REPUBLIC OF SINGAPORE

GOVERNMENT GAZETTE

ACTS SUPPLEMENT

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The following Act was passed by Parliament on 20 November 2018 and assented to by the President on 21 December 2018:—

REPUBLIC OF SINGAPORE

No. 55 of 2018.

I assent.

HALIMAH YACOB,
President.
21 December 2018.

LS

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 a hospital in such circumstances as may be prescribed or is under quarantine (whether or not in a hospital) under any written law; and

(*b*) an employee is to be treated as hospitalised for any period the employee is not an in-patient of a hospital, or stops being an in-patient of a hospital after being warded in that hospital in accordance with paragraph (*a*), if the employee is certified, by a medical practitioner employed by a hospital approved by the Minister —

(i) to be ill enough to require hospitalisation during that period; or

(ii) to need rest or further medical treatment during that period in order to recover after his discharge from a hospital.";

(*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)"; and

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

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.