the Minister mentioned in that provision; or
- (ii) has made representations in writing under section 8(1) of the Retirement and Re-employment Act 1993 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.

[55/2018]

(4) Where an employee is dismissed, and the employee lodges with a tribunal a claim for any amount relating to a specified employment dispute concerning a matter specified in item 17 of the First Schedule, or item 13 or 15 of the Second Schedule, that arises from that dismissal —

(a) the claim is deemed to be discontinued, if the employee —

- (i) makes representations in writing under section 35(3) of the Industrial Relations Act 1960 to the Minister mentioned in that provision; or
- (ii) makes representations in writing under section 8(1) of the Retirement and Re-employment Act 1993 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.
[55/2018]

(5) 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 1960 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.
[55/2018]

(6) 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 1960 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.
[55/2018]

(7) Where an employee has made representations in writing under section 8B(1) of the Retirement and Re-employment Act 1993 to the Minister mentioned in that provision, the employee cannot lodge with a tribunal a claim for employment assistance payment, unless —

- (a) that Minister allows, under section 8B(7) of that Act, the employee to submit to the Commissioner a mediation request in respect of the specified employment dispute for which the employee's claim for employment assistance payment will be lodged; and
- (b) a claim referral certificate is issued in respect of that dispute.

(8) Where, after an employee has lodged with a tribunal a claim for employment assistance payment, the employee makes representations in writing under section 8B(1) of the Retirement and Re-employment Act 1993 to the Minister mentioned in that provision —

- (a) the claim is stayed until that Minister decides whether to allow, under section 8B(7) of that Act, the employee to submit to the Commissioner a mediation request in respect of the specified employment dispute for which the employee's claim for employment assistance payment has been lodged;
- (b) if that Minister decides not to allow the employee to submit to the Commissioner a mediation request in respect of the specified employment dispute for which the employee's claim for employment assistance payment has been lodged, the claim is deemed to be discontinued with effect from the date of that Minister's decision; and
- (c) if that Minister decides to allow the employee to submit to the Commissioner a mediation request in respect of the specified employment dispute for which the employee's claim for employment assistance payment has been lodged, the employee may proceed with the claim.

(9) Where an employee has lodged with a tribunal a claim for employment assistance payment, the employer of the employee cannot defend the claim on the ground that the employee does not satisfy the re-employment eligibility criteria set out in section 7(1) of the Retirement and Re-employment Act 1993, if the employer did not raise this defence during the mediation under Part 2 of the specified employment dispute concerning the employment assistance payment.

Transfer of proceedings

17.—(1) Where it appears to an appropriate court, on the application of a party to any proceedings before a tribunal, that there is sufficient reason for those proceedings, or a counterclaim in those proceedings, to be dealt with by that court, that court may order

those proceedings or that counterclaim (as the case may be) to be transferred to that court.

(2) An application under subsection (1) must be made within the time and manner prescribed by Rules of Court made under section 33.

(3) An order under subsection (1) may be made on any terms that the appropriate court thinks fit.

(4) Where the appropriate court orders under subsection (1) that a counterclaim in proceedings before a tribunal be transferred to that court, and the tribunal determines the claim in those proceedings by ordering the respondent to pay money to the claimant, unless that court at any time otherwise orders, execution or enforcement on the tribunal's order is stayed until the proceedings on the counterclaim are concluded.

[Act 25 of 2021 wef 01/04/2022]

(5) In this section, "appropriate court" means the General Division of the High Court, a District Court or a Magistrate's Court.

[40/2019]

Division 3 — Proceedings before tribunal

Proceedings conducted in private unless tribunal orders otherwise

18.—(1) Subject to subsections (2), (3), (4) and (5), all proceedings before a tribunal are to be conducted in private.

[55/2018]

(2) A tribunal may, on its own initiative or on the application of any party to the proceedings, and in the manner prescribed by Rules of Court made under section 33, do either or both of the following:

- (a) allow one or more individuals to assist in resolving the claim amicably through mediation or conciliation;
- (b) allow one or more individuals of skill and experience in the matter to which the proceedings relate to sit with the tribunal and act as assessors.

(3) A tribunal may permit an officer appointed under section 3(2) of the Employment Act 1968 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.

[55/2018]

(4) A tribunal may permit one or more of the following to observe the hearing of a claim:

- (a) any prescribed individual;
- (b) any individual belonging to a prescribed class of individuals;
- (c) any other individual that the tribunal deems fit.

(5) Regulations made under section 34 may prescribe different individuals or classes of individuals for different categories of claims for the purposes of subsection (4).

(6) To avoid doubt, subsection (1) does not prevent a tribunal from hearing 2 or more claims together, if it appears to the tribunal that doing so is convenient and does not prejudice any party to any of those claims.

Representation before tribunal

19.—(1) Except as provided in subsections (2) and (3), a party to proceedings before a tribunal —

- (a) must act in person;
- (b) cannot be represented by an advocate and solicitor; and
- (c) cannot be represented by an agent, whether paid or otherwise.

(2) A party other than an individual may be represented —

- (a) if the party is the Government, by a public officer;
- (b) if the party is a body corporate, by an officer, or a full-time employee, of the body corporate;
- (c) if the party is a partnership, by a partner, or a full-time employee, of the partnership;

(d) if the party is an unincorporated association, by a member of the governing body, or a full-time employee, of the unincorporated association; or

(e) by any other individual prescribed by regulations made under section 34.

(3) A party who is an individual may be represented by any other individual by regulations made under section 34.

(4) For the purposes of subsections (2)(e) and (3), the regulations made under section 34 may prescribe different individuals for different parties and different circumstances.

(5) In this section —

“body corporate” includes a limited liability partnership as defined in section 2(1) of the Limited Liability Partnerships Act 2005;

“officer”, in relation to a body corporate, means a director, partner, member of the committee of management, chief executive, manager, secretary or other similar officer of the body corporate.

Hearing to be informal, etc.

20.—(1) Proceedings before a tribunal are to be conducted in an informal manner.

(2) A tribunal, when dealing with any claim, is to adopt a judge-led approach, that is to say, the tribunal —

(a) is to identify the relevant issues in the claim; and

(b) is to ensure that the relevant evidence is adduced by the parties to the proceedings before the tribunal.

(3) In adopting a judge-led approach, a tribunal may, at any time, on its own initiative or on the application of any party to the proceedings before the tribunal, direct any party or parties to those proceedings to appear before the tribunal, for the tribunal to make such order or give such direction as the tribunal thinks fit, for the just, expeditious and economical disposal of the claim.

(4) A tribunal may, on its own initiative or at the request of any party, summon any person to do either or both of the following:

- (a) give evidence in any proceedings before a tribunal;
- (b) produce any document, record or thing which is relevant in any proceedings before a tribunal.

(5) A tribunal may inquire into any matter which the tribunal considers relevant to a claim, whether or not the matter is raised by a party to the claim.

(6) When deciding any claim for employment assistance payment, or calculating the amount of an employment assistance payment, a tribunal may take into account the tripartite guidelines on re-employment.

[55/2018]

(7) 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).

[55/2018]

(8) To avoid doubt, if any party to any proceedings before a tribunal, without reasonable excuse, fails to attend those proceedings, a tribunal may hear the claim and make its decision in the absence of that party, even if the interests of that party may be prejudicially affected by the decision of the tribunal.

Evidence

21.—(1) A tribunal —

- (a) is not bound by the rules of evidence in the conduct of any proceedings; and
- (b) may inform itself on any matter in any manner that the tribunal thinks fit.

(2) A tribunal may draw any inferences that 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.

[55/2018]

(3) Subject to subsection (4), evidence tendered to a tribunal need not be given on oath or affirmation.

(4) A tribunal may —

(a) require the whole or any part of any evidence tendered to a tribunal, whether orally or in writing, to be given on oath or affirmation; and

(b) for that purpose, administer an oath or affirmation.

(5) A tribunal may, on its own initiative, seek such other evidence, and make such other investigations and inquiries, as the tribunal thinks fit.

(6) All evidence and information obtained by a tribunal under subsection (5) for any proceedings must be disclosed to every party to those proceedings.

(7) A tribunal may require any written evidence given in proceedings before a tribunal to be verified by statutory declaration.

(8) A tribunal need not keep a record of the evidence given in any proceedings before the tribunal, but must make —

(a) a summary of the facts and issues in dispute, as determined by the tribunal; and

(b) notes of the proceedings.

Orders of tribunal

22.—(1) A tribunal may determine a claim within the tribunal's jurisdiction by making one or more of the following orders:

(a) an order requiring a party to pay money to another party;

(b) an order dismissing the whole or any part of the claim;

- (c) an order requiring a party to pay costs to another party;
- (d) an order requiring an employer to reinstate an employee in the employee's former employment.

[55/2018]

(2) In deciding whether to make an order under subsection (1)(c), a tribunal may take into account any of the following matters:

- (a) whether the claim was frivolous or vexatious;
- (b) whether a party without reasonable excuse failed to attend a mediation under Part 2, or a tripartite mediation (conducted by an approved mediator), of a specified employment dispute for which the claim is lodged;
- (c) whether any party without reasonable excuse failed to attend any proceedings before the tribunal which that party was required to attend.

(3) A tribunal's order under subsection (1) is subject to any conditions that the tribunal thinks fit to impose.

(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.

[55/2018]

(5) 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.

[55/2018]

(6) To avoid doubt —

- (a) any amount of money that a tribunal orders to be paid under subsection (1)(a) does not include any costs that a tribunal orders to be paid under subsection (1)(c); and
- (b) where a tribunal orders a party to pay an amount of money under subsection (1)(a) and costs under subsection (1)(c), any money paid by the party is to be applied first to the

payment of the amount under subsection (1)(a), and then to the payment of the costs under subsection (1)(c).

(7) Where a tribunal does not have jurisdiction to determine a claim or any part of a claim, that claim or part (as the case may be) must be dismissed for lack of jurisdiction.

(8) A tribunal may, instead of determining a claim by making an order under subsection (1), refer any specified employment dispute for which the claim is lodged for mediation under Part 2 (if the claim arose from a mediation under Part 2) or for tripartite mediation to be conducted by an approved mediator (if the claim arose from a tripartite mediation conducted by an approved mediator), with or without the consent of the parties.

(9) A tribunal may, when making a referral under subsection (8), order all or any of the parties to personally attend the mediation under Part 2 or the tripartite mediation (as the case may be).

(10) A tribunal may correct an order made by the tribunal within 14 days after the date on which the order is made, or correct a statement of the tribunal's grounds for making the order within 14 days after the date on which the statement is issued by the tribunal, to the extent necessary to rectify any of the following things:

- (a) a clerical mistake;
- (b) an error arising from an accidental slip or omission;
- (c) a material miscalculation of figures, or a material mistake in the description of any person, thing or matter, referred to in the order or statement (as the case may be);
- (d) a defect of form.

(11) The tribunal may make the correction in subsection (10) on its own initiative or on the application of a party to the proceedings before the tribunal.

(12) Every order made by a tribunal under subsection (1) may be enforced in the same manner as a judgment given or an order made by a District Court.

*Division 4 — Appeals***Appeal to General Division of High Court**

23.—(1) Any party to proceedings before a tribunal may appeal to the General Division of the High Court against an order made by the tribunal under section 22(1) —

- (a) on any ground involving a question of law; or
- (b) on the ground that the claim was outside the jurisdiction of the tribunal.

[40/2019]

(2) An appeal lies to the General Division of the High Court under this section only if permission to appeal is given by a District Court.

[40/2019]

[Act 25 of 2021 wef 01/04/2022]

(3) Where the only reason for appealing against an order made by a tribunal under section 22(1) is to rectify anything mentioned in section 22(10)(a) to (d), a District Court may, instead of giving permission to appeal —

- (a) extend the time under section 22(10) for the correction of the order; and
- (b) remit the matter to a tribunal for the correction of the order in accordance with section 22(10) and (11) (except to the extent that the time under section 22(10) may have been extended).

[Act 25 of 2021 wef 01/04/2022]

(4) Each of the following is final and is not subject to any appeal:

- (a) any order of a District Court giving or refusing permission under subsection (2);

[Act 25 of 2021 wef 01/04/2022]

- (b) any order of a District Court extending or refusing to extend under subsection (3)(a) the time under section 22(10) for the correction of an order made by a tribunal;
- (c) any order of a District Court remitting or refusing to remit under subsection (3)(b) a matter to a tribunal.

Appeal does not operate as stay of execution or enforcement

24.—(1) An appeal against an order made by a tribunal under section 22(1) does not operate as a stay of execution or enforcement of that order, unless a District Court or the General Division of the High Court orders otherwise.

[40/2019]

[Act 25 of 2021 wef 01/04/2022]

(2) A District Court or the General Division of the High Court may direct that a stay of execution or enforcement (of an order made by a tribunal) be subject to any conditions that the District Court or the General Division of the High Court thinks fit to impose, including conditions as to costs, payment into a District Court or the General Division of the High Court, or the giving of security.

[40/2019]

[Act 25 of 2021 wef 01/04/2022]

(3) Any order or direction of a District Court on an application for a stay of execution or enforcement (of an order made by a tribunal) is final and is not subject to any appeal.

[Act 25 of 2021 wef 01/04/2022]

(4) The General Division of the High Court may order a stay of execution or enforcement of an order made by a tribunal, or give a direction under subsection (2), only if —

(a) a District Court has given under section 23(2) permission to appeal against the order made by the tribunal; and

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(b) no application was made to any District Court for a stay of execution or enforcement of the order made by the tribunal.

[40/2019]

[Act 25 of 2021 wef 01/04/2022]

Powers of General Division of High Court on appeal

25.—(1) On an appeal against an order made by a tribunal, the General Division of the High Court may —

(a) dismiss the appeal;

(b) allow the appeal and set aside or vary the order; or

- (c) remit the matter to the tribunal for reconsideration, or order a rehearing of the matter by a different tribunal, with any directions that the General Division of the High Court thinks fit to give.

[40/2019]

(2) The General Division of the High Court may also make on the appeal any other orders (including an order as to costs and expenses) that the General Division of the High Court thinks fit, but must not —

- (a) reverse or vary any determination made by a tribunal on a question of fact; or
- (b) receive further evidence.

[40/2019]

(3) When deciding an appeal against an order made by a tribunal on a claim for employment assistance payment, or on the calculation of the amount of an employment assistance payment, the General Division of the High Court may take into account the tripartite guidelines on re-employment.

[55/2018; 40/2019]

(4) When deciding an appeal against an order made by a tribunal on a claim involving a wrongful dismissal dispute, the General Division of 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).

[55/2018; 40/2019]

Finality of decision of General Division of High Court

26. Any judgment, order or direction of the General Division of the High Court on any of the following matters is final:

- (a) an appeal against an order made by a tribunal;
- (b) an application for a stay of execution or enforcement of an order made by a tribunal.

[40/2019]

[Act 25 of 2021 wef 01/04/2022]

Burden of proof

27.—(1) In any proceedings under this Act before a tribunal or the General Division of the High Court, a person who makes any of the following allegations bears the burden of proving that allegation:

- (a) an allegation that the person is not the employer or employee of the claimant;
- (b) an allegation that the person is not a person who has a duty under any of the following Acts to do or abstain from doing any thing:
 - (i) the Child Development Co-Savings Act 2001;
 - (ii) the Employment Act 1968;
 - (iii) the Retirement and Re-employment Act 1993.

[55/2018; 40/2019]

(2) In any proceedings under this Act before a tribunal or the General Division of 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 1968, 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 1968, 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 2001 by an employer in the circumstances mentioned in section 84(1)(a), (b) or (c) of the Employment Act 1968 (as applied to the female employee), and the female employee lodges a claim mentioned in section 84(2) of the Employment Act 1968 (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.

[55/2018; 40/2019]

PART 4

MISCELLANEOUS

Restriction on contracting out

28. Any provision in any agreement (whether made before, on or after 1 April 2017) is void to the extent that it purports —

- (a) to exclude or limit the jurisdiction of a tribunal; or
- (b) to prevent a person from —
 - (i) submitting a mediation request; or
 - (ii) making a claim, an application or an appeal under this Act.

Disclosure of information

29.—(1) Despite sections 4 and 18, the Commissioner, an approved mediator, a tribunal magistrate or a Registrar may disclose information relating to a mediation request, a mediation under Part 2, a claim or any proceedings before a tribunal, if the disclosure —

- (a) is necessary for or in connection with the administration or execution of this Act;
- (b) is necessary for providing financial or social assistance to the claimant or the respondent;

- (c) is made to assist a law enforcement agency in the investigation of any offence under any written law;
 - (d) is made to a public agency for the purpose of policy formulation or review;
 - (e) is made to a public agency, and is necessary in the public interest; or
 - (f) is made for any other purpose that may be prescribed by any regulations made under section 34.
- (2) Despite section 18, a tribunal magistrate or a Registrar may publish information relating to an order or a decision of a tribunal.

[55/2018]

(3) In this section —

“law enforcement agency” means any authority or person charged with the duty of investigating offences or charging offenders under any written law;

“public agency” means —

- (a) the Government, including any ministry, department, agency or Organ of State; or
- (b) any statutory body or tribunal that is prescribed for the purposes of this definition by any regulations made under section 34.

Protection from personal liability

30.—(1) A tribunal magistrate has and enjoys the same protection that a Magistrate has and enjoys under the State Courts Act 1970.

(2) A Registrar, when exercising the jurisdiction and powers of a tribunal, has and enjoys the same protection as a tribunal magistrate.

(3) No liability shall lie personally against the Commissioner, an individual authorised to carry out any function or duty of the Commissioner under this Act, or an approved mediator, who, acting in good faith and with reasonable care, does or omits to do anything in the execution or purported execution of this Act.

Public servants

31.—(1) Every approved mediator, when carrying out the functions and duties of an approved mediator, is deemed to be a public servant for the purposes of the Penal Code 1871.

(2) Every authorised person, when carrying out any function or duty of the Commissioner under this Act, is deemed to be a public servant for the purposes of the Penal Code 1871.

Amendment of Schedules

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

[55/2018]

(2) The Minister may, in an order made under subsection (1), make any provisions of a saving or transitional nature consequent on the enactment of the order that the Minister considers necessary or expedient.

Rules of Court

33.—(1) The Rules Committee appointed under section 80(3) of the Supreme Court of Judicature Act 1969 may make Rules of Court —

(a) to regulate and prescribe —

(i) the procedure and practice to be followed —

(A) in an application under section 7(2) to a District Court for a settlement agreement mentioned in section 7(1) to be registered in that Court;

(B) in an application under section 7(4) to a District Court to set aside the registration in a District Court of a settlement agreement mentioned in section 7(1);

(C) in the tribunals and the Registry;

(D) in an application under section 17(1) to the General Division of the High Court, a District

Court or a Magistrate's Court for any proceedings before a tribunal, or a counterclaim in those proceedings, to be transferred to the General Division of the High Court, a District Court or a Magistrate's Court (as the case may be);

(E) in an appeal to the General Division of the High Court under section 23 against an order made by a tribunal under section 22(1);

(F) in an application to a District Court for permission under section 23(2) to appeal to the General Division of the High Court against an order made by a tribunal under section 22(1); or

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(G) in an application to the General Division of the High Court or a District Court for a stay of execution or enforcement under section 24 of an order made by a tribunal under section 22(1); and

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(ii) any matters incidental to or relating to any such procedure and practice;

(b) to provide for the enforcement of orders of the tribunals;

(c) to provide for fees and costs for the proceedings mentioned in paragraph (a); and

(d) to prescribe any matters required by this Act to be prescribed by Rules of Court made under this section.

[40/2019]

(2) Without limiting subsection (1), the Rules of Court made under this section may provide for the following matters:

(a) the part of the business and the jurisdiction and powers of a tribunal magistrate which may be transacted and exercised by a Registrar;

- (b) the form and content of documents to be used, the sealing of documents, the service of documents, and the giving of notices, for proceedings in a tribunal or court;
- (c) the manner in which and time within which any act, application to a tribunal, claim or appeal under this Act is to be done, lodged or made;
- (d) the functions, powers and duties of the tribunals, a Registrar and other officers of the tribunals or the Registry, including in relation to —
 - (i) the service of documents and giving of notices;
 - (ii) the enlargement or abridgement of time for the doing of any act or for taking any proceedings; and
 - (iii) the conduct of proceedings;
- (e) the manner in which, and the time within which, an application to a tribunal or a claim may be heard, and the circumstances and manner in which claims may be heard together;
- (f) the withdrawal and amendment of claims;
- (g) the summoning of witnesses and the payment of witnesses from public funds or otherwise;
- (h) the means by which particular facts may be proved, and the mode in which evidence of those facts may be given, in any proceedings or on any application to a tribunal in connection with or at any stage of any proceedings before a tribunal;
- (i) the transfer of proceedings from a tribunal to a court;
- (j) the joinder of parties in proceedings before a tribunal;
- (k) the cases in which a person absent, but having an interest in a claim, is to be bound by an order of a tribunal or a Registrar made in relation to that claim;
- (l) the circumstances in which an order of a tribunal or a Registrar may be made for the representation of an absent person by a party to the proceedings before a tribunal;

- (m) the circumstances in which any decision, direction or order of a tribunal or a Registrar may be set aside, and the procedure for setting aside any such decision, direction or order;
- (n) the circumstances in which any decision, direction or order of a Registrar may be appealed against, and the procedure for appeals from a Registrar to a tribunal and from a tribunal to the General Division of the High Court;
- (o) the scales of allowances, costs and fees to be taken, or paid to any party or witness, in any proceedings before a tribunal or a Registrar;
- (p) the fees to be charged for anything done by a tribunal or a Registrar, or for any service rendered by the Registry, under or by virtue of this Act;
- (q) the waiver, refund or remission, whether wholly or in part, of any fee provided for in those Rules of Court;
- (r) the circumstances (in addition to those mentioned in section 22(2)) in which costs may be awarded in any proceedings before a tribunal or a Registrar, and any other matters relating to the costs of those proceedings.

[40/2019]

(3) The Rules of Court made under this section may, instead of providing for any matter, refer to any provision made or to be made for that matter by practice directions issued for the time being by the registrar of the State Courts.

(4) All Rules of Court made under this section must be presented to Parliament as soon as possible after publication in the *Gazette*.

Regulations

34.—(1) The Minister may make regulations —

- (a) for carrying out the purposes and provisions of this Act;
- (b) to prescribe how compensation is to be computed in a claim relating to a wrongful dismissal dispute;

- (c) to provide for the fees to be charged for anything done or any service rendered by the Commissioner or an approved mediator under or by virtue of this Act;
- (d) to provide for the waiver, refund or remission, whether wholly or in part, of any fee provided for in those regulations;
- (e) to exempt any person or class of persons from all or any of the provisions of this Act (except Part 3 and section 33), either generally or in a particular case, and subject to any conditions that may be prescribed;
- (f) to exclude any specified employment dispute or category of specified employment disputes, and any claim or category of claims, from all or any of the provisions of this Act, either generally or in a particular case;
- (g) to provide for the service of documents, and the giving of notices, required or allowed under this Act, except documents and notices for proceedings in a tribunal or court; and
- (h) to prescribe any matters required by this Act to be prescribed by regulations made under this section.

[55/2018]

(2) The powers conferred by this section do not extend to any matter for which Rules of Court may be made under section 33.

Tripartite guidelines on wrongful dismissal

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

[55/2018]

(2) Upon the publication of those guidelines in the *Gazette*, regard may be had to those guidelines for the purposes of sections 20(7) and 25(4).

[34A

[55/2018]

FIRST SCHEDULE

Sections 2(1), 12(2)(c), 16(3) and (4)
and 32(1)

SPECIFIED CONTRACTUAL DISPUTE MATTERS

1. Allowance (however described in the contract of service)
2. Annual wage supplement
3. Bonus payment
4. Commission
5. Deduction from salary
6. Employment assistance payment
7. Incentive payment (however described in the contract of service)
8. Medical benefit
9. Overtime payment
10. Pay for extra work
11. Pay for public holiday or paid leave
12. Pay for work on public holiday
13. Pay for work on rest day
14. Payment in lieu of unconsumed leave
15. Reimbursement for expenses incurred while carrying out official duties
16. Salary
17. Salary in lieu of notice of termination
18. Termination benefit (including retrenchment benefit or retirement benefit)

SECOND SCHEDULE

Sections 2(1), 12(2)(c), 16(3) and (4)
and 32(1)

SPECIFIED STATUTORY DISPUTE MATTERS**Matters under Child Development Co-Savings Act 2001**

1. Female employee's entitlement to paid maternity leave, and payment for working during benefit period before her confinement, under section 9(1), (1A), (1B) and (2) of the Child Development Co-Savings Act 2001

SECOND SCHEDULE — *continued*

2. Female employee's entitlement to paid adoption leave under section 12AA(1), (2) and (4) of the Child Development Co-Savings Act 2001
3. Employee's entitlement to paid childcare leave under section 12B(1) and (9) of the Child Development Co-Savings Act 2001
4. Employee's entitlement to paid extended childcare leave under section 12B(1A) and (9) of the Child Development Co-Savings Act 2001
5. Male employee's entitlement to paid shared parental leave under section 12E(1) and (2) of the Child Development Co-Savings Act 2001
6. Male employee's entitlement to paid paternity leave under section 12H(1) and (2) of the Child Development Co-Savings Act 2001

Matters under Child Development Co-Savings (Part-Time Employees) Regulations 2008

7. Female part-time employee's entitlement to paid maternity leave under regulation 4(1) and (2) of the Child Development Co-Savings (Part-Time Employees) Regulations 2008
8. Part-time employee's entitlement to paid childcare leave under regulation 5(1), (2) and (3) of the Child Development Co-Savings (Part-Time Employees) Regulations 2008
9. Part-time employee's entitlement to paid extended childcare leave under regulation 5A(1) and (2) of the Child Development Co-Savings (Part-Time Employees) Regulations 2008
10. Female part-time employee's entitlement to paid adoption leave under regulation 7(1) and (2) of the Child Development Co-Savings (Part-Time Employees) Regulations 2008
11. Male part-time employee's entitlement to paid shared parental leave under regulation 8(1) and (2) of the Child Development Co-Savings (Part-Time Employees) Regulations 2008
12. Male part-time employee's entitlement to paid paternity leave under regulation 9(1) and (2) of the Child Development Co-Savings (Part-Time Employees) Regulations 2008

Matters under Employment Act 1968

13. Employee's entitlement to payment under section 11(1) of the Employment Act 1968, if the employer terminates the contract of service without notice or without waiting for the expiry of that notice

SECOND SCHEDULE — *continued*

14. Employer's entitlement to payment under section 11(1) of the Employment Act 1968, if the employee terminates the contract of service without notice or without waiting for the expiry of that notice
15. Employee's entitlement to payment under section 16 of the Employment Act 1968, if the employer breaks, or is deemed under section 13(1) of that Act to have broken, the contract of service
16. Employer's entitlement to payment under section 16 of the Employment Act 1968 if the employee breaks, or is deemed under section 13(2) of that Act to have broken, the contract of service
17. Employee's entitlement to payment of salary in accordance with section 21, 22 or 23 of the Employment Act 1968
18. Employee's entitlement to recover from the employer any deduction, made by the employer from the salary of the employee, that is prohibited under section 26 of the Employment Act 1968
19. Employee's entitlement to payment under section 37(2) of the Employment Act 1968 for working, at the employee's own request, for the employer on a rest day
20. Employee's entitlement to payment under section 37(3) of the Employment Act 1968 for working, at the employer's request, on a rest day
21. Employee's entitlement to payment under section 38(4) of the Employment Act 1968 for extra work carried out at the employer's request (overtime pay)
22. Entitlement of employee, to whom section 40 of the Employment Act 1968 applies, to payment under section 40(4) of that Act for extra work carried out at the employer's request
23. Employee's entitlement to paid annual leave under section 88A(1), (2), (6) and (7) of the Employment Act 1968
24. Entitlement, under section 57 of the Employment Act 1968 but subject to section 63 of that Act, of employee who is a workman to recover salary that has not been actually paid to the employee in legal tender
25. Entitlement, under section 65 of the Employment Act 1968, of employee who is a workman to recover salary from a principal, contractor or subcontractor mentioned in that section
26. Female employee's entitlement to paid maternity leave, and payment for working during benefit period before her confinement, under section 76(1), (1A) and (3) of the Employment Act 1968

SECOND SCHEDULE — *continued*

27. Entitlement of person nominated by female employee under section 80(4) of the Employment Act 1968, or personal representative of female employee, to receive payment from the employer under section 79(1) or (2) of that Act, on the death of the female employee
28. Employee's entitlement to paid childcare leave under section 87A(1) and (5) of the Employment Act 1968
29. Employee's entitlement to paid holiday (on a public holiday) under section 88(1) of the Employment Act 1968
30. Employee's entitlement under section 88(4) of the Employment Act 1968 to be paid an extra day's salary, if required by the employer to work on a public holiday
31. Employee's entitlement under section 88(4A) of the Employment Act 1968 to either be paid an extra day's salary or given time off in lieu, if required by the employer to work on a public holiday
32. Employee's entitlement to paid sick leave under section 89(1) and (2) of the Employment Act 1968, and to have the fees of any medical examination under section 89(1) or (2) of that Act borne by the employer

Matters under Employment (Part-Time Employees) Regulations

33. Part-time employee's entitlement to payment under regulation 4(1) of the Employment (Part-Time Employees) Regulations for working, at the employee's own request, for the employer on a rest day
34. Part-time employee's entitlement to payment under regulation 4(2) of the Employment (Part-Time Employees) Regulations for working, at the employer's request, on a rest day
35. Part-time employee's entitlement to payment under regulation 5(1) of the Employment (Part-Time Employees) Regulations for extra work (overtime pay)
36. Part-time employee's entitlement to paid holiday (on a public holiday) under regulation 6(1) of the Employment (Part-Time Employees) Regulations
37. Part-time employee's entitlement under regulation 6(2) of the Employment (Part-Time Employees) Regulations to be paid a sum at the part-time employee's basic rate of pay for one day's work, if required by the employer to work on a public holiday
38. Part-time employee's entitlement under regulation 6(2A) of the Employment (Part-Time Employees) Regulations to either be paid a sum at the part-time employee's basic rate of pay for one day's work or given time off in lieu, if required by the employer to work on a public holiday

SECOND SCHEDULE — *continued*

39. Part-time employee's entitlement to allowance under regulation 6(4) of the Employment (Part-Time Employees) Regulations, if the part-time employee agrees to relinquish the part-time employee's entitlement to paid holidays (on public holidays)
40. Part-time employee's entitlement to paid annual leave under regulation 7(1) and (2) of the Employment (Part-Time Employees) Regulations
41. Part-time employee's entitlement to allowance under regulation 7(3) of the Employment (Part-Time Employees) Regulations, if the part-time employee agrees to relinquish the part-time employee's entitlement to paid annual leave
42. Part-time employee's entitlement to paid sick leave under regulation 8(1) and (2) of the Employment (Part-Time Employees) Regulations
43. Part-time employee's entitlement to paid childcare leave under regulation 8A(1) and (2) of the Employment (Part-Time Employees) Regulations
44. Female part-time employee's entitlement to paid maternity leave under regulation 9(1) and (2) of the Employment (Part-Time Employees) Regulations

Matters under Retirement and Re-employment Act 1993

45. Employee's entitlement to employment assistance payment under section 7C(1) of the Retirement and Re-employment Act 1993
[55/2018; S 153/2017]

THIRD SCHEDULE

Sections 2(1) and 32(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 1968, 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 1968, 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 2001 may lodge a claim mentioned in section 84(2) of the Employment Act 1968 (as applied

THIRD SCHEDULE — *continued*

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 1968 (as applied to the female employee) was or was not given for sufficient cause

[55/2018]

FOURTH SCHEDULE

Sections 21(2) and 32(1)

SPECIFIED OBLIGATIONS UNDER WRITTEN LAW

1. An employer's obligations under sections 95, 95A and 96 of the Employment Act 1968
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
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

[55/2018]

LEGISLATIVE HISTORY

EMPLOYMENT CLAIMS ACT 2016

This Legislative History is a service provided by the Law Revision Commission on a best-efforts basis. It is not part of the Act.

1. Act 21 of 2016 — Employment Claims Act 2016

Bill	:	20/2016
First Reading	:	11 July 2016
Second and Third Readings	:	16 August 2016
Commencement	:	1 April 2017

2. G.N. No. S 153/2017 — Employment Claims Act 2016 (Amendment of Second Schedule) Order 2017

Commencement	:	1 April 2017
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3. Act 55 of 2018 — Employment (Amendment) Act 2018
(Amendments made by section 26 of the above Act)

Bill	:	47/2018
First Reading	:	2 October 2018
Second Reading	:	20 November 2018
Notice of Amendments	:	20 November 2018
Third Reading	:	20 November 2018
Commencement	:	1 April 2019 (section 26)

4. Act 40 of 2019 — Supreme Court of Judicature (Amendment) Act 2019
(Amendments made by section 28(1) read with item 47 of the Schedule to the above Act)

Bill	:	32/2019
First Reading	:	7 October 2019
Second Reading	:	5 November 2019
Notice of Amendments	:	5 November 2019
Third Reading	:	5 November 2019
Commencement	:	2 January 2021 (section 28(1) read with item 47 of the Schedule)

5. 2020 Revised Edition — Employment Claims Act 2016

Operation	:	31 December 2021
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6. Act 25 of 2021 — Courts (Civil and Criminal Justice) Reform Act 2021

Bill	:	18/2021
First Reading	:	26 July 2021
Second and Third Readings	:	14 September 2021
Commencement	:	1 April 2022

Abbreviations

(updated on 29 August 2022)

G.N.	Gazette Notification
G.N. Sp.	Gazette Notification (Special Supplement)
L.A.	Legislative Assembly
L.N.	Legal Notification (Federal/Malaysian)
M.	Malaya/Malaysia (including Federated Malay States, Malayan Union, Federation of Malaya and Federation of Malaysia)
Parl.	Parliament
S	Subsidiary Legislation
S.I.	Statutory Instrument (United Kingdom)
S (N.S.)	Subsidiary Legislation (New Series)
S.S.G.G.	Straits Settlements Government Gazette
S.S.G.G. (E)	Straits Settlements Government Gazette (Extraordinary)

COMPARATIVE TABLE
EMPLOYMENT CLAIMS ACT 2016

This Act has undergone renumbering in the 2020 Revised Edition. This Comparative Table is provided to help readers locate the corresponding provisions in the last Revised Edition.

2020 Ed.	Act 21 of 2016
16—(5)	16—(4A)
(6)	(4B)
(7)	(5)
(8)	(6)
(9)	(7)
18—(3)	18—(2A)
(4)	(3)
(5)	(4)
(6)	(5)
20—(7)	20—(6A)
(8)	(7)
21—(2)	21—(1A)
(3)	(2)
(4)	(3)
(5)	(4)
(6)	(5)
(7)	(6)
(8)	(7)
22—(5)	22—(4A)
(6)	(5)
(7)	(6)
(8)	(7)
(9)	(8)
(10)	(9)

2020 Ed.	Act 21 of 2016
(11)	(10)
(12)	(11)
29—(2)	29—(1A)
(3)	(2)
35	34A
[<i>Omitted as having had effect</i>]	35
[<i>Omitted as having had effect</i>]	36
[<i>Omitted as having had effect</i>]	37
[<i>Omitted as having had effect</i>]	38
[<i>Omitted as having had effect</i>]	39
[<i>Omitted as having had effect</i>]	40
[<i>Omitted as having had effect</i>]	41
[<i>Omitted as having had effect</i>]	42
[<i>Omitted as spent</i>]	43