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Employment Claims Bill

Bill No. 20/2016.

Read the first time on 11 July 2016.

EMPLOYMENT CLAIMS ACT 2016

(No. of 2016)

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A BILL

intituled

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, 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:

PART 1
PRELIMINARY

Short title and commencement

1. This Act is the Employment Claims Act 2016 and comes into
5 operation on a date that the Minister appoints by notification in the
Gazette.

Interpretation

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

10 “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;

15 (c) a mediation mentioned in section 115(2A) of the
Employment Act (Cap. 91);

(d) a consultation or conciliation under section 8A of the
Retirement and Re-employment Act (Cap. 274A);

20 (e) a mediation or conciliation of any dispute under such
other written law as the Commissioner may determine,
being a written law relating to employment,
employment terms or the relations between
employers and employees;

25 “authorised person” means an individual appointed under
section 3(3) of the Employment Act 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;

30 “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 (Cap. 136);

“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;

5

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

“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;

10

“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

15

(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;

20

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

25

(a) the Government in respect of such categories, classes or descriptions of employees of the Government as from time to time are prescribed to be employees for the purposes of this Act;

(b) a statutory body;

30

(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 same meaning as in section 2(1) of the Retirement and Re-employment Act;

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

“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 same meaning as in section 2(1) of the Employment Act;

“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; 5

“specified employment dispute” means a specified contractual dispute or a specified statutory dispute; 10

“specified statutory dispute” means a dispute 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 (Cap. 321); 15

“tribunal magistrate” means a tribunal magistrate appointed under section 9(1)(a) or designated under section 9(5);

“tripartite guidelines” has the same meaning as in section 2(1) of the Retirement and Re-employment Act;

“tripartite mediation” has the same meaning as in section 30F of the Industrial Relations Act; 20

“workman” has the same meaning as in section 2(1) of the Employment Act.

(2) When this Act is applied to a counterclaim lodged with a tribunal — 25

(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 may, if 30

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

5 **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.

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

- 15 (a) for any specified employment dispute concerning the recovery, under section 65 of the Employment Act (Cap. 91), 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;
- 20 (b) for any re-employment dispute described in section 8A(3) of the Retirement and Re-employment Act (Cap. 274A) — 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 — within the time determined under section 8B(7A) of that Act;
- 25 (d) for any specified employment dispute 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) but not mentioned in paragraph (a), (b) or (c) — not later than 6 months after the last day of employment of the employee;
- 30 (e) 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.

(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: 5

(i) a claim for an amount relating to the dispute 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); 10

(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; 15

(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 20

(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, under section 16, a claim for an amount relating to the dispute cannot be lodged by the claimant with a tribunal; and 25

(d) must be accompanied by the prescribed fee for a mediation under this Part.

(4) The Commissioner may —

(a) refuse to accept a mediation request if — 30

(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

5 (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.

10 (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;

15 (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
20 different persons (or classes of persons) for different classes of claimants and different categories of specified employment disputes;

25 (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;

30 (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.

5

(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)(d);
- (b) the period of one year mentioned in subsection (2)(e);
- (c) the period of one year mentioned in subsection (3)(a)(ii).

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(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.

15

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(7) to the approved mediator.

20

(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.

25

(4) Despite subsection (3) —

- (a) the Commissioner may refer all of the specified employment disputes mentioned in subsection (5)(a) or (b) 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) or (b) together at the same time and place.

30

(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; or

(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.

(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 such other individual as may be prescribed by regulations made under section 34.

(3) A party who is an individual may be represented by such other individual as may be 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

(5) In this section —

“body corporate” includes a limited liability partnership as defined in section 2(1) of the Limited Liability Partnerships Act (Cap. 163A);

“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. 10

Claim referral certificate

6.—(1) This section applies where — 15

- (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 — 20

- (a) the respondent is given reasonable notice of, but does not attend, the mediation for that dispute; 25
- (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. 30

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

(a) discontinue the mediation; and

5 (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 —

10 (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

15 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 such form as may be prescribed by Rules of Court made under section 33;

20 (b) the total amount payable to a party under the settlement agreement must not exceed the prescribed claim limit in section 12(7) which is applicable to that party; and

(c) the settlement agreement must be signed by or on behalf of each party.

25 (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.

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

(a) the settlement agreement is, for the purposes of execution, 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;

- (b) proceedings may be taken on the settlement agreement as if the settlement agreement had been a judgment given in the District Court; and 5
- (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 such period as may be prescribed by Rules of Court made under section 33, apply to a District Court to set aside the registration of the settlement agreement. 10

(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 15
- (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. 20

(6) For the purposes of subsection (5), the conditions are as follows: 25

- (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; 30
- (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 fails without reasonable excuse 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 (Cap. 136) applies to that dispute as it applies

to a dispute which the Commissioner is notified of under section 30H(2) of that Act.

PART 3

EMPLOYMENT CLAIMS

Division 1 — Establishment of tribunals and appointments

5

Establishment of tribunals

8. The President may, under section 4 of the State Courts Act (Cap. 321), constitute one or more Employment Claims Tribunals.

Appointment and qualifications of tribunal magistrate

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

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(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 (Cap. 161).

15

(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.

20

(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.

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30

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 the date of commencement of this section.

(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 the amount claimed 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 (Cap. 91) 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 — 5

(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. 10

(3) The claim must be for one or more amounts alleged to be payable by the respondent to the claimant.

(4) Each amount alleged to be payable under the claim must relate to a specified employment dispute. 15

(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. 20

(7) The total amount alleged to be payable under the claim must not exceed the prescribed claim limit applicable to the claimant.

(8) Regulations made under section 34 may — 25

(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; 30

(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

5 (e) prescribe the claim limit in subsection (7), including different claim limits for different classes of claimants and different circumstances.

Lodging of claim

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

10 (2) Every claim —

(a) must be filed in such form and manner as may be —

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

15 (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;

20 (ii) such other documents as 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

25 (iii) such court fee as may be prescribed by Rules of Court made under section 33.

No division of claim

30 **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 the total amount alleged to be payable under a claim exceeds the prescribed claim limit in section 12(7) which is applicable to the claimant, the claimant may abandon the excess amount.

(2) If the claimant abandons the excess amount —

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(a) the total amount alleged to be payable under the claim is deemed to be within the prescribed claim limit in section 12(7) which is applicable to the claimant;

(b) the tribunal has jurisdiction to hear and determine the claim; and

10

(c) an order of the tribunal in relation to the claim fully discharges all demands in respect of the claim.

(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

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

(a) any proceedings relating to that amount are pending in, or have been heard and determined by, any other court or an Industrial Arbitration Court; or

20

(b) a claim lodged under section 119 of the Employment Act (Cap. 91) in respect of that dispute is pending, or the Commissioner has inquired into and decided that dispute under section 115 of that Act.

(2) Despite any other written law, where a claim for an amount relating to a specified employment dispute is lodged with a tribunal, no proceedings relating to that amount 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.

25

30

(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 —

- 5 (i) has made representations in writing under section 14(2) of the Employment Act to the Minister mentioned in that provision;
- (ii) has referred any question under section 84(2) of the Employment Act to the Minister mentioned in that provision;
- 10 (iii) has made representations in writing under section 35(3) of the Industrial Relations Act (Cap. 136) to the Minister mentioned in that provision; or
- 15 (iv) has made representations in writing under section 8(1) of the Retirement and Re-employment Act (Cap. 274A) to the Minister mentioned in that provision; and

(b) either of the following applies:

- 20 (i) the employee does not withdraw those representations or that referral (as the case may be);
- (ii) the Minister concerned makes a decision on those representations or that referral (as the case may be).

25 (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 —

- 30 (i) makes representations in writing under section 14(2) of the Employment Act to the Minister mentioned in that provision;

- (ii) refers any question under section 84(2) of the Employment Act to the Minister mentioned in that provision;
 - (iii) makes representations in writing under section 35(3) of the Industrial Relations Act to the Minister mentioned in that provision; or
 - (iv) makes representations in writing under section 8(1) of the Retirement and Re-employment 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 or that referral (as the case may be).
- (5) Where an employee has made representations in writing under section 8B(1) of the Retirement and Re-employment Act 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 for a mediation under Part 2 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.
- (6) 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 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 for a mediation under Part 2 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 for a mediation

under Part 2 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

5 (c) if that Minister decides to allow the employee to submit to the Commissioner a mediation request for a mediation under Part 2 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.

10 (7) 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, if the employer did not raise
15 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
20 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 such time and in such manner as may be prescribed by Rules of Court made
25 under section 33.

(3) An order under subsection (1) may be made on such terms as 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
30 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 on the tribunal's order is stayed until the proceedings on the counterclaim are concluded.

(5) In this section, “appropriate court” means the High Court, a District Court or a Magistrate’s Court.

Division 3 — Proceedings before tribunal

Proceedings conducted in private unless tribunal orders otherwise

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

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

10

(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.

15

(3) 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;

20

(c) any other individual that the tribunal deems fit.

(4) Regulations made under section 34 may prescribe different individuals or classes of individuals for different categories of claims for the purposes of subsection (3).

(5) 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.

25

Representation before tribunal

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

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- (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.

5 (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;
- 10 (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
- 15 (e) by such other individual as may be prescribed by regulations made under section 34.

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

20 (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 (Cap. 163A);

25 “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.

30 **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. 5

(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. 10

(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. 15

(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. 20

(7) To avoid doubt, if any party to any proceedings before a tribunal fails, without reasonable excuse, 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. 25

Evidence

21.—(1) A tribunal —

(a) is not bound by the rules of evidence in the conduct of any proceedings; and 30

(b) may inform itself on any matter in such manner as the tribunal thinks fit.

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

5 (3) 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.

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

(5) All evidence and information obtained by a tribunal under subsection (4) for any proceedings must be disclosed to every party to those proceedings.

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

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

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

(b) notes of the proceedings.

Orders of tribunal

25 **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.

30 (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. 5
- (3) A tribunal's order under subsection (1) is subject to such conditions as 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) for a claim must not exceed the prescribed claim limit in section 12(7) which is applicable to the party. 10
- (5) 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 15
- (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). 20
- (6) 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.
- (7) 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. 25 30
- (8) A tribunal may, when making a referral under subsection (7), order all or any of the parties to personally attend the mediation under Part 2 or the tripartite mediation (as the case may be).

(9) 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.

(10) The tribunal may make the correction in subsection (9) on its own initiative or on the application of a party to the proceedings before the tribunal.

(11) 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 High Court

23.—(1) Any party to proceedings before a tribunal may appeal to 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.

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

(3) Where the only reason for appealing against an order made by a tribunal under section 22(1) is to rectify any thing mentioned in section 22(9)(a) to (d), a District Court may, instead of giving leave to appeal —

- (a) extend the time under section 22(9) 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(9) and (10) (except to the extent that the time under section 22(9) may have been extended). 5
- (4) Each of the following is final and is not subject to any appeal:
- (a) any order of a District Court giving or refusing leave under subsection (2);
 - (b) any order of a District Court extending or refusing to extend under subsection (3)(a) the time under section 22(9) for the correction of an order made by a tribunal; 10
 - (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

24.—(1) An appeal against an order made by a tribunal under section 22(1) does not operate as a stay of execution of that order, unless a District Court or the High Court orders otherwise. 15

(2) A District Court or the High Court may direct that a stay of execution (of an order made by a tribunal) be subject to such conditions as the District Court or the High Court thinks fit to impose, including conditions as to costs, payment into a District Court or the High Court, or the giving of security. 20

(3) Any order or direction of a District Court on an application for a stay of execution (of an order made by a tribunal) is final and is not subject to any appeal. 25

(4) The High Court may order a stay of execution 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) leave to appeal against the order made by the tribunal; and
- (b) no application was made to any District Court for a stay of execution of the order made by the tribunal. 30

Powers of High Court on appeal

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

- (a) dismiss the appeal;
- 5 (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 such directions as the High Court thinks fit to give.

(2) The High Court may also make on the appeal such other orders (including an order as to costs and expenses) as 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.

15 (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 High Court may take into account the tripartite guidelines.

Finality of decision of High Court

20 **26.** Any judgment, order or direction 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 of an order made by a tribunal.

Burden of proof

27. In any proceedings under this Act before a tribunal or 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 (Cap. 38A);
 - (ii) the Employment Act (Cap. 91);
 - (iii) the Retirement and Re-employment Act (Cap. 274A).

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PART 4

MISCELLANEOUS

Restriction on contracting out

28. Any provision in any agreement (whether made before, on or after the date of commencement of this section) is void to the extent that it purports —

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- (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.

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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 —

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- (a) the disclosure is necessary for or in connection with the administration or execution of this Act;
- (b) the disclosure is necessary for providing financial or social assistance to the claimant or the respondent;
- (c) the disclosure is made to assist a law enforcement agency in the investigation of any offence under any written law;
- (d) the disclosure is made to a public agency for the purpose of policy formulation or review;

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- (e) the disclosure is made to a public agency, and is necessary in the public interest; or
- (f) the disclosure is made for such other purpose as may be prescribed by any regulations made under section 34.

5 (2) 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 —

- 10 (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.

15 **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 (Cap. 321).

20 (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.

25

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 (Cap. 224).

30 (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.

Amendment of Schedules

32.—(1) The Minister may, by order in the *Gazette*, amend either or both of the First and Second Schedules.

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

5

Rules of Court

33.—(1) The Rules Committee appointed under section 80(3) of the Supreme Court of Judicature Act (Cap. 322) may make Rules of Court —

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(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;

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(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);

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(C) in the tribunals and the Registry;

(D) in an application under section 17(1) to 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 that Court;

25

(E) in an appeal to 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 leave under section 23(2) to appeal to 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 High Court or a District Court for a stay of execution under section 24 of an order made by a tribunal under section 22(1); and

5 (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

10 (d) to prescribe such matters as are required by this Act to be prescribed by Rules of Court made under this section.

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

15 (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
20 notices, for proceedings in a tribunal or court;

(c) the manner 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
25 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

30 (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; 5
- (h) the means by which particular facts may be proved, and the mode in which evidence of such 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; 10
- (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; 15
- (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; 20
- (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 High Court; 25
- (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; 30
- (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 such proceedings.

5 (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.

10 (4) All Rules of Court made under this section are to 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;
- 15 (b) 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;
- (c) to provide for the waiver, refund or remission, whether wholly or in part, of any fee provided for in those regulations;
- 20 (d) 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 such conditions as may be prescribed;
- 25 (e) 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;
- 30 (f) 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
- (g) to prescribe such matters as are required by this Act to be prescribed by regulations made under this section.

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

PART 5

CONSEQUENTIAL AND RELATED AMENDMENTS TO OTHER ACTS

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Related amendments to Bankruptcy Act

35. The Bankruptcy Act (Cap. 20, 2009 Ed.) is amended —

- (a) by inserting, immediately after the words “by the Commissioner for Labour” in the definition of “retrenchment benefit” in section 56I(9), the words “or by an Employment Claims Tribunal constituted under section 4 of the State Courts Act (Cap. 321)”;
- (b) by inserting, immediately after the words “by the Commissioner for Labour” in the definition of “retrenchment benefit” in section 90(5), the words “or by an Employment Claims Tribunal constituted under section 4 of the State Courts Act (Cap. 321)”.

Consequential and related amendments to Child Development Co-Savings Act

36. Section 12 of the Child Development Co-Savings Act (Cap. 38A, 2002 Ed.) is amended —

- (a) by deleting the words “Parts XIII, XV and XVI of the Employment Act (Cap. 91) and such other provisions of that Act as the Minister for Manpower may by order specify shall” in subsection (2) and substituting the words “Parts XIII and XVI and sections 124, 125 and 126 of the Employment Act, and such other provisions of that Act as the Minister for Manpower may prescribe by order in the *Gazette*,”;
- (b) by inserting, immediately after subsection (2), the following subsection:

“(3) Sections 115 to 123 of the Employment Act apply, with such exceptions, adaptations and

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modifications as the Minister for Manpower may prescribe by order in the *Gazette*, to a dispute mentioned in subsection (2)(b), if a claim is lodged, before the date of commencement of section 36(b) of the Employment Claims Act 2016, under section 119 of the Employment Act in relation to that dispute.”.

Related amendment to Companies Act

37. Section 328(2B) of the Companies Act (Cap. 50, 2006 Ed.) is amended by inserting, immediately after the words “by the Commissioner for Labour” in the definition of “retrenchment benefit” in paragraph (b), the words “or by an Employment Claims Tribunal constituted under section 4 of the State Courts Act (Cap. 321)”.

Consequential and related amendments to Employment Act

38. The Employment Act (Cap. 91, 2009 Ed.) is amended —

(a) by inserting, immediately after the definition of “machinery” in section 2(1), the following definition:

““mediation request” has the same meaning as in section 2(1) of the Employment Claims Act 2016;”;

(b) by inserting, immediately after subsection (2) of section 3, the following subsections:

“(3) The Commissioner may in writing appoint an individual (who may or may not be a public officer) as an authorised person for the purpose of carrying out any function or duty of the Commissioner under this Act or any other written law relating to employment, employment terms or the relations between employers and employees.

(4) The Commissioner must, in writing, issue to each authorised person an authorisation specifying —

- (a) the functions and duties of the Commissioner that the authorised person is authorised to carry out;
 - (b) the powers of the Commissioner that the authorised person is authorised to exercise; 5
 - (c) the conditions of the authorisation; and
 - (d) the limitations to which the authorisation is subject.”;
- (c) by deleting subsections (5) and (6) of section 33;
- (d) by deleting subsections (1C) and (2) of section 65 and substituting the following subsections: 10
- “(2) A workman who wishes to recover any salary from a person liable under this section for the salary must, before lodging a claim for the salary under section 13 of the Employment Claims Act 2016, submit to the Commissioner, under section 3(1) of that Act, a mediation request for the mediation under Part 2 of that Act of every dispute for which the claim will be lodged. 15
- (2A) The workman must submit the mediation request to the Commissioner within 60 days after the date on which the salary becomes due for payment in accordance with Part III. 20
- (2B) The Commissioner may, in the Commissioner’s discretion, extend the period under subsection (2A) within which the workman must submit the mediation request to the Commissioner. 25
- (2C) However, if a workman has lodged, before the date of commencement of section 38(d) of the Employment Claims Act 2016, a claim under section 119 for any salary against a person liable under this section for the salary — 30
- (a) subsections (2), (2A) and (2B) do not apply to the recovery of the salary under that claim; and

(b) instead, the repealed section 65(1C) and (2) as in force immediately before that date continue to apply to the recovery of the salary under that claim.”;

5 (e) by inserting, immediately after subsection (1) of section 115, the following subsection:

“(1A) The Commissioner must not inquire into or decide a dispute mentioned in subsection (1) unless —

10 (a) the dispute is of a type prescribed by regulations made under section 139; or

(b) a claim is lodged under section 119, in relation to the dispute, before the date of commencement of section 38(e) of the Employment Claims Act 2016.”;

15 (f) by inserting, immediately after subsection (2) of section 115, the following subsection:

“(2A) The Commissioner may direct the parties to a dispute mentioned in subsection (1) to attend a mediation conducted by an approved mediator (as defined in section 2(1) of the Employment Claims Act 2016) or a conciliation officer (as defined in section 2 of the Industrial Relations Act (Cap. 136)).”; and

25 (g) by deleting the words “and all other officers appointed or acting under this Act” in section 127 and substituting the words “, every other officer appointed or acting under this Act, and every authorised person (when carrying out any function or duty of the Commissioner)”.

30 **Consequential and related amendments to Industrial Relations Act**

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

(a) by deleting the word “EXECUTIVE” in the Part heading of Part IVA;

(b) by deleting the definition of “executive employee” in section 30F and substituting the following definitions:

““approved mediator” has the same meaning as in section 2(1) of the Employment Claims Act 2016;

5

“claim referral certificate” means a claim referral certificate issued under section 30H(6);

“employee”, in relation to an employer —

(a) means an employee who is a member of a trade union which has not been given recognition (in respect of any class of employees) by the employer under section 17; but

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(b) excludes any individual belonging to any class of individuals which the Minister declares, by notification in the *Gazette*, to be a class of individuals to which this Part does not apply;”;

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(c) by inserting, immediately after the definition of “salary” in section 30F, the following definitions:

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““specified employment dispute” and “specified statutory dispute” have the same meanings as in section 2(1) of the Employment Claims Act 2016;”;

(d) by deleting the definition of “tripartite mediation” in section 30F and substituting the following definition:

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““tripartite mediation” means mediation under this Part, between an employee and his employer, which is conducted —

(a) by a conciliation officer or an approved mediator;

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(b) with the assistance of any tripartite mediation advisors who may be assigned or re-assigned under

section 30H(3)(b) to assist the employee or the employer in the mediation; and

(c) in an endeavour to reach a settlement in respect of disputes under section 30G;”;

5 (e) by deleting the word “executive” wherever it appears in sections 30G(1)(a), (b) and (c), 30H(1) and (3)(b), (c) and (d) and 30J(1);

(f) by deleting the word “or” at the end of section 30G(1)(b);

10 (g) by deleting the comma at the end of paragraph (c) of section 30G(1) and substituting a semi-colon, and by inserting immediately thereafter the following paragraphs:

“(d) any re-employment dispute as defined in section 8A(4) of the Retirement and Re-employment Act (Cap. 274A); or

15 (e) any specified statutory dispute;”;

(h) by deleting paragraph (b) of section 30G(2) and substituting the following paragraph:

20 “(b) any dispute in a case where 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), unless the Commissioner receives a notification under section 30H(2) relating to that dispute not later than 6 months after the last day of employment of the employee.”;

25 (i) by inserting, immediately after subsection (2) of section 30G, the following subsection:

30 “(3) The Minister may, by order in the *Gazette*, lengthen or shorten either or both of the following periods, either absolutely or for any class of employees, any class of employers and any category of disputes mentioned in subsection (1):

(a) the period of one year mentioned in subsection (2)(a);

- (b) the period of 6 months mentioned in subsection (2)(b).”;
- (j) by inserting, immediately after the words “a conciliation officer” in section 30H(3)(a), the words “or an approved mediator”;
- (k) by inserting, immediately after the words “conciliation officer” in section 30H(4), the words “or approved mediator”;
- (l) by inserting, immediately after subsection (5) of section 30H, the following subsections:
- “ (6) Where a tripartite mediation is conducted by an approved mediator, the approved mediator must issue to the employee a claim referral certificate in respect of every unresolved specified employment dispute that is a subject of the tripartite mediation, if —
- (a) the employer is given reasonable notice of, or is directed under section 30H(3)(c) to participate in, the tripartite mediation, but does not attend any mediation session; or
- (b) no settlement is reached at the end of the tripartite mediation in relation to one or more of the specified employment disputes that are the subject of the tripartite mediation.
- (7) Despite subsection (6), if the employee is given reasonable notice of, or is directed under section 30H(3)(c) to participate in, the tripartite mediation, and the employee fails, without reasonable excuse, to attend any mediation session, the approved mediator may refuse to issue to the employee a claim referral certificate in respect of all or any of the unresolved specified employment disputes that are the subject of the tripartite mediation.
- (8) Despite subsection (6)(a), if the employer is directed by the Minister under section 30J(2) to attend a mediation session, the approved mediator must not

issue a claim referral certificate unless the employer fails to comply with the Minister’s direction.

(9) In this section, a specified employment dispute that is a subject of a tripartite mediation is unresolved if the dispute —

(a) is not settled; and

(b) is not withdrawn from being a subject of the tripartite mediation.”;

(m) by inserting, immediately after the word “seeking” in the section heading of section 30H, the words “and conduct of”;

(n) by deleting the words “an executive employee” in section 30I(1) and substituting the words “an employee”; and

(o) by deleting the words “the executive employee” in section 30I(1) and substituting the words “the employee is an executive employee who”.

Related amendment to Limited Liability Partnerships Act

40. Paragraph 76(4) of the Fifth Schedule to the Limited Liability Partnerships Act (Cap. 163A, 2006 Ed.) is amended by inserting, immediately after the words “by the Commissioner for Labour” in the definition of “retrenchment benefit”, the words “or by an Employment Claims Tribunal constituted under section 4 of the State Courts Act (Cap. 321)”.

Consequential and related amendments to Retirement and Re-employment Act

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

(a) by inserting, immediately before the definition of “collective agreement” in section 2(1), the following definitions:

““approved mediator” and “claim referral certificate” have the same meanings as in section 2(1) of the Employment Claims Act 2016;”;

- (b) by inserting, immediately after the definition of “employment assistance payment” in section 2(1), the following definition:

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

5

- (c) by inserting, immediately after the definition of “investigating officer” in section 2(1), the following definition:

“ “mediation request” has the same meaning as in section 2(1) of the Employment Claims Act 2016;”;

10

- (d) by deleting the words “, conciliation officers” in section 3(3);

- (e) by deleting subsection (3) of section 8A and substituting the following subsection:

15

“(3) An employee who has a re-employment dispute with his employer which relates to any matter referred to in subsection (4)(c) or (d) must, before lodging a claim against the employer under section 13 of the Employment Claims Act 2016, submit to the Commissioner, under section 3(1) of that Act, not later than 6 months after the last day of the employee’s employment with the employer, a mediation request for the mediation under Part 2 of that Act of the re-employment dispute.”;

20

25

- (f) by deleting the words “subsection (1), (2) or (3)” in section 8A(5) and substituting the words “subsection (1) or (2)”;

- (g) by deleting the words “a conciliation officer” in section 8A(5) and substituting the words “an approved mediator”;

30

- (h) by inserting, immediately after the word “Conciliation” in the section heading of section 8A, the word “, etc.”;

- (i) by deleting subsection (7) of section 8B and substituting the following subsections:

“(7) Despite any other provision in this section, the Minister may allow the employee to submit to the Commissioner, under section 3(1) of the Employment Claims Act 2016, a mediation request for the mediation under Part 2 of that Act of the re-employment dispute and, if a claim referral certificate is issued in respect of that dispute, to lodge a claim for employment assistance payment under section 13 of that Act, where the Minister —

(a) has considered any report made by the Commissioner under subsection (5); and

(b) is satisfied, in the case of a re-employment dispute over the matter referred to in section 8A(4)(b), that the employer has made reasonable attempts to find a vacancy in the employer’s establishment which is suitable for the employee.

(7A) Where subsection (7) applies, the employee must submit the mediation request to the Commissioner within such time as the Minister may determine.”;

- (j) by deleting the words “Sections 8C(4), 8D, 8E and 8F shall apply” in section 8B(8) and substituting the words “Section 8C(4) applies”;

- (k) by deleting subsections (1) and (2) of section 8C and substituting the following subsection:

“(1) An employee who has a re-employment dispute with his employer which relates to any matter referred to in section 8A(4)(c) or (d) may, if a claim referral certificate is issued in respect of that dispute, lodge a claim for employment assistance payment with an Employment Claims Tribunal under section 13 of the Employment Claims Act 2016.”;

- (*l*) by deleting the words “with the Commissioner in accordance with subsection (1)” in section 8C(3) and substituting the words “with an Employment Claims Tribunal”;
- (*m*) by deleting the word “Commissioner” wherever it appears in section 8C(4) and substituting in each case the words “Employment Claims Tribunal”;
- (*n*) by repealing sections 8D, 8E and 8F;
- (*o*) by deleting the words “8B, 8C and 8F” in section 11B and substituting the words “8B and 8C”;
- (*p*) by deleting the word “; and” at the end of section 12(2)(*c*) and substituting a full-stop;
- (*q*) by deleting paragraph (*d*) of section 12(2); and
- (*r*) by deleting subsection (4) of section 13 and substituting the following subsection:
- “(4) Despite section 41(*e*) to (*q*) of the Employment Claims Act 2016, sections 8A to 8F, 11B and 12(2) as in force immediately before the date of commencement of section 41(*e*) to (*q*) of the Employment Claims Act 2016 continue to apply in the following cases:
- (*a*) any case where an employee notifies the Commissioner in writing, before that date and in accordance with section 8A(3) as in force immediately before that date, of a re-employment dispute with the employee’s employer which relates to a matter referred to in section 8A(4)(*c*) or (*d*);
- (*b*) any case where the Minister allows, before that date, an employee to lodge a claim for employment assistance payment with the Commissioner in accordance with section 8B(7) as in force immediately before that date;
- (*c*) any case where an employee lodges, before that date, a claim with the Commissioner in

accordance with section 8C(1) as in force immediately before that date.”.

Related amendments to State Courts Act

5 **42.** Section 3 of the State Courts Act (Cap. 321, 2007 Ed.) is amended —

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

“(1) There are within Singapore the following subordinate courts called the State Courts:

10 (a) District Courts;

(b) Magistrates’ Courts;

(c) Coroners’ Courts;

(d) Small Claims Tribunals;

(e) Employment Claims Tribunals.

15 (1A) The District Courts and Magistrates’ Courts have such jurisdiction as is conferred by this Act and any other written law.”; and

(b) by inserting, immediately after subsection (4), the following subsection:

20 “(5) The Employment Claims Tribunals have such jurisdiction as is conferred by the Employment Claims Act 2016 and any other written law.”.

Saving and transitional provision

25 **43.** 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 that Minister may consider necessary or expedient.

FIRST SCHEDULE

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

SPECIFIED CONTRACTUAL DISPUTE MATTERS

1. Allowance (however described in the contract of service)	5
2. Annual wage supplement	
3. Bonus payment	
4. Commission	
5. Deduction from salary	
6. Employment assistance payment	10
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	15
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	20
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

25

SPECIFIED STATUTORY DISPUTE MATTERS

Matters under Child Development Co-Savings Act

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), (1C), (1D), (1E), (1F) and (2) of the Child Development Co-Savings Act (Cap. 38A)	30
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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
- 5 3. Employee's entitlement to paid childcare leave under section 12B(1) and (9) of the Child Development Co-Savings Act
4. Employee's entitlement to paid extended childcare leave under section 12B(1A) and (9) of the Child Development Co-Savings Act
5. Male employee's entitlement to paid shared parental leave under section 12E(1) and (2) of the Child Development Co-Savings Act
- 10 6. Male employee's entitlement to paid paternity leave under section 12H(1) and (2) of the Child Development Co-Savings Act

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

- 15 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 (G.N. No. S 548/2008)
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
- 20 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
- 25 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 employee's entitlement to paid paternity leave under regulation 9(1) and (2) of the Child Development Co-Savings (Part-Time Employees) Regulations 2008
- 30

Matters under Employment Act

- 35 13. Employee's entitlement to payment under section 11(1) of the Employment Act (Cap. 91), 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, 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, if the employer breaks, or is deemed under section 13(1) of that Act to have broken, the contract of service 5
16. Employer's entitlement to payment under section 16 of the Employment Act if the employee breaks, or is deemed under section 13(2) of that Act to have broken, the contract of service 10
17. Employee's entitlement to payment of salary in accordance with section 21, 22 or 23 of the Employment Act
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 15
19. Employee's entitlement to payment under section 37(2) of the Employment Act 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 for working, at the employer's request, on a rest day 20
21. Employee's entitlement to payment under section 38(4) of the Employment Act for extra work carried out at the employer's request (overtime pay)
22. Entitlement of employee to whom section 40 of the Employment Act applies to payment under section 40(4) of that Act for extra work carried out at the employer's request 25
23. Employee's entitlement to paid annual leave under section 43(1), (2), (6) and (7) of the Employment Act
24. Entitlement, under section 57 of the Employment Act 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 30
25. Entitlement, under section 65 of the Employment Act, of employee who is a workman to recover salary from a principal, contractor or subcontractor referred to 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 35

SECOND SCHEDULE — *continued*

- 5 27. Entitlement of person nominated by female employee under section 80(4) of the Employment Act, 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
29. Employee's entitlement to paid holiday (on a public holiday) under section 88(1) of the Employment Act
- 10 30. Employee's entitlement under section 88(4) of the Employment Act to be paid an extra day's salary, if required by the employer to work on a public holiday
- 15 31. Employee's entitlement to paid sick leave under section 89(1) and (2) of the Employment Act, 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

32. Part-time employee's entitlement to payment under regulation 4(1) of the Employment (Part-Time Employees) Regulations (Cap. 91, Rg 8) for working, at the employee's own request, for the employer on a rest day
- 20 33. 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
- 25 34. Part-time employee's entitlement to payment under regulation 5(1) of the Employment (Part-Time Employees) Regulations for extra work (overtime pay)
- 35 35. Part-time employee's entitlement to paid holiday (on a public holiday) under regulation 6(1) of the Employment (Part-Time Employees) Regulations
- 30 36. 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
- 35 37. 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)
38. Part-time employee's entitlement to paid annual leave under regulation 7(1) and (2) of the Employment (Part-Time Employees) Regulations

SECOND SCHEDULE — *continued*

39. 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
40. Part-time employee's entitlement to paid sick leave under regulation 8(1) and (2) of the Employment (Part-Time Employees) Regulations 5
41. Part-time employee's entitlement to paid childcare leave under regulation 8A(1) and (2) of the Employment (Part-Time Employees) Regulations
42. Female part-time employee's entitlement to paid maternity leave under regulation 9(1) and (2) of the Employment (Part-Time Employees) Regulations 10

Matters under Retirement and Re-employment Act

43. Employee's entitlement to employment assistance payment under section 7C(1) of the Retirement and Re-employment Act (Cap. 274A) 15

EXPLANATORY STATEMENT

This Bill seeks to facilitate the expeditious resolution of employment disputes by providing for the mediation of such disputes, and for the constitution, jurisdiction and powers of and administration of justice in the Employment Claims Tribunals.

The Bill also makes consequential and related amendments to certain other Acts.

PART 1**PRELIMINARY**

Part 1 (comprising clauses 1 and 2) relates to preliminary matters.

Clause 1 relates to the short title and commencement.

Clause 2 defines certain terms used in the Bill. Examples of the definitions are set out below.

The term "approved mediator" refers to an individual approved by the Commissioner for Labour (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 defined in section 30F of the Industrial Relations Act (Cap. 136) (as amended by clause 39(d));

- (c) a mediation mentioned in the new section 115(2A) of the Employment Act (Cap. 91) (to be inserted by clause 38(f));
- (d) a consultation or conciliation under section 8A of the Retirement and Re-employment Act (Cap. 274A) (as amended by clause 41(e) to (h));
- (e) a mediation or conciliation of any dispute under such other written law determined by the Commissioner, being a written law relating to employment, employment terms or the relations between employers and employees.

The term “authorised person” refers to an individual appointed under the new section 3(3) of the Employment Act (to be inserted by clause 38(b)) as an authorised person for the purpose of carrying out any function or duty of the Commissioner under the Bill.

The term “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.

The term “specified statutory dispute” means a dispute about any matter specified in the Second Schedule.

The term “specified employment dispute” means a specified contractual dispute or a specified statutory dispute.

The term “tribunal” refers to a subordinate court called an Employment Claims Tribunal constituted under section 4 of the State Courts Act (Cap. 321).

PART 2

MEDIATION OF EMPLOYMENT DISPUTES

Part 2 (comprising clauses 3 to 7) provides for the mediation of specified employment disputes by approved mediators and for the settlement of such disputes.

Clause 3 requires a person (claimant) who intends to lodge with a tribunal a claim against another person (respondent) to first submit to the Commissioner a request for a mediation under Part 2 (mediation request). The clause also sets out the requirements which must be satisfied before the Commissioner will accept the mediation request. Upon accepting a mediation request, the Commissioner will refer every specified employment dispute listed in that request for mediation by an approved mediator.

Clause 4 provides for certain matters concerning the conduct of a mediation session for a mediation under Part 2. Each mediation session is held in private. However, an approved mediator may conduct the mediation sessions for claims by

different claimants against the same respondent, or for claims by 2 claimants against each other, together at the same time and place.

Clause 5 provides for certain matters concerning the representation of a party at a mediation under Part 2. Generally, a party must act in person at a mediation under Part 2. However, the Government may be represented by a public officer; a body corporate may be represented by an officer, or a full-time employee, of the body corporate; a partnership may be represented by a partner, or a full-time employee, of the partnership; and an unincorporated association may be represented by a member of the governing body, or a full-time employee, of the unincorporated association. Regulations made under clause 34 may also prescribe any other individuals who may represent a party at a mediation under Part 2.

Clause 6 provides for the circumstances in which an approved mediator will issue, to a claimant who submits a mediation request, a claim referral certificate in respect of every unresolved specified employment dispute listed in the mediation request.

Clause 7 provides for the registration by a District Court of a settlement agreement reached through a mediation under Part 2, or through a tripartite mediation conducted by an approved mediator; the effects of any such registration; and the setting aside of any such registration, or any such settlement agreement, by a District Court.

The clause also —

- (a) enables a District Court (when hearing an application to set aside the registration of a settlement agreement) to refer any specified employment dispute purportedly resolved by the settlement agreement for mediation under Part 2, or for tripartite mediation to be conducted by an approved mediator; and
- (b) provides for the circumstances in which an approved mediator will issue to a claimant a claim referral certificate in respect of every unresolved specified employment dispute referred by the District Court.

PART 3

EMPLOYMENT CLAIMS

Part 3 (comprising clauses 8 to 27) provides for matters relating to the tribunals.

Division 1 of Part 3 (comprising clauses 8 to 11) deals with the establishment of the tribunals and the appointment of officers of the tribunals.

Clause 8 enables the President to constitute one or more tribunals under section 4 of the State Courts Act.

Clause 9 provides for a tribunal to be presided over by a tribunal magistrate, and for the appointment and qualifications of a tribunal magistrate. A tribunal magistrate may be appointed by the President on the recommendation of the Chief Justice, or a District Judge designated by the Presiding Judge of the State Courts as a tribunal magistrate.

Clause 10 establishes a registry for the tribunals (Registry). The Registry keeps all records of the tribunals.

Clause 11 provides for the appointment and jurisdiction of the registrar, deputy registrars and assistant registrars for the tribunals, and the appointment of other officers for the tribunals. The registrar of the State Courts is the registrar for the tribunals, and may exercise the jurisdiction and powers of a tribunal to the extent authorised by the Bill or by Rules of Court made under clause 33. 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 Part 3 and the Registry.

Division 2 of Part 3 (comprising clauses 12 to 17) deals with certain matters concerning the jurisdiction of the tribunals.

Clause 12 sets out the requirements which must be satisfied before a tribunal has jurisdiction to hear and determine a claim. The clause specifies the employees, employers and other persons who may make a claim, whom the claim may be made against, and the restrictions on what an employer (or a person acting in place of an employer) can claim for. In addition, the claim must be for one or more amounts of money (each relating to a specified employment dispute, and the total of which does not exceed the prescribed claim limit applicable to the claimant), must be supported by a claim referral certificate, and must be lodged within a prescribed period after the date of issue of the claim referral certificate.

Clause 13 sets out the procedures for lodging a claim with a tribunal.

Clauses 14 and 15 apply where the total amount alleged to be payable, in respect of all specified employment disputes for which a claim referral certificate supporting a claim is issued, exceeds the prescribed claim limit applicable to the claimant.

Under clause 14, the claim cannot be divided and pursued in separate proceedings before a tribunal.

Under clause 15, the claimant may abandon the excess amount, so that a tribunal has jurisdiction to hear and determine the claim. However, where the claimant has abandoned the excess amount, the claimant cannot recover that amount in a tribunal or any other court.

Clause 16 prevents the same claim for an amount relating to a specified employment dispute from being decided both in a tribunal and in proceedings before any other forum (such as another court, an Industrial Arbitration Court, the

Commissioner or a Minister). This is necessary to prevent a multiplicity of proceedings with inconsistent outcomes.

Clause 17 empowers the High Court, a District Court or a Magistrate's Court to order the transfer to that Court of any proceedings before a tribunal, or a counterclaim in those proceedings, if it appears to that Court, on the application of a party to those proceedings, that there is sufficient reason for those proceedings or that counterclaim (as the case may be) to be dealt with by that Court.

Division 3 of Part 3 (comprising clauses 18 to 22) deals with certain matters concerning proceedings before a tribunal.

Clause 18 provides for proceedings before a tribunal to be conducted in private. However, a tribunal may allow certain individuals to assist in resolving a claim amicably through mediation or conciliation, or to sit with the tribunal and act as assessors. A tribunal may also permit certain individuals to observe the hearing of a claim.

Clause 19 provides for certain matters concerning the representation of a party to proceedings before a tribunal. Generally, a party must act in person. However, the Government may be represented by a public officer; a body corporate may be represented by an officer, or a full-time employee, of the body corporate; a partnership may be represented by a partner, or a full-time employee, of the partnership; and an unincorporated association may be represented by a member of the governing body, or a full-time employee, of the unincorporated association. Regulations made under clause 34 may also prescribe any other individuals who may represent a party.

Clause 20 deals with the conduct of proceedings before a tribunal. Generally, such proceedings will be conducted in an informal manner, and the tribunal will adopt a "judge-led approach" by identifying the relevant issues and ensuring that the relevant evidence is adduced by the parties.

Clause 21 deals with evidence in proceedings before a tribunal. Among other things, a tribunal is not bound by the rules of evidence in the conduct of proceedings, and evidence tendered to a tribunal need not be given on oath or affirmation (unless otherwise required by the tribunal).

Clause 22 specifies the orders that a tribunal may make when determining a claim within the tribunal's jurisdiction, and requires a tribunal to dismiss for lack of jurisdiction a claim or part of a claim that the tribunal does not have jurisdiction to determine. The clause also empowers a tribunal —

- (a) to refer a specified employment dispute for mediation under Part 2, or for tripartite mediation to be conducted by an approved mediator; and
- (b) to correct an order made by the tribunal, or a statement of the tribunal's grounds for making the order, to the extent necessary to rectify any of the following things mentioned in clause 22(9)(a) to (d):

- (i) a clerical mistake;
- (ii) an error arising from an accidental slip or omission;
- (iii) 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;
- (iv) a defect of form.

Division 4 of Part 3 (comprising clauses 23 to 27) provides for appeals to the High Court against orders of the tribunals, and for related procedures.

Clause 23 provides that a party to proceedings before a tribunal may appeal to the High Court against an order made by the tribunal under clause 22(1) on certain specified grounds, but only if leave to appeal is given by a District Court. Where the only reason for appealing against an order is to rectify any thing mentioned in clause 22(9)(a) to (d), a District Court may, instead of giving leave to appeal, extend the time for correcting the order and remit the matter to a tribunal for the correction of the order. An order of a District Court giving or refusing leave to appeal, extending or refusing to extend the time for correcting the order, or remitting or refusing to remit the matter to a tribunal, is final.

Clause 24 provides that an appeal against an order made by a tribunal does not operate as a stay of execution of that order, unless a District Court or the High Court orders otherwise. A District Court or the High Court may impose conditions for a stay of execution of an order made by a tribunal. An order or direction of a District Court on an application for a stay of execution (of an order made by a tribunal) is final.

Clause 25 provides for the powers of the High Court on an appeal against an order made by a tribunal. Among other things, the High Court may dismiss the appeal, allow the appeal and set aside or vary the order, remit the matter to the tribunal for reconsideration, or order a rehearing of the matter by a different tribunal. However, the High Court must not reverse or vary any determination made by a tribunal on a question of fact, or receive further evidence.

Clause 26 makes any judgment, order or direction of the High Court on an appeal against an order made by a tribunal, or an application for a stay of execution of an order made by a tribunal, final.

Clause 27 provides that where a person makes certain allegations in proceedings before a tribunal or the High Court, the person bears the burden of proving those allegations.

PART 4

MISCELLANEOUS

Part 4 (comprising clauses 28 to 34) contains miscellaneous provisions.

Clause 28 makes void any provision in any agreement that purports to exclude or limit the jurisdiction of a tribunal, or prevent a person from submitting a mediation request or making a claim, an application or an appeal under the Bill.

Clause 29 allows the Commissioner, an approved mediator, a tribunal magistrate, or the registrar, a deputy registrar or an assistant registrar for the tribunals to disclose information relating to a mediation request, a mediation under Part 2, a claim or any proceedings before a tribunal, in certain circumstances.

Clause 30 provides a tribunal magistrate, and the registrar, a deputy registrar or an assistant registrar for the tribunals when exercising the jurisdiction and powers of a tribunal, with the protection enjoyed by a Magistrate under section 68 of the State Courts Act. The clause also protects the Commissioner, an individual authorised to carry out any function or duty of the Commissioner under the Bill, and an approved mediator, from personal liability for acts or omissions in the execution or purported execution of the Bill.

Clause 31 deems every approved mediator carrying out the functions and duties of an approved mediator, and every authorised person carrying out any function or duty of the Commissioner under the Bill, to be public servants for the purposes of the Penal Code (Cap. 224).

Clause 32 empowers the Minister to amend the First and Second Schedules by order in the *Gazette*, and to make saving and transitional provisions that are consequential to the enactment of the order.

Clause 33 empowers the Rules Committee appointed under section 80(3) of the Supreme Court of Judicature Act (Cap. 322) to make Rules of Court for the Bill. Among other things, the Rules of Court may be made —

- (a) to regulate and prescribe the practice and procedure to be followed in the tribunals and the Registry, and in any application or appeal under the Bill; and
- (b) to prescribe any matter required by the Bill to be prescribed by the Rules of Court.

Clause 34 empowers the Minister to make regulations for carrying out the purposes and provisions of the Bill, for certain specified matters, and for prescribing any matter required by the Bill to be prescribed by the regulations. The Minister's regulation-making powers do not extend to any matter for which Rules of Court may be made under clause 33.

PART 5

CONSEQUENTIAL AND RELATED AMENDMENTS TO OTHER ACTS

Part 5 (comprising clauses 35 to 43) deals with the consequential and related amendments to be made to the following Acts:

- (a) Bankruptcy Act (Cap. 20);
- (b) Child Development Co-Savings Act (Cap. 38A);
- (c) Companies Act (Cap. 50);
- (d) Employment Act;
- (e) Industrial Relations Act;
- (f) Limited Liability Partnerships Act (Cap. 163A);
- (g) Retirement and Re-employment Act;
- (h) State Courts Act.

Clause 35 amends the definitions of “retrenchment benefit” in sections 56I(9) and 90(5) of the Bankruptcy Act, so that a tribunal may stipulate the amount payable to an employee for the purposes of those definitions.

Clause 36 amends section 12 of the Child Development Co-Savings Act so that sections 115 to 123 of the Employment Act (which concern the Commissioner’s power to decide a dispute between an employee and the employee’s employer or a person liable for the employee’s salary) —

- (a) cease to expressly apply to any employer, employee, offence or proceedings mentioned in section 12(2) of the Child Development Co-Savings Act; and
- (b) continue to apply to a dispute mentioned in section 12(2)(b) of the Child Development Co-Savings Act only if a claim is lodged, before the date of commencement of clause 36(b), under section 119 of the Employment Act in relation to that dispute.

Clause 37 amends the definition of “retrenchment benefit” in section 328(2B)(b) of the Companies Act, so that a tribunal may stipulate the amount payable to an employee for the purposes of that definition.

Clause 38 makes the following changes to the Employment Act.

Clause 38(a) inserts a definition for “mediation request” in section 2(1) of the Employment Act.

Clause 38(b) inserts new section 3(3) and (4) into the Employment Act to enable the Commissioner —

- (a) to appoint in writing an individual (who may or may not be a public officer) as an authorised person for the purpose of carrying out any function or duty of the Commissioner under the Employment Act or any other written law (being a written law relating to employment, employment terms or the relations between employers and employees); and
- (b) to issue to each authorised person a written authorisation specifying the functions and duties of the Commissioner that the authorised person is authorised to carry out, the powers of the Commissioner that the authorised person is authorised to exercise, the conditions of the authorisation, and the limitations to which the authorisation is subject.

Clause 38(c) deletes section 33(5) and (6) of the Employment Act as, upon the establishment of the tribunals, the Commissioner will no longer hold an inquiry on the request of a court for the purpose of ascertaining the amount due to an employee under section 33(2).

Clause 38(d) amends section 65 of the Employment Act so that a workman who wishes to recover any salary from a person liable under that section for the salary must submit a mediation request to the Commissioner under clause 3(1), before lodging a claim under clause 13, instead of making a claim in the manner prescribed by Part XV of the Employment Act. However, the new procedures do not apply if the workman lodges, before the date of commencement of clause 38(d), a claim under section 119 of the Employment Act for the salary against that person.

Clause 38(e) inserts new section 115(1A) into the Employment Act so that the Commissioner cannot inquire into or decide a dispute mentioned in section 115(1) of that Act between an employee and the employee's employer or a person liable for the employee's salary unless —

- (a) the dispute is of a type prescribed by regulations made under section 139 of the Employment Act; or
- (b) a claim is lodged under section 119 of the Employment Act, in relation to the dispute, before the date of commencement of clause 38(e).

Clause 38(f) inserts new section 115(2A) into the Employment Act to empower the Commissioner to direct the parties to a dispute mentioned in section 115(1) of that Act to attend a mediation conducted by an approved mediator or a conciliation officer (as defined in section 2 of the Industrial Relations Act).

Clause 38(g) amends section 127 of the Employment Act to deem every authorised person (when carrying out any function or duty of the Commissioner) to be a public servant within the meaning of the Penal Code.

Clause 39 makes the following changes to the Industrial Relations Act.

Clause 39(a), (b), (d), (e), (h), (n) and (o) amends the Part heading of Part IVA of the Industrial Relations Act, replaces the definition of “executive employee” in section 30F of that Act with a definition of “employee”, replaces the definition of “tripartite mediation” in section 30F of that Act, and amends sections 30G, 30H, 30I and 30J of that Act, to extend tripartite mediation under Part IVA of that Act to every employee who —

- (a) is a member of a trade union which has not been given recognition (in respect of any class of employees) by the employee’s employer under section 17 of that Act; and
- (b) does not belong to any class of individuals declared by the Minister, by notification in the *Gazette*, to be a class of individuals to which that Part does not apply.

Clause 39(b) also inserts definitions for “approved mediator” and “claim referral certificate” in section 30F of the Industrial Relations Act.

Clause 39(c) inserts definitions for “specified employment dispute” and “specified statutory dispute” in section 30F of the Industrial Relations Act.

Clause 39(d) also replaces the definition of “tripartite mediation” in section 30F of the Industrial Relations Act, and clause 39(j) and (k) amends section 30H(3)(a) and (4) of that Act, to enable a tripartite mediation to be conducted by an approved mediator.

Clause 39(f) and (g) amends section 30G(1) of the Industrial Relations Act to extend the types of disputes that may be the subject of tripartite mediation to include any re-employment dispute as defined in section 8A(4) of the Retirement and Re-employment Act, and any specified statutory dispute.

Clause 39(h) also amends section 30G(2) of the Industrial Relations Act to extend the types of disputes that may not be the subject of tripartite mediation to include any dispute in a case where 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).

Clause 39(i) inserts new section 30G(3) into the Industrial Relations Act to empower the Minister to lengthen or shorten the periods mentioned in section 30G(2)(a) and (b) of that Act by order in the *Gazette*.

Clause 39(l) inserts new section 30H(6) to (9) into the Industrial Relations Act to provide for the circumstances in which an approved mediator who conducts a tripartite mediation will issue to the employee a claim referral certificate in respect of every unresolved specified employment dispute that is the subject of the tripartite mediation.

Clause 39(*m*) amends the section heading of section 30H of the Industrial Relations Act to better reflect the contents of that section (as amended by clause 39(*j*), (*k*) and (*l*)).

Clause 40 amends the definition of “retrenchment benefit” in paragraph 76(4) of the Fifth Schedule to the Limited Liability Partnerships Act, so that a tribunal may stipulate the amount payable to an employee for the purposes of that definition.

Clause 41 makes the following changes to the Retirement and Re-employment Act.

Clause 41(*a*), (*b*) and (*c*) inserts definitions for “approved mediator”, “claim referral certificate”, “Employment Claims Tribunal” and “mediation request” in section 2(1) of the Retirement and Re-employment Act.

Clause 41(*d*) deletes the reference to conciliation officers in section 3(3) of the Retirement and Re-employment Act, as the Minister will no longer appoint conciliation officers for that Act. This is because the functions currently performed by conciliation officers will now be undertaken by approved mediators.

Clause 41(*e*) replaces section 8A(3) of the Retirement and Re-employment Act to require an employee, who has a re-employment dispute with his employer which relates to any matter referred to in section 8A(4)(*c*) or (*d*) of that Act, to submit a mediation request to the Commissioner under clause 3(1), before lodging a claim under clause 13, instead of making a claim with the Commissioner under section 8C of that Act. Consequently, clause 41(*f*) removes the reference to section 8A(3) of that Act from section 8A(5) of that Act.

Clause 41(*g*) amends section 8A(5) of the Retirement and Re-employment Act to provide for the functions of consultation and conciliation currently performed by conciliation officers to be undertaken by approved mediators.

Clause 41(*h*) amends the section heading of section 8A of the Retirement and Re-employment Act as the contents of that section are no longer confined to matters relating to conciliation.

Clause 41(*i*) replaces section 8B(7) of the Retirement and Re-employment Act and inserts new section 8B(7A) into that Act, so that where the conditions under section 8B(7) of that Act are met, the Minister may allow the employee to submit to the Commissioner under clause 3(1) a mediation request and, if a claim referral certificate is issued, to lodge a claim for employment assistance payment under clause 13, instead of allowing the employee to lodge a claim for employment assistance payment with the Commissioner in accordance with section 8D of that Act.

Clause 41(*k*) replaces section 8C(1) of the Retirement and Re-employment Act and deletes section 8C(2) of that Act, and clause 41(*l*) amends section 8C(3) of that Act, to provide for an employee who has a re-employment dispute with his

employer which relates to any matter referred to in section 8A(4)(c) or (d) of that Act to lodge a claim for employment assistance payment with a tribunal under clause 13, instead of lodging the claim with the Commissioner in accordance with section 8D of that Act.

As a claim for employment assistance payment will now be lodged with a tribunal instead of being made to the Commissioner in accordance with section 8D of the Retirement and Re-employment Act —

- (a) clause 41(n) repeals sections 8D, 8E and 8F of that Act (which provide for the making and hearing of claims before the Commissioner, the joining of such claims, and appeals against decisions of the Commissioner, respectively); and
- (b) clause 41(j), (m), (o), (p) and (q) makes consequential amendments to sections 8B(8), 8C(4), 11B and 12(2) of that Act.

Clause 41(r) replaces section 13(4) of the Retirement and Re-employment Act —

- (a) to remove the spent saving and transitional provision in the existing section 13(4) of that Act; and
- (b) to insert a new saving and transitional provision for clause 41(e) to (q).

Clause 42 amends section 3 of the State Courts Act —

- (a) to make the tribunals a type of State Courts;
- (b) to provide that the tribunals have such jurisdiction as is conferred by the Bill and any other written law; and
- (c) to make consequential changes to that section.

Clause 43 is a saving and transitional provision.

The First Schedule lists the matters that a specified contractual dispute may concern.

The Second Schedule lists the matters that a specified statutory dispute may concern. These matters include —

- (a) an employee's entitlement to paid leave or paid holiday (on a public holiday) under the Child Development Co-Savings Act, the Child Development Co-Savings (Part-Time Employees) Regulations 2008 (G.N. No. S 548/2008), the Employment Act or the Employment (Part-Time Employees) Regulations (Cap. 91, Rg 8);
- (b) an employee's entitlement to certain payments under the Child Development Co-Savings Act, the Employment Act or the Employment (Part-Time Employees) Regulations;

- (c) an employee's entitlement to employment assistance payment under section 7C(1) of the Retirement and Re-employment Act; and
- (d) an employer's entitlement to payment under section 11(1) or 16 of the Employment Act, if an employee terminates a contract of service with the employer without notice or without waiting for the expiry of that notice, or if an employee breaks, or is deemed to have broken, a contract of service with the employer.

EXPENDITURE OF PUBLIC MONEY

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