



Employment Act Singapore

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ASIA BRIEFING



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Part I

Preliminary

Short title

1. This Act may be cited as the Employment Act.

Interpretation

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

“*approved medical institution*” means a hospital, clinic, healthcare establishment or other medical institution which the Minister, by notification in the Gazette, declares as an approved medical institution¹;

“*authorised officer*” means any public officer appointed as an authorised officer under section 3(2);

[Act 27 of 2015 wef 22/08/2015]

“*basic rate of pay*” means the total amount of money (including wage adjustments and increments) to which an employee is entitled under his contract of service either for working for a period of time, that is, for one hour, one day, one week, one month or for such other period as may be stated or implied in his contract of service, or for each completed piece or task of work but does not include —

- (a) additional payments by way of overtime payments;
- (b) additional payments by way of bonus payments or annual wage supplements;
- (c) any sum paid to the employee to reimburse him for special expenses incurred by him in the course of his employment;
- (d) productivity incentive payments; and
- (e) any allowance however described;

“*civil contravention*” means a contravention that is declared to be a civil contravention under section 126A;

[Act 27 of 2015 wef 01/04/2016]

“*collective agreement*” means an agreement as defined under the Industrial Relations Act (Cap. 136);

“*confinement*” means the delivery of a child;

“*constructional contractor*” means any person, firm, corporation or company who or which is established for the purpose of undertaking, either exclusively or in addition to or in conjunction with any other business, any type of constructional work, and who or which is carrying out the constructional work for or on behalf of some other person under a contract entered into by him or them with such other person, and includes his or their heirs, executors, administrators, assigns and successors;

“*constructional work*” means any building and civil engineering work and includes repair, maintenance, alteration and demolition work;

“*contract of service*” means any agreement, whether in writing or oral, express or implied, whereby one person agrees to employ another as an employee and that other agrees to serve his employer as an employee and includes an apprenticeship contract or agreement;

“*contractor*” means any person who contracts with a principal to supply labour or to carry out the whole or any part of any work undertaken by the principal in the course of or for the purposes of the principal’s trade or business;

“*day*” means a period of 24 hours beginning at midnight;

“*dependant*” means any of the following members of an employee’s family, namely, wife, husband, father, mother, child and any adopted or illegitimate child living with or dependent on him;

“*dismiss*” means the termination of the contract of service of an employee by his employer, with or without notice and whether on the grounds of misconduct or otherwise;

“*domestic worker*” means any house, stable or garden servant or motor car driver, employed

¹ See section 48(1) of the Employment (Amendment) Act 2008 (Act 32 of 2008).

in or in connection with the domestic services of any private premises;

“*employee*” means a person who has entered into or works under a contract of service with an employer and includes a workman, and any officer or employee of the Government included in a category, class or description of such officers or employees declared by the President to be employees for the purposes of this Act or any provision thereof, but does not include —

(a) any seafarer;

[Act 6 of 2014 wef 01/04/2014]

(b) any domestic worker;

(c) subject to subsection (2), any person employed in a managerial or an executive position; and

(d) any person belonging to any other class of persons whom the Minister may, from time to time by notification in the Gazette, declare not to be employees for the purposes of this Act;

“*employer*” means any person who employs another person under a contract of service and includes —

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

(b) any statutory authority;

(c) the duly authorised agent or manager of the employer; and

(d) the person who owns or is carrying on or for the time being responsible for the management of the profession, business, trade or work in which the employee is engaged;

“*gross rate of pay*” means the total amount of money including allowances to which an employee is entitled under his contract of service either for working for a period of time, that is, for one hour, one day, one week, one month or for such other period as may be stated or implied in his contract of service, or for each completed piece or task of work but does not include —

(a) additional payments by way of overtime payments;

(b) additional payments by way of bonus payments or annual wage supplements;

(c) any sum paid to the employee to reimburse him for special expenses incurred by him in the course of his employment;

(d) productivity incentive payments; and

(e) travelling, food or housing allowances;

“*hours of work*” means the time during which an employee is at the disposal of the employer and is not free to dispose of his own time and movements exclusive of any intervals allowed for rest and meals;

“*industrial undertaking*” means public and private undertakings and any branch thereof and includes particularly —

(a) mines, quarries and other works for the extraction of minerals from the earth;

(b) undertakings in which articles are manufactured, assembled, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed, including undertakings engaged in shipbuilding, or in the generation, transformation or transmission of electricity or motive power of any kind;

(c) undertakings engaged in constructional work; and

(d) undertakings engaged in the transport of passengers or goods by road, rail, sea, inland waterway or air, including the handling of goods at docks, quays, wharves, warehouses or airports;

“*inspecting officer*” means any person appointed as an inspecting officer under section 3(2);

“*machinery*” includes all oil engines, gas engines, steam engines and any other machines in which mechanical movement, either linear or rotated or both, takes place, steam boilers, gas cylinders, air receivers, steam receivers, steam containers, cast iron underfired vulcanizers, refrigerating plants, pressure receivers, all appliances for the

transmission of power by ropes, belts, chains, driving straps or bands or gearing, electrical generators and electrical motors;

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

[Act 21 of 2016 wef 01/04/2017]

“*medical officer*” means —

- (a) a dentist registered under the Dental Registration Act (Cap. 76), or a medical practitioner, employed by the Government or by an approved medical institution; or
- (b) any other medical practitioner whom the Minister, by notification in the Gazette, declares as a medical officer;

“*medical practitioner*” means a medical practitioner registered under the Medical Registration Act (Cap. 174);

“*no-pay leave*”, for an employee, means leave of absence without pay granted by the employer at the request of the employee;

[Act 27 of 2015 wef 22/08/2015]

“*overtime*” means the number of hours worked in any one day or in any one week in excess of the limits specified in Part IV;

“*place of employment*” means any place provided by the employer where work is carried on, for or on behalf of an employer, by an employee;

“*principal*” means any person who, in the course of or for the purposes of his trade or business, contracts with a contractor for the supply of labour or for the execution by the contractor of the whole or any part of any work undertaken by the principal;

“*productivity incentive payment*” means a variable payment, whether made annually or otherwise, to an employee as a reward for —

- (a) an improvement to the employee’s performance; or
- (b) an increase in the employee’s productivity or contribution to the employer’s business, trade or undertaking,

but does not include any payment which forms part of the employee’s regular remuneration;

“*quarters*” means any building provided or intended to be provided for a workman to live in either temporarily or permanently and includes any room or building used or intended to be used whether communally or privately for the purposes of cooking, eating, washing or bathing and any latrines and urinals;

“*salary*” means all remuneration including allowances payable to an employee in respect of work done under his contract of service, but does not include —

- (a) the value of any house accommodation, supply of electricity, water, medical attendance, or other amenity, or of any service excluded by general or special order of the Minister published in the Gazette;
- (b) any contribution paid by the employer on his own account to any pension fund or provident fund;
- (c) any travelling allowance or the value of any travelling concession;
- (d) any sum paid to the employee to reimburse him for special expenses incurred by him in the course of his employment;
- (e) any gratuity payable on discharge or retirement; and
- (f) any retrenchment benefit payable on retrenchment;

“*seafarer*” means any person, including the master, who is employed or engaged or works in any capacity on board a ship, but does not include —

- (a) a pilot;
- (b) a port worker;
- (c) a person temporarily employed on the ship during the period it is in port; and
- (d) a person who is employed or engaged or works in any capacity on board a harbour craft or pleasure craft licensed under regulations made under section 41 of the Maritime and Port Authority of Singapore Act (Cap. 170A), when the harbour craft or pleasure craft is used within a port declared by the Minister under section 3 of that Act;

[Act 6 of 2014 wef 01/04/2014]

“*subcontractor*” means any person who contracts with a contractor for the supply of labour or for the execution by the subcontractor of the whole or any part of any work undertaken by the contractor for his principal, and includes any person who contracts with a subcontractor to supply labour or to carry out the whole or any part of any work undertaken by the subcontractor for a contractor;

“*subcontractor for labour*” means any person who contracts with a contractor or subcontractor to supply the labour required for the execution of the whole or any part of any work a contractor or subcontractor has contracted to carry out for a principal or contractor, as the case may be;

“*wages*” means salary;

“*week*” means a continuous period of 7 days;

“*workman*” means —

(a) any person, skilled or unskilled, who has entered into a contract of service with an employer in pursuance of which he is engaged in manual labour, including any artisan or apprentice, but excluding any seafarer or domestic worker;

[Act 6 of 2014 wef 01/04/2014]

(b) any person, other than clerical staff, employed in the operation or maintenance of mechanically propelled vehicles used for the transport of passengers for hire or for commercial purposes;

(c) any person employed partly for manual labour and partly for the purpose of supervising in person any workman in and throughout the performance of his work:

Provided that when any person is employed by any one employer partly as a workman and partly in some other capacity or capacities, that person shall be deemed to be a workman unless it can be established that the time during which that workman has been required to work as a workman in any one salary period as defined in Part III has on no occasion amounted to or exceeded one-half of the total time during which that person has been required to work in such salary period;

(d) any person specified in the First Schedule;

(e) any person whom the Minister may, by notification in the Gazette, declare to be a workman for the purposes of this Act.

[21/84; 36/95; 41/2004; 32/2008]

(2) Any person who is employed in a managerial or an executive position and is in receipt of a salary not exceeding \$4,500 a month (excluding overtime payments, bonus payments, annual wage supplements, productivity incentive payments and any allowance however described), or such other amount as may be prescribed in substitution by the Minister, shall be regarded as an employee for the purposes of this Act except the provisions in Part IV.

[Act 26 of 2013 wef 01/04/2014]

Appointment of officers

3. — (1) The Minister may appoint an officer to be styled the Commissioner for Labour (referred to in this Act as the Commissioner) and also one or more officers to be styled Deputy Commissioner for Labour, Principal Assistant Commissioner for Labour or Assistant Commissioner for Labour, who, subject to such limitations as may be prescribed, may perform all duties imposed and exercise all powers conferred on the Commissioner by this Act, and every duty so performed and power so exercised shall be deemed to have been duly performed and exercised for the purposes of this Act.

(2) The Minister may appoint such number of authorised officers, inspecting officers and other officers as he may consider necessary or expedient for the purposes of this Act.

[21/84]

[Act 27 of 2015 wef 22/08/2015]

(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.

[Act 21 of 2016 wef 01/04/2017]

- (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;
 - (c) the conditions of the authorisation; and
 - (d) the limitations to which the authorisation is subject.

[Act 21 of 2016 wef 01/04/2017]

Rules and orders

4. The Minister may from time to time make rules and orders for the conduct of the duties of officers under this Act.

Minister may restrict application

5. The Minister may, by notification in the Gazette, declare that this Act or any Part or provisions thereof shall not apply to any premises or class of premises specified in the notification.

Existing law not affected

6. Nothing in this Act shall operate to relieve any employer of any duty or liability imposed upon him by the provisions of any other written law for the time being in force or to limit any powers given to any public officer by any other written law.

Invalidity of contract of service

7. [Repealed by Act 32 of 2008]

Part II Contracts of Service

Illegal terms of contract of service

8. Every term of a contract of service which provides a condition of service which is less favourable to an employee than any of the conditions of service prescribed by

this Act shall be illegal, null and void to the extent that it is so less favourable.

[32/2008]

Termination of contract

9. — (1) A contract of service for a specified piece of work or for a specified period of time shall, unless otherwise terminated in accordance with the provisions of this Part, terminate when the work specified in the contract is completed or the period of time for which the contract was made has expired.
- (2) A contract of service for an unspecified period of time shall be deemed to run until terminated by either party in accordance with the provisions of this Part.

Notice of termination of contract

10. — (1) Either party to a contract of service may at any time give to the other party notice of his intention to terminate the contract of service.
- (2) The length of such notice shall be the same for both employer and employee and shall be determined by any provision made for the notice in the terms of the contract of service, or, in the absence of such provision, shall be in accordance with subsection (3).
- (3) The notice to terminate the service of a person who is employed under a contract of service shall be not less than —
- (a) one day's notice if he has been so employed for less than 26 weeks;
 - (b) one week's notice if he has been so employed for 26 weeks or more but less than 2 years;
 - (c) 2 weeks' notice if he has been so employed for 2 years or more but less than 5 years; and
 - (d) 4 weeks' notice if he has been so employed for 5 years or more.
- (4) This section shall not be taken to prevent either party from waiving his right to notice on any occasion.
- (5) Such notice shall be written and may be given at any time, and the day on which the notice is given shall be included in the period of the notice.

Termination of contract without notice

11. —(1) Either party to a contract of service may terminate the contract of service without notice or, if notice has already been given in accordance with section 10, without waiting for the expiry of that notice, by paying to the other party a sum equal to the amount of salary at the gross rate of pay which would have accrued to the employee during the period of the notice and in the case of a monthly-rated employee where the period of the notice is less than a month, the amount payable for any one day shall be the gross rate of pay for one day's work.

[21/84; 36/95]

(2) Either party to a contract of service may terminate the contract of service without notice in the event of any wilful breach by the other party of a condition of the contract of service.

[21/84; 36/95]

Contractual age

12. — (1) Notwithstanding anything in any other written law, a person below the age of 18 years shall, subject to the provisions of this Act, be competent to enter into a contract of service.

(2) No contract of service as an employee shall be enforceable against a person below the age of 18 years and no damages or indemnity shall be recoverable from that person in respect of the contract of service unless it is for his benefit.

When contract deemed to be broken by employer and employee

13. — (1) An employer shall be deemed to have broken his contract of service with the employee if he fails to pay salary in accordance with Part III.

(2) An employee is deemed to have broken the employee's contract of service with the employer if the employee is absent from work for more than 2 days continuously without prior leave from the employer and:

(a) the employee has no reasonable excuse for the absence; or

(b) the employee does not inform and does not attempt to inform the employer of the excuse for the absence.

[Act 27 of 2015 wef 22/08/2015]

Dismissal

14. — (1) An employer may after due inquiry dismiss without notice an employee employed by him on the grounds of misconduct inconsistent with the fulfilment of the express or implied conditions of his service except that instead of dismissing an employee an employer may —

(a) instantly down-grade the employee; or
(b) instantly suspend him from work without payment of salary for a period not exceeding one week.

(2) Notwithstanding subsection (1), where a relevant employee considers that he has been dismissed without just cause or excuse by his employer, he may, within one month of the dismissal, make representations in writing to the Minister to be reinstated in his former employment.

[Act 26 of 2013 wef 01/04/2014]

(2A) For the purposes of subsection (2), a relevant employee means —

(a) an employee employed in a managerial or an executive position —
(i) who is dismissed with notice; or
(ii) who is dismissed without notice but receives payment of any salary in lieu of notice,

after having served that employer for at least 12 months in any position (whether or not a managerial or an executive position);

(a) an employee employed in a managerial or an executive position who is dismissed without notice and without salary in lieu of such notice; or
(b) an employee not employed in a managerial or an executive position.

[Act 26 of 2013 wef 01/04/2014]

(3) The Minister may, before making a decision on any such representations, by writing under his hand request the Commissioner to inquire into the dismissal

and report whether in his opinion the dismissal is without just cause or excuse.

(4) If, after considering the report made by the Commissioner under subsection (3), the Minister is satisfied that the employee has been dismissed without just cause or excuse, he may, notwithstanding any rule of law or agreement to the contrary:

(a) direct the employer to reinstate the employee in his former employment and to pay the employee an amount that is equivalent to the wages that the employee would have earned had he not been dismissed by the employer; or

(b) direct the employer to pay such amount of wages as compensation as may be determined by the Minister,

and the employer shall comply with the direction of the Minister.

(5) The decision of the Minister on any representation made under this section shall be final and conclusive and shall not be challenged in any court.

(6) Any direction of the Minister under subsection (4) shall operate as a bar to any action for damages by the employee in any court in respect of the wrongful dismissal.

(7) An employer who fails to comply with the direction of the Minister under subsection (4) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

[32/2008]

(7A) Where any amount to be paid by an employer under subsection (4) is not paid in accordance with the direction of the Minister and the employer has been convicted of an offence under subsection (7), the amount or so much thereof as remains unpaid shall be recoverable by the court as if it were a fine and the amount so recoverable shall be paid to the employee entitled to payment under the direction of the Minister.

[36/95]

(8) For the purpose of an inquiry under subsection (1), the employer may suspend the employee from work for a period not exceeding one week but shall pay him not less than half his salary for such period.

(9) If the inquiry does not disclose any misconduct on the part of the employee, the employer shall immediately restore to the employee the full amount of the salary so withheld.

Termination by employee threatened by danger

15. An employee may terminate his contract of service with his employer without notice where he or his dependant is immediately threatened by danger to the person by violence or disease such as the employee did not by his contract of service undertake to run.

Liability on breach of contract

16. Subject to anything in the contract of service to the contrary, the party who breaks the contract of service shall be liable to pay to the other party a sum equal to the amount he would have been liable to pay under section 11 had he terminated the contract of service without notice or with insufficient notice.

Contract of service not to restrict rights of employees to join, participate in or organise trade unions

17. Subject to any other written law for the time being in force, nothing in any contract of service shall in any way restrict the right of any employee who is a party to such contract —

(a) to join a registered trade union;

(b) to participate in the activities of a registered trade union, whether as an officer of the trade union or otherwise; or

(c) to associate with any other persons for the purpose of organising a trade union in accordance with the provisions of the Trade Unions Act (Cap. 333).

Change of employer

18. —(1) If by or under any written law a contract of employment between anybody

corporate and an employee is modified and some other body corporate is substituted as the employer, the employee's period of employment at the time when the modification takes effect shall count as a period of employment with such other body corporate, and the change of employer shall not break the continuity of the period of employment.

[36/95; 32/2008]

(2) If on the death of an employer the employee is taken into the employment of the personal representatives or trustees of the deceased, the employee's period of employment at the time of the death shall count as a period of employment with the employer's personal representatives or trustees, and the death of the employer shall not break the continuity of the period of employment.

[36/95]

(3) If there is a change in the partners, personal representatives or trustees who employ any person, the employee's period of employment at the time of the change shall count as a period of employment with the partners, personal representatives or trustees after the change, and the change shall not break the continuity of the period of employment.

[36/95]

Transfer of employment

18A.— (1) If an undertaking (whether or not it is an undertaking established by or under any written law) or part thereof is transferred from one person to another —

- (a) such transfer shall not operate to terminate the contract of service of any person employed by the transferor in the undertaking or part transferred but such contract of service shall have effect after the transfer as if originally made between the person so employed and the transferee; and
- (b) the period of employment of an employee in the undertaking or part transferred at the time of transfer shall count as a period of employment with the transferee, and

the transfer shall not break the continuity of the period of employment.

[36/95]

- (2) Without prejudice to subsection (1), on completion of a transfer referred to in that subsection —
 - (a) all the transferor's rights, powers, duties and liabilities under or in connection with any such contract of service shall be transferred by virtue of this section to the transferee;
 - (b) any act or omission done before the transfer by the transferor in respect of that contract of service shall be deemed to have been done by the transferee; and
 - (c) any act or omission done before the transfer by an employee employed in the undertaking or part transferred in relation to the transferor shall be deemed to have been done in relation to the transferee.

[36/95]

- (3) On the completion of a transfer referred to in subsection (1), it is hereby declared for the avoidance of doubt that the terms and conditions of service of an employee whose contract of service is preserved under that subsection shall be the same as those enjoyed by him immediately prior to the transfer.

[36/95]

- (4) Subsections (1) and (2) shall not transfer or otherwise affect the liability of any person to be prosecuted for, convicted of and sentenced for any offence.

[36/95]

- (5) As soon as it is reasonable and before a transfer under subsection (1) takes place, to enable consultations to take place between the transferor and the affected employees and between the transferor and a trade union of affected employees (if any), the transferor shall notify the affected employees and the trade union of affected employees (if any) of —
 - (a) the fact that the transfer is to take place, the approximate date on which it is to take place and the reasons for it;
 - (b) the implications of the transfer and the measures that the transferor envisages he

- will, in connection with the transfer, take in relation to the affected employees or, if he envisages that no measures will be so taken, that fact; and
- (c) the measures that the transferee envisages he will, in connection with the transfer, take in relation to such of those employees as, by virtue of subsection (1), become employees of the transferee after the transfer or, if he envisages that no measures will be so taken, that fact.

[36/95]

- (6) As soon as it is reasonable, the transferee shall give the transferor such information so as to enable the transferor to perform the duty imposed on him by virtue of subsection (5)(c).

[36/95]

- (7) Where the Commissioner considers that there has been an inordinate delay —

- (a) by the transferor in notifying the affected employees or a trade union of affected employees of the matters set out in subsection (5); or
- (b) by the transferee in notifying the transferor of the information set out in subsection (6),

the Commissioner may, by notice in writing, direct the transferor to comply with subsection (5) or the transferee to comply with subsection (6), as the case may be, within such time as may be specified in the notice.

[36/95]

- (8) Where, immediately before a transfer referred to in subsection (1), a trade union is recognised by the transferor for the purposes of the Industrial Relations Act (Cap. 136) in respect of any employee who in consequence of the transfer becomes the employee of the transferee, the trade union shall, after the transfer:

- (a) be deemed to be recognised by the transferee for the purposes of the Industrial Relations Act if, after the transfer, the majority of employees employed by the transferee are members of the trade union; or
- (b) in any other case, be deemed to be recognised by the transferee only for the

purpose of representing the employee on any dispute arising —

- (i) from any collective agreement that was entered into between the transferor and the trade union while the collective agreement remains in force; or
- (ii) from the transfer of the employee's employment from the transferor to the transferee under this section.

[36/95]

(8A) For the purposes of subsection (8)(b), any collective agreement that was entered into between the transferor and the trade union of the affected employees and in force immediately before the transfer shall continue in force between the transferee and the trade union of the affected employees for a period of 18 months after the date of the transfer or until the date of its expiry as specified in the collective agreement, whichever is the later.

[Act 26 of 2013 wef 01/04/2014]

- (9) A dispute or disagreement between the transferor and an employee or the transferee and an employee arising from a transfer under subsection (1), whether before or after the transfer, may be referred by a party to the dispute or disagreement to the Commissioner under section 115 and shall be deemed to be a dispute to which that section applies.

[36/95]

- (10) Where a dispute or disagreement has been referred to the Commissioner pursuant to subsection (9), the Commissioner shall, in addition to the powers conferred under section 115, have the powers —

- (a) to delay or prohibit the transfer of employment of the employee to the dispute from the transferor to the transferee under subsection (1); and
- (b) to order that the transfer of employment of the employee to the dispute from the transferor to the transferee under subsection (1) be subject to such terms as the Commissioner considers just.

[36/95]

(11) The Minister may make such regulations as he considers necessary or expedient to give effect to the provisions of this section and, in particular, may make regulations:

- (a) to provide for the form and manner of consultations between the transferor and the affected employees and between the transferor and a trade union of affected employees under subsection (5);
- (b) for the type of information that must be communicated by the transferor to the affected employees and to a trade union of affected employees under subsection (5), or by the transferee to the transferor under subsection (6); and
- (c) to provide for a mechanism for conciliation of disputes arising out of or relating to a transfer referred to in subsection (1) between any employer and employee.

[36/95]

(12) Nothing in this section shall prevent a transferee of an undertaking referred to in subsection (1) and an employee whose contract of service is preserved under that subsection or a trade union representing such an employee from negotiating for and agreeing to terms of service different from those contained in the contract of service that is preserved under that subsection.

[36/95]

(13) In this section —

“*affected employee*” means any employee of the transferor who may be affected by a transfer under subsection (1) or may be affected by the measures taken in connection with such a transfer;

“*trade union*” means a trade union which has been —

- (a) registered under any written law for the time being in force relating to the registration of trade unions; and
- (b) accorded recognition by the employer pursuant to section 17(1) of the Industrial Relations Act (Cap. 136);

“*transfer*” includes the disposition of a business as a going concern and a transfer effected by

sale, amalgamation, merger, reconstruction or operation of law;

“*undertaking*” includes any trade or business.

[36/95]

Offence

19. Any employer who enters into a contract of service or collective agreement contrary to the provisions of this Part shall be guilty of an offence.

Part III Payment of Salary

Fixation of salary period

20. — (1) An employer may fix periods, which for the purpose of this Act shall be called salary periods, in respect of which salary earned shall be payable.
- (2) No salary period shall exceed one month.
 - (3) In the absence of a salary period so fixed, the salary period shall be deemed to be one month.

Computation of salary for incomplete month's work

20A.— (1) If a monthly-rated employee has not completed a whole month of service because:

- (a) he commenced employment after the first day of the month;
- (b) his employment was terminated before the end of the month;
- (c) he took leave of absence without pay for one or more days of the month; or
- (d) he took leave of absence to perform his national service under the Enlistment Act (Cap. 93),

the salary due to him for that month shall be calculated in accordance with the following formula:

Monthly gross rate of pay	×	Number of days the employee actually worked in that month
Number of days on which the employee is required to work in that month		

[36/95]

- (2) In calculating the number of days actually worked by an employee in a month under subsection (1), any day on which an employee is required to work for 5 hours or less under his contract of service shall be regarded as half a day.

Time of payment

21. — (1) Salary earned by an employee under a contract of service, other than additional payments for overtime work, shall be paid before the expiry of the 7th day after the last day of the salary period in respect of which the salary is payable.

[21/84]

- (2) Additional payments for overtime work shall be paid not later than 14 days after the last day of the salary period during which the overtime work was performed.

[21/84]

- (3) The total salary due to an employee on completion of his contract of service shall be paid to him on completion of the contract.

Payment on dismissal

22. Subject to the provisions of this Act, the total salary and any sum due to an employee who has been dismissed shall be paid on the day of dismissal or, if this is not possible, within 3 days thereafter, not being a rest day or public holiday or other holiday.

[32/2008]

Payment on termination by employee

23. — (1) Subject to the provisions of this Act, the total salary due to an employee who terminates his contract of service with his employer under section 11 or after giving due notice to the employer as required under section 10 shall be paid to him on the day on which the contract of service is terminated.

- (2) Subject to the provisions of this Act, the total salary due to an employee who terminates his contract of service without giving prior notice to his employer as

required under section 10, or, if notice has already been given under that section, but the employee terminates his contract of service without waiting for the expiry of the notice, shall be paid to him before the expiry of the 7th day after the day on which he terminates his contract of service.

- (3) The employer may, subject to any order made by a court or the Commissioner to the contrary, deduct from the salary due to the employee such sum as the employee is liable to pay in lieu of prior notice under section 11(1).

Income tax clearance

24. — (1) Notwithstanding sections 22 and 23, no payment of salary or any other sum due to an employee on termination of service shall be made to the employee by the employer without the permission of the Comptroller of Income Tax under section 68(7) of the Income Tax Act (Cap. 134).

[32/2008]

- (2) The employer shall immediately give notice of the termination of service to the Comptroller of Income Tax and the payment of the salary or other sum due to the employee shall not be delayed more than 30 days after such notice has been given to and received by the Comptroller of Income Tax.

[32/2008]

Payment to be made during working hours

25. — (1) Payment of salary shall be made on a working day and during working hours at the place of work or at any other place agreed to between the employer and the employee.

[21/84]

- (2) Subsection (1) shall not apply where the salary is paid into an account with a bank in Singapore, being an account in the name of the employee or an account in the name of the employee jointly with one or more other persons.

[21/84]

No unauthorised deductions to be made

26. No deduction shall be made by an employer from the salary of an employee, unless the deduction is authorised by or under any provision of this Act or is required to be made —
- (a) by order of a court or other authority competent to make such order;
 - (b) pursuant to a declaration made by the Comptroller of Income Tax under section 57 of the Income Tax Act (Cap. 134), the Comptroller of Property Tax under section 38 of the Property Tax Act (Cap. 254) or the Comptroller of Goods and Services Tax under section 79 of the Goods and Services Tax Act (Cap. 117A) that the employer is an agent for recovery of income tax, property tax or goods and services tax (as the case may be) payable by the employee; or
 - (c) pursuant to a direction given by the Comptroller of Income Tax under section 91 of the Income Tax Act.

[Act 26 of 2013 wef 01/04/2014]

Authorised deductions

27. — (1) The following deductions may be made from the salary of an employee:
- (a) deductions for absence from work;
 - (b) deductions for damage to or loss of goods expressly entrusted to an employee for custody or for loss of money for which an employee is required to account, where the damage or loss is directly attributable to his neglect or default;
 - (c) deductions for the actual cost of meals supplied by the employer at the request of the employee;
 - (d) deductions for house accommodation supplied by the employer;
 - (e) deductions for such amenities and services supplied by the employer as the Commissioner may authorise;
 - (f) deductions for recovery of advances or loans or for adjustment of over-payments of salary;
 - (g) [Deleted by Act 26 of 2013 wef 01/04/2014]
 - (h) deductions of contributions payable by an employer on behalf of an employee under

- and in accordance with the provisions of the Central Provident Fund Act (Cap. 36);
- (i) deductions made at the request of the employee for the purpose of a superannuation scheme or provident fund or any other scheme which is lawfully established for the benefit of the employee and is approved by the Commissioner;
 - (j) deductions made with the written consent of the employee and paid by the employer to any cooperative society registered under any written law for the time being in force in respect of subscriptions, entrance fees, instalments of loans, interest and other dues payable by the employee to such society; and
 - (k) any other deductions which may be approved from time to time by the Minister.
- (2) For the purposes of subsection (1)(e), “services” does not include the supply of tools and raw materials required for the purposes of employment.

Deductions for absence

28. — (1) Deductions may be made under section 27(1)(a) only on account of the absence of an employee from the place where, by the terms of his employment, he is required to work, the absence being for the whole or any part of the period during which he is so required to work.
- (2) The amount of any deduction referred to in subsection (1) shall in no case bear to the salary payable at the gross rate of pay to the employee in respect of the salary period for which the deduction is made a larger proportion than the period for which he was absent bears to the total period, within such salary period, during which he was required to work by the terms of his employment, and in the case of a monthly-rated employee the amount of deduction in respect of any one day shall be the gross rate of pay for one day’s work.
- [36/95]
- (3) If any employee absents himself from work otherwise than as provided by this Act or by his contract of service, the employer may, subject to any order which may be made by a court or by the

Commissioner on complaint of either party, deduct from any salary due to the employee the cost of food supplied to him during his absence.

Deductions for damages or loss

29. —(1) A deduction under section 27(1)(b) shall not exceed the amount of the damages or loss caused to the employer by the neglect or default of the employee and except with the permission of the Commissioner shall in no case exceed one-quarter (or such other proportion prescribed in substitution by the Minister) of one month's wages and shall not be made until the employee has been given an opportunity of showing cause against the deduction.

[21/84]

[Act 26 of 2013 wef 01/04/2014]

(2) All such deductions and all realisations thereof shall be recorded in a register to be kept by the employer in such form as may be prescribed.

Deductions for accommodation, amenity and service

30. — (1) A deduction under section 27(1)(d) or (e) shall not be made from the salary of an employee unless the house accommodation, amenity or service has been accepted by him, as a term of employment or otherwise.

(2) Any deduction under section 27(1)(d) or (e) shall not exceed an amount equivalent to the value of the house accommodation, amenity or service supplied, and the total amount of all deductions under section 27(1)(d) and (e) made from the salary of the employee by his employer in any one salary period shall in no case exceed one-quarter (or such other proportion prescribed in substitution by the Minister) of the salary payable to the employee in respect of that period.

(3) In the case of a deduction under section 27(1)(e), the deduction shall be subject to such conditions as the Commissioner may impose.

[Act 26 of 2013 wef 01/04/2014]

Recovery of advances and loans

31. — (1) The recovery of an advance of money made to an employee before the commencement of a contract of service shall begin from the first payment of salary in respect of a completed salary period, but no recovery shall be made of any such advance made for travelling expenses.

(2) Advances may be recovered in instalments by deductions from salary spread over not more than 12 months.

(3) No instalment under subsection (2) shall exceed one-quarter (or such other proportion prescribed in substitution by the Minister) of the salary due for the salary period in respect of which the deduction is made.

[Act 26 of 2013 wef 01/04/2014]

(4) Loans may be recovered in instalments by deductions from salary.

(5) No instalment under subsection (4) shall exceed one-quarter (or such other proportion prescribed in substitution by the Minister) of the salary due for the salary period in respect of which the deduction is made.

[Act 26 of 2013 wef 01/04/2014]

Deductions not to exceed prescribed limit

32. — (1) The total amount of all deductions made from the salary of an employee by an employer in any one salary period, other than deductions under section 27(1)(a), (f) or (j), shall not exceed 50% (or such other percentage prescribed in substitution by the Minister) of the salary payable to the employee in respect of that period.

[21/84]

[Act 26 of 2013 wef 01/04/2014]

(2) Subsection (1) shall not apply to deductions made from the last salary due to an employee on termination of his contract of service or on completion of his contract of service.

[21/84]

Priority of salary to other debts

33. — (1) This section shall apply —
- (a) to workmen who are in receipt of a salary not exceeding \$4,500 a month (excluding overtime payments, bonus payments, annual wage supplements, productivity incentive payments and any allowance however described) or such other amount as may be prescribed by the Minister; and
 - (b) to employees (other than workmen) who are in receipt of a salary not exceeding \$2,500 a month (excluding overtime payments, bonus payments, annual wage supplements, productivity incentive payments and any allowance however described) or such other amount as may be prescribed by the Minister.

[32/2008]

[Act 26 of 2013 wef 01/04/2014]

- (2) When, on the application of a person holding a mortgage, charge or lien or of a person who has obtained a judgment or decree, the property of an employer is sold, or any money due to the employer is garnished, the court ordering the sale or garnishment shall not distribute the proceeds of the sale or the money to the person entitled thereto unless the court has ascertained and paid the salary due to all the employees employed by that employer and to all employees engaged by a contractor or subcontractor and working for that employer.
- (3) This section shall only apply —
 - (a) to property on which those employees were or are working;
 - (b) where the property sold was or is the produce of the work of those employees;
 - (c) where the property sold is movable property used or being used by those employees in the course of their work; or
 - (d) to money due to the employer in respect of work done by those employees.
- (4) The amount payable to each such employee under subsection (2) shall not exceed 5 months' salary.
- (5) [Deleted by Act 21 of 2016 wef 01/04/2017]

- (6) [Deleted by Act 21 of 2016 wef 01/04/2017]
- (7) For the purposes of this section, "employees" shall be deemed to include subcontractors for labour and "salary" shall be deemed to include money due to a subcontractor for labour.

Offence

34. — (1) Any employer failing to pay salary in accordance with the provisions of this Part shall be guilty of an offence.

[Act 26 of 2013 wef 01/04/2014]

- (2) Any employer who is guilty of an offence under subsection (1) for contravening section 21, 22 or 23 shall be liable on conviction —
 - (a) to a fine of not less than \$3,000 and not more than \$15,000 or to imprisonment for a term not exceeding 6 months or to both; and
 - (b) if the employer is a repeat offender, to a fine of not less than \$6,000 and not more than \$30,000 or to imprisonment for a term not exceeding 12 months or to both.

[Act 26 of 2013 wef 01/04/2014]

- (3) For the purposes of subsection (2), a person is a repeat offender in relation to an offence under subsection (1) if the person who is convicted or found guilty of an offence under subsection (1) of contravening section 21, 22 or 23 (referred to as the current offence) has been convicted or found guilty of an offence of contravening section 21, 22 or 23 on at least one other occasion (whether before, on or after the date of commencement of section 2(11) of the Employment, Parental Leave and Other Measures Act 2013) before the date on which he is convicted or found guilty of the current offence.

[Act 26 of 2013 wef 01/04/2014]

Part IV

Rest Days, Hours of Work and Other Conditions of Service

Application of this Part to certain workmen and other employees

35. The provisions of this Part shall apply —
- (a) to workmen who are in receipt of a salary not exceeding \$4,500 a month (excluding overtime payments, bonus payments, annual wage supplements, productivity incentive payments and any allowance however described) or such other amount as may be prescribed by the Minister; and
 - (b) to employees (other than workmen) who are in receipt of a salary not exceeding \$2,500 a month (excluding overtime payments, bonus payments, annual wage supplements, productivity incentive payments and any allowance however described) or such other amount as may be prescribed by the Minister.

[32/2008]

[Act 26 of 2013 wef 01/04/2014]

Rest day

36. — (1) Every employee shall be allowed in each week a rest day without pay of one whole day which shall be Sunday or such other day as may be determined from time to time by the employer.

[36/95]

- (2) The employer may substitute any continuous period of 30 hours as a rest day for an employee engaged in shift work.
- (3) Where in any week a continuous period of 30 hours commencing at any time before 6 p.m. on a Sunday is substituted as a rest day for an employee engaged in shift work, such rest day shall be deemed to have been granted within the week notwithstanding that the period of 30 hours ends after the week.

[21/84]

- (4) Where the rest day of an employee is determined by his employer, the employer

shall prepare or cause to be prepared a roster before the commencement of the month in which the rest days fall informing the employee of the days appointed to be his rest days therein.

Work on rest day

37. — (1) Subject to section 38(2) or 40(2A), no employee shall be compelled to work on a rest day unless he is engaged in work which by reason of its nature requires to be carried on continuously by a succession of shifts.

[32/2008]

(1A) In the event of any dispute, the Commissioner shall have power to decide whether or not an employee is engaged in work which by reason of its nature requires to be carried on continuously by a succession of shifts.

- (2) Employee who at his own request works for an employer on a rest day shall be paid for that day —
 - (a) if the period of work does not exceed half his normal hours of work, a sum at the basic rate of pay for half a day's work;
 - (b) if the period of work is more than half but does not exceed his normal hours of work, a sum at the basic rate of pay for one day's work; or
 - (c) if the period of work exceeds his normal hours of work for one day —
 - (i) a sum at the basic rate of pay for one day's work; and
 - (ii) a sum at the rate of not less than one and a half times his hourly basic rate of pay for each hour or part thereof that the period of work exceeds his normal hours of work for one day.

[36/95]

- (3) An employee who at the request of his employer works on a rest day shall be paid for that day —
 - (b) if the period of work does not exceed half his normal hours of work, a sum at the basic rate of pay for one day's work;
 - (c) if the period of work is more than half but does not exceed his normal hours of work,

- a sum at the basic rate of pay for 2 days' work; or
- (d) if the period of work exceeds his normal hours of work for one day —
 - (i) a sum at the basic rate of pay for 2 days' work; and
 - (ii) a sum at the rate of not less than one and a half times his hourly basic rate of pay for each hour or part thereof that the period of work exceeds his normal hours of work for one day.

[36/95]

(3A) In this section —

- (a) “*normal hours of work*” means the number of hours of work (not exceeding the limits applicable to an employee under section 38 or 40, as the case may be) that is agreed between an employer and an employee to be the usual hours of work per day; or in the absence of any such agreement, shall be deemed to be 8 hours a day; and
- (b) an employee’s “*hourly basic rate of pay*” is to be calculated in the same manner as for the purpose of calculating payment due to an employee under section 38 for working overtime.

[36/95]

(4) Subsection (3) shall not apply to any employee who is employed by the Government or a statutory body in any of the essential services as defined under Part III of the Criminal Law (Temporary Provisions) Act (Cap. 67), but any such employee who at the request of his employer works on a rest day or part thereof shall be given a day or part of a day off, as the case may be, in substitution for such a rest day or part thereof.

Hours of work

38. — (1) Except as hereinafter provided, an employee shall not be required under his contract of service to work —
- (a) more than 6 consecutive hours without a period of leisure;
 - (b) more than 8 hours in one day or more than 44 hours in one week:

Provided that —

- (i) an employee who is engaged in work which must be carried on continuously may be required to work for 8 consecutive hours inclusive of a period or periods of not less than 45 minutes in the aggregate during which he shall have the opportunity to have a meal;
- (ii) where, by agreement under the contract of service between the employee and the employer, the number of hours of work on one or more days of the week is less than 8, the limit of 8 hours in one day may be exceeded on the remaining days of the week, but so that no employee shall be required to work for more than 9 hours in one day or 44 hours in one week;
- (iii) where, by agreement under the contract of service between the employee and the employer, the number of days on which the employee is required to work in a week is not more than 5 days, the limit of 8 hours in one day may be exceeded but so that no employee shall be required to work more than 9 hours in one day or 44 hours in one week; and
- (iv) where, by agreement under the contract of service between the employee and the employer, the number of hours of work in every alternate week is less than 44, the limit of 44 hours in one week may be exceeded in the other week, but so that no employee shall be required to work for more than 48 hours in one week or for more than 88 hours in any continuous period of 2 weeks.

[21/84]

- (2) An employee may be required by his employer to exceed the limit of hours prescribed in subsection (1) and to work on a rest day, in the case of —
 - (a) accident, actual or threatened;
 - (b) work, the performance of which is essential to the life of the community;
 - (c) work essential for defence or security;
 - (d) urgent work to be done to machinery or plant;
 - (e) an interruption of work which it was impossible to foresee; or
 - (f) work to be performed by employees in any industrial undertaking essential to the

economy of Singapore or any of the essential services as defined under Part III of the Criminal Law (Temporary Provisions) Act (Cap. 67).

- (3) In the event of any dispute, the Commissioner shall have power to decide whether or not the employer is justified in calling upon the employee to work in the circumstances specified in subsection (2)(f).
- (4) If an employee at the request of the employer works —
 - (a) more than 8 hours in one day except as provided in paragraphs (ii) and (iii) of the proviso to subsection (1), or more than 9 hours in one day in any case specified in those paragraphs; or
 - (b) more than 44 hours in one week except as provided in paragraph (iv) of the proviso to subsection (1), or more than 48 hours in any one week or more than 88 hours in any continuous period of 2 weeks in any case specified in that paragraph, he shall be paid for such extra work at the rate of not less than one and a half times his hourly basic rate of pay irrespective of the basis on which his rate of pay is fixed.

[21/84; 36/95]

- (5) An employee shall not be permitted to work overtime for more than 72 hours a month.
- (6) For the purpose of calculating under subsection (4) the payment due for overtime to an employee referred to in the first column of the Fourth Schedule, the employee's hourly basic rate of pay shall be determined in accordance with the second column of the Fourth Schedule.

[Act 26 of 2013 wef 01/04/2014]

- (7) The Minister may make regulations for the purpose of calculating the payment due for overtime to an employee employed on piece rates.
- (8) Except in the circumstances described in subsection (2)(a), (b), (c), (d) and (e), no employee shall under any circumstances work for more than 12 hours in any one day.

- (9) This section shall not apply to employees engaged in the fire services or in work which by its nature involves long hours of inactive or stand-by employment.

Task work

39. Nothing in this Part shall prevent any employer from agreeing with any employee that the salary of the employee shall be paid at an agreed rate in accordance with the task, that is, the specific amount of work required to be performed, and not by the day or by the piece.

Shift workers, etc.

40. — (1) Notwithstanding section 38(1), an employee who is engaged under his contract of service in regular shift work or who has otherwise consented in writing to work in accordance with the hours of work specified in this section may be required to work more than 6 consecutive hours, more than 8 hours in any one day or more than 44 hours in any one week but the average number of hours worked over any continuous period of 3 weeks shall not exceed 44 hours per week.

[21/84]

- (2) No consent given by an employee under this section shall be valid unless this section and section 38 have been explained to the employee and the employee has been informed of the times at which the hours of work begin and end, the number of working days in each week and the weekly rest day.

[21/84]

- (2A) An employee to whom this section applies may be required by his employer to exceed the limit of hours prescribed in subsection (1) and to work on a rest day, in the case of —

- (a) accident, actual or threatened;
- (b) work, the performance of which is essential to the life of the community;
- (c) work essential for defence or security;
- (d) urgent work to be done to machinery or plant;

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(e) an interruption of work which it was impossible to foresee; or

[32/2008]

[Act 26 of 2013 wef 01/04/2014]

(f) work to be performed by employees in any industrial undertaking essential to the economy of Singapore or any of the essential services as defined under Part III of the Criminal Law (Temporary Provisions) Act (Cap. 67).

[Act 26 of 2013 wef 01/04/2014]

(3) Except in the circumstances described in subsection (2A)(a), (b), (c), (d) and (e), no employee to whom this section applies shall under any circumstances work for more than 12 hours in any one day.

[21/84; 32/2008]

(4) Section 38(4) shall not apply to any employee to whom this section applies, but any such employee who at the request of his employer works more than an average of 44 hours per week over any continuous period of 3 weeks shall be paid for such extra work in accordance with section 38(4).

[21/84]

Interpretation of “week” for purposes of sections 36, 38 and 40

41. For the purposes of sections 36, 38 and 40, “week” shall mean a continuous period of 7 days commencing at midnight on Sunday.

[21/84]

Power to exempt

41A.— (1) The Commissioner may, after considering the operational needs of the employer and the health and safety of the employee or class of employees, by order in writing exempt an employee or any class of employees from sections 38(1), (5) and (8) and 40(3) subject to such conditions as the Commissioner thinks fit.

[36/95; 41/2004]

(2) The Commissioner may, after considering the operational needs of an employer and the interests of an employee or a class of

employees, by order in writing, direct that the entitlement to be paid for extra work under section 37(2) or (3), 38(4), 40(4) or 88(4) shall not apply to that employee or class of employees, subject to such conditions as the Commissioner thinks fit.

[41/2004; 32/2008]

(3) Where the Commissioner —

(a) exempts an employee or any class of employees from section 38(1), (5) or (8) or 40(3); or

(b) directs that the entitlement to be paid for extra work under section 37(2) or (3), 38(4), 40(4) or 88(4) shall not apply to an employee or any class of employees, the employer shall display the order or a copy thereof conspicuously in the place where the employee or class of employees are employed.

[41/2004; 32/2008]

Holidays

42. [Repealed by Act 32 of 2008]

Annual leave

43. — (1) An employee who has served an employer for a period of not less than 3 months shall be entitled to paid annual leave of 7 days in respect of the first 12 months of continuous service with the same employer and an additional one day's paid annual leave for every subsequent 12 months of continuous service with the same employer subject to a maximum of 14 days of such leave which shall be in addition to the rest days, holidays and sick leave to which the employee is entitled under sections 36, 88 and 89, respectively.

[21/84; 36/95; 32/2008]

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

[21/84; 36/95]

(3) In calculating the proportionate annual leave under subsection (2), any fraction of a day which is less than one-half of a day shall be disregarded and where the fraction of the day is one-half or more it shall be regarded as one day.

[21/84]

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

[21/84]

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

[21/84]

(6) The employer shall grant, and the employee shall take such leave not later than 12 months after the end of every 12 months of continuous service and any employee who fails to take that leave by the end of such period shall thereupon cease to be entitled thereto.

[21/84]

(7) The employer shall pay the employee his gross rate of pay for every day of such leave and if an employee has been dismissed otherwise than for misconduct before he has taken that leave, the employer shall pay the employee his gross rate of pay in respect of every day of that leave.

[21/84; 36/95]

(8) The Minister may, by notification in the Gazette, fix the periods when and prescribe the manner in which annual leave shall be granted to employees in different types of employment or in different classes of industries.

[21/84]

Sick Leave

44. [Repealed by Act 32 of 2008]

Payment of retrenchment benefit

45. No employee who has been in continuous service with an employer for less than 2 years shall be entitled to any retrenchment benefit on his dismissal on the ground of redundancy or by reason of any reorganisation of the employer's profession, business, trade or work.

[32/2008]

[Act 26 of 2013 wef 01/04/2015]

Retirement benefit

46. No employee who has been in continuous service with an employer for less than 5 years shall be entitled to any retirement benefit other than the sums payable under the Central Provident Fund Act (Cap. 36) on the cessation of his service with the employer.

Priority of retirement benefits, etc.

47. — (1) Where a collective agreement or an award contains a provision for the payment of a gratuity or other sum of money to an employee on his retirement or on the termination of his services under such circumstances as may be provided for in the collective agreement or award, the gratuity or other sum of money which is due and owing to the employee shall be included among —

- (a) the debts which, under section 328 of the Companies Act (Cap. 50), are to be paid in priority to all other unsecured debts in the winding up of a company and that gratuity or sum of money shall rank after the preferential debts referred to in that section;
- (b) the debts which, under section 90 of the Bankruptcy Act (Cap. 20), are to be paid in priority to all other debts in the distribution of the property of a bankrupt or of a person dying insolvent.

[15/95]

(2) Where a collective agreement or an award contains a provision for the payment of a gratuity or other sum of money to an

employee on his retirement and no provision is made for the payment of a gratuity or other sum of money on the termination of the employee's services by reason of his employer ceasing to carry on business for whatever reason, or by reason of the employer transferring the whole or part of his undertaking or property, as the case may be, every such collective agreement or award shall, notwithstanding anything contained in any written law or rule of law or collective agreement or award to the contrary, be deemed to contain a provision that in the event of the employer ceasing to carry on business for whatever reason or transferring the whole or part of his undertaking or property, as the case may be, an employee who ceases to be employed by the employer by reason of the happening of such a contingency shall be paid such sum of money as he would have been entitled to receive under the terms of the collective agreement or award if he had retired from the service of the employer on the day the employer ceases to carry on business or transfers the whole or part of his undertaking or property, as the case may be.

[32/2008]

- (3) Subsection (2) shall not apply where an employer has set up a fund under a scheme for the payment of pensions, gratuities, provident fund or other superannuation benefits to his employees on their retirement from the service of the employer whereby under such scheme the benefits of the employees shall be safeguarded in the event of the bankruptcy of an employer or, if the employer is a company, on the winding up of the company or in the event of the employer ceasing to carry on business for any other reason or transferring the whole or part of his undertaking or property, as the case may be.
- (4) Any sum of money payable under subsection (2) shall, for the purposes of subsection (1), be deemed to be a payment to an employee on his retirement

and shall be included among the debts referred to in subsection (1)(a) or (b).

- (5) For the purposes of this section —

“*award*” means an award made by the Industrial Arbitration Court under the provisions of the Industrial Relations Act (Cap. 136);

“*collective agreement*” means a collective agreement, a memorandum of which has been certified by the Industrial Arbitration Court in accordance with the provisions of the Industrial Relations Act.

Payment of annual wage supplement or other variable payment

48. — (1) Where a contract of service or collective agreement made before 26th August 1988 provides for the payment by the employer of any annual wage supplement, annual bonus or annual wage increase, such payments shall continue to be payable by the employer until the employer and his employees or a trade union representing his employees have negotiated and agreed to vary such payments.

[21/88]

- (2) An employer and his employees or a trade union representing his employees may negotiate for and agree to a variable payment based on the trading results or productivity or on any other criteria agreed upon by the parties concerned.

[21/88]

- (3) Where an employer has not paid any annual wage supplement prior to 26th August 1988, any contract of service or collective agreement made on or after that date between the employer and his employees or a trade union representing his employees shall not contain a provision for the payment of an annual wage supplement exceeding the equivalent of one month's wages of the employees.

[21/88]

- (4) Any person who, or any trade union of employees which, requests (whether orally or in writing) or invites negotiations

for the payment by an employer of an annual wage supplement which is in excess of the amount specified in subsection (3) and any employer who pays an annual wage supplement exceeding the amount specified in subsection (3) shall be guilty of an offence.

- (5) Notwithstanding that an annual wage supplement may be payable under subsection (1) or (3), an employer may, in the event of exceptionally poor business results for any year, invite the employees or a trade union representing his employees to negotiate for a lower quantum of annual wage supplement or for no annual wage supplement to be paid for that year.

[21/88]

Power of Minister to make recommendations for wage adjustments

49. The Minister may, from time to time, make recommendations for wage adjustment and upon the publication of such recommendations in the Gazette the employer and his employees or a trade union representing his employees may negotiate based on such recommendations.

[21/88]

Interpretation for purposes of sections 48 and 49

50. — (1) Where a notice is served under section 18 of the Industrial Relations Act (Cap. 136) by an employer or a trade union representing his employees in respect of any matter referred to in sections 48 and 49 and no agreement is reached between the parties, either party may, notwithstanding the provisions of the Industrial Relations Act, refer the matter to the Industrial Arbitration Court established under the Industrial Relations Act for arbitration.

[21/88]

- (2) For the purposes of sections 48 and 49 — “*annual wage supplement*” means a single annual payment to employees that is

supplemental to the total amount of annual wages earned by them, whether expressed as a percentage thereof or otherwise;

“*variable payment*” means such payment, however expressed and whether paid annually or otherwise, which serves as an incentive to all employees to increase their productivity or as a reward for their contribution;

“*wages*” means the basic wages payable to an employee in respect of work done under his contract of service but does not include any commission, overtime allowance or other allowances payable to an employee.

[21/88]

Interpretation of “ordinary rate of pay”

51. [Repealed by Act 36 of 1995]

Power to suspend application of Part IV

52. The Minister may, by notification in the Gazette, suspend the application of any of the provisions of this Part to any classes of employees when the public interest so requires it.

Offence

53. (1) Any employer who employs any person as an employee contrary to the provisions of this Part or fails to pay any salary in accordance with the provisions of this Part shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000, and for a second or subsequent offence to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

[21/84; 32/2008]

- (2) [Deleted by Act 32 of 2008]
(3) Notwithstanding subsection (1) —
(a) an employer and his employees or a trade union representing his employees may negotiate for and agree to terms of service relating to leave more favourable than those contained in section 43; and
(b) it shall not be an offence for an employer to grant to his employee’s terms of service

[4/2010 wef 05/02/2010]

relating to leave more favourable than those contained in section 43.

[36/95; 32/2008]

[4/2010 wef 05/02/2010]

Part V Truck System

Agreements to pay salary otherwise than in legal tender illegal

54. The salary of a workman shall be payable in legal tender and not otherwise and if in any contract of service, the whole or any part of the salary is made payable in any other manner the contract of service shall be illegal, null and void.

Agreements as to place and manner, etc., of spending salary illegal

55. No contract of service shall contain any terms as to the place at which, or the manner in which, or the person with whom, any salary paid to the workman is to be expended and every contract of service containing such terms shall be illegal, null and void.

Salary to be paid entirely in legal tender

56. Except where otherwise expressly permitted by the provisions of this Act, the entire amount of the salary earned by, or payable to, any workman in respect of any work done by him shall be actually paid to him in legal tender, and every payment of, or on account of, any such salary made in any other form shall be illegal, null and void.

Recovery of salary not paid in legal tender

57. Every workman shall be entitled to recover in any court or before the Commissioner, acting under section 115, so much of his salary exclusive of sums lawfully deducted in accordance with the provisions of this Act as has not been actually paid to him in legal tender.

Interest on advances forbidden

58. No employer shall make any deduction by way of discount, interest or any similar charge on account of any advance of salary made to any workman.

Remuneration other than salary

59. Nothing in this Part shall render illegal a contract of service with a workman for giving to him food, quarters or other allowances or privileges in addition to money salary as a remuneration for his services, but no employer shall give to a workman any noxious drugs or intoxicating liquor by way of remuneration.

Shops and canteens

60. — (1) Nothing in this Part shall prevent the employer from establishing or permitting to be established a shop or a canteen for the sale of foodstuffs, provisions, meals or refreshments; but no workman shall be compelled by any contract of service to purchase any goods at that shop or canteen, and no noxious drugs or intoxicating liquor shall be sold at any such shop or canteen.

[21/84]

(2) No employer shall establish or keep or permit to be established or kept, a shop or canteen on any place of employment for the sale of foodstuffs, provisions, meals or refreshments to his workmen otherwise than in accordance with subsection (1).

Offence

61. Any employer who enters into any contract of service or gives any remuneration for service contrary to the provisions of this Part or declared by this Part to be illegal or receives any payment from any workman contrary to the provisions of this Part or contravenes section 60(2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000, and for a second or subsequent offence to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

[32/2008]

Proceedings may be taken against actual offender

62. [Repealed by Act 32 of 2008]

Payment of salary through bank

63. — (1) Nothing in section 54 or 56 shall operate so as to render unlawful or invalid any payment of salary by the employer to the workman in any of the following ways:

- (a) payment into an account at a bank in Singapore, being an account in the name of the workman or an account in the name of the workman jointly with one or more other persons;
- (b) payment by cheque made payable to or to the order of the workman.

[21/84]

(2) Where the salary or part thereof has been paid in any of the ways set out in subsection (1), section 57 shall not operate to give a right of recovery of so much of the salary as has been so paid.

[21/84]

Limitations on application of Part V

64. Nothing in this Part shall be held to apply to any body of persons working on an agreement of co-operation.

Part VI Contractors and Contracting

Liability of principals, contractors and subcontractors for salary of workman

65. — (1) Where a principal, in the course of or for the purposes of or in pursuance of or in furtherance of the interests of his trade or business, contracts with a contractor for the supply of labour or for the execution by or under the contractor of the whole or any part of any work undertaken by the principal, and any salary is due to any workman by the contractor or any subcontractor under the contractor for labour supplied or for work done in the course of the execution of such work, the principal and the contractor and any such subcontractor (not being the

employer) shall be jointly and severally liable with the employer to pay the workman as if the workman had been immediately employed by him, and where salary is claimed from the principal, this Act, with the exception of section 33 relating to priority of salary, shall apply as if reference to the principal were substituted for reference to the employer, except that salary claimed shall be calculated with reference to the salary of the workman under the employer by whom he is immediately employed.

(1A) No principal, contractor or subcontractor, not being the employer, shall be jointly and severally liable to any workman under subsection (1) for more than the salary earned in one month for work done by the employer.

(1B) In the case of a contract for constructional work, the principal shall not be liable for the payment of salary under subsection (1) unless he is also a constructional contractor.

(1C) [Deleted by Act 21 of 2016 wef 01/04/2017]

(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.

[Act 21 of 2016 wef 01/04/2017]

(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.

[Act 21 of 2016 wef 01/04/2017]

(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.

[Act 21 of 2016 wef 01/04/2017]

(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:

- (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.

[Act 21 of 2016 wef 01/04/2017]

- (3) Nothing in this section shall prevent any principal or contractor or subcontractor, not being the employer, who as the result of a claim made under this section has paid any salary to a workman, from instituting civil proceedings for the recovery of the amount of salary so paid from the employer of that workman.
- (4) Nothing in this section shall be construed to prevent a workman from recovering salary under this Act from his employer instead of the principal or contractor or subcontractor.
- (5) The reference to principal in this section shall include a reference to the Government or a statutory body or authority acting in the course of or in the discharge of its functions.

[21/84]

Registration of contractors and subcontractors

66. — (1) The Minister may, by notification in the Gazette, require all contractors and subcontractors to be registered with the Commissioner and thereafter no person shall act as a contractor or a subcontractor unless he is so registered.
- (2) Every application for such registration shall be in the prescribed form.
 - (3) Every person so registered under this section as a contractor or subcontractor shall be deemed to be the employer of the workmen employed by him.
 - (4) Every contractor or subcontractor who has been so registered and who changes the name under which he carries on business shall within 7 days of the change of name

apply in writing to the Commissioner for re-registration and cancellation of the previous registration.

- (5) The Commissioner may in his discretion effect the registration of any person under this section and may in his discretion cancel any such registration.
- (6) The Minister may make regulations to prescribe the requirements and conditions for registration of a contractor or subcontractor under this section.
- (7) Any person who contravenes this section shall be guilty of an offence.

Part VI(A) Part-Time Employees

Part-time employees

66A.— (1) In this Part, “part-time employee” means an employee who is required under his contract of service with an employer to work for less than 35 hours a week.

[36/95; 32/2008]

- (2) Notwithstanding subsection (1), the Minister may, by notification in the Gazette, declare that any employee or class of employees are not to be regarded as part-time employees for the purposes of this Part.

[36/95]

Minister may exclude or modify Act in relation to part-time employees

66B. The Minister may by regulations exclude or modify any or all of the provisions of this Act in their application to any part-time employee or class of part-time employees.

[36/95]

Part VII Domestic Workers

Minister may apply Act to domestic workers

- 67. The Minister may, from time to time by notification in the Gazette, apply all or any

of the provisions of this Act with such modification as may be set out in the notification to all domestic workers or to any group, class or number of domestic workers and may make regulations to provide generally for the engagement and working conditions of domestic workers.

[36/95]

Part VIII

Employment of Children and Young Persons

Interpretation of this Part

67A. In this Part —

“*child*” means a person who has not completed his 15th year of age;

“*young person*” means a person who has completed his 15th year of age but who has not completed his 16th year of age.

[41/2004]

Restriction on employment of children

68. — (1) No person shall employ a child in an industrial or a non-industrial undertaking except as provided for in subsections (2) and (3).

[36/95]

(2) A child may be employed in an industrial undertaking in which only members of the same family are employed.

[36/95]

(3) A child who is 13 years of age or above may be employed in light work suited to his capacity in a non-industrial undertaking.

[36/95; 41/2004]

(4) For the purposes of subsection (3), the certificate of a medical officer shall be conclusive upon the question of whether any work is suited to the capacity of any particular child.

[36/95]

Restriction on employment of young persons

69. No young person shall be employed in any industrial undertaking which the Minister by notification in the Gazette declares to be an industrial undertaking in which no young person shall be employed.

[36/95]

Conditions of employment

70. The Minister may by regulations made under this Act prescribe the conditions upon which a child or young person may be employed in any industrial or non-industrial undertaking.

Minimum rates of salary may be prescribed

71. — (1) If it is shown to the satisfaction of the Minister, upon the application of the Commissioner and after such inquiry as the Minister may think fit to direct, that the salaries of children or young persons, or both, employed in any industry or for any particular work or in any area are insufficient, having regard to the nature of the work and the conditions of employment, it shall be lawful for the Minister to prescribe, by order to be published in the Gazette, minimum rates of salary to be paid to children or young persons or both in that industry, type of employment or area.

(2) Any person contravening any such order shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both, and for a second or subsequent offence to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 2 years or to both.

[32/2008]

Approved employment

72. — (1) Sections 68 and 69 shall not apply:

(a) to the employment of children and young persons —

(i) in work approved and supervised by the Ministry of Education or the Institute of Technical Education, Singapore; and

- (ii) carried on in any technical, vocational or industrial training school or institute; and
- (b) to the employment of young persons under any apprenticeship programme approved and supervised by the Institute of Technical Education, Singapore.

[36/95]

- (2) For the purposes of this section, the Institute of Technical Education, Singapore means the Institute of Technical Education, Singapore established under the Institute of Technical Education Act (Cap. 141A).

[36/95]

Regulations regulating employment

- 73. The Minister may make regulations for regulating the employment of children in any occupation and no child or young person shall be employed as a workman under any circumstances or under any conditions which may be prohibited by the Minister from time to time by regulations made under this Act.

Offence

- 74. Any person who employs a child or young person in contravention of the provisions of this Part or any of the regulations made thereunder and any parent or guardian who knowingly or negligently suffers or permits such employment shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 2 years or to both except in the case where a child or young person suffers serious injury or death resulting from any breach of the provisions of this Part or any regulations made thereunder the offender shall be punished with a fine of \$5,000 and shall also be liable to imprisonment for a term not exceeding 2 years.

[32/2008]

Power of Youth Court in respect of children or young persons requiring care or protection

- 75. A child or young person in respect of whom any of the offences mentioned in this Part has been committed may be brought before a Youth Court and the Court, if satisfied that the child or young person requires care or protection, may exercise with respect to that child or young person all or any of the powers conferred by section 49 of the Children and Young Persons Act (Cap. 38).

[Act 27 of 2014 wef 01/10/2014]

Part IX Maternity Protection and Benefits and Childcare Leave for Parent

Length of benefit period

- 76. — (1) Subject to this section, every female employee shall be entitled to absent herself from work —
 - (a) during —
 - (i) the period of 4 weeks immediately before her confinement; and
 - (ii) the period of 8 weeks immediately after her confinement;
 - (b) during a period of 12 weeks, as agreed to by her and her employer, commencing —
 - (i) not earlier than 28 days immediately preceding the day of her confinement; and
 - (ii) not later than the day of her confinement; or
 - (c) during —
 - (i) a period of 8 weeks, as agreed to by her and her employer, commencing —
 - (A) not earlier than 28 days immediately preceding the day of her confinement; and
 - (B) not later than the day of her confinement; and
 - (ii) one or more than one period each of such duration as agreed between the employee and her employer but in aggregate no shorter than as reckoned in accordance with the Fifth Schedule or

24 days, whichever is the lower, all of which must be taken within the period of 12 months commencing on the day of her confinement.

[Act 26 of 2013 wef 01/04/2014]

(1A) Subject to this section and section 77, every female employee shall be entitled to receive payment from her employer at her gross rate of pay for any of the following periods (referred to in this Part as the benefit period):

- (a) where subsection (1)(a) applies, the period of 4 weeks referred to in subsection (1)(a)(i) and the first 4 weeks of the period referred to in subsection (1)(a)(ii);
- (b) where subsection (1)(b) applies, the first 8 weeks of the period referred to in subsection (1)(b); or
- (c) where subsection (1)(c) applies, the period of 8 weeks referred to in subsection (1)(c)(i).

[41/2004]

[Act 27 of 2015 wef 22/08/2015]

(2) A female employee who delivers a child before 1st May 2013, and whose estimated delivery date for her confinement in respect of that child (as certified by a medical practitioner) is before 1st May 2013, shall not be entitled to any pay during the benefit period if she has served her employer for less than 90 days immediately preceding the day of her confinement.

[Act 12 of 2013 wef 01/05/2013]

(2A) A female employee who delivers a child —

- (a) on or after 1 May 2013 but before the date of commencement of section 5(c) of the Employment (Amendment) Act 2015; or

[Act 27 of 2015 wef 22/08/2015]

- (b) before 1st May 2013 but whose estimated delivery date for her confinement in respect of that child (as certified by a medical practitioner) is on or after 1st May 2013,

shall not be entitled to any pay during the benefit period if she has served her employer

for less than 3 months immediately preceding the day of her confinement.

[Act 12 of 2013 wef 01/05/2013]

(2B) A female employee who delivers a child —

- (a) on or after the date of commencement of section 5(c) of the Employment (Amendment) Act 2015; or
- (b) before the date of commencement of section 5(c) of the Employment (Amendment) Act 2015 but whose estimated delivery date for her confinement in respect of that child (as certified by a medical practitioner) is on or after that date,

is not entitled to any pay during the benefit period if she has not served her employer for a period of at least 3 months preceding the day of her confinement.

[Act 27 of 2015 wef 22/08/2015]

(3) Where a female employee has worked in her employment for any day during the benefit period before her confinement, she shall be entitled to receive in addition to her gross rate of pay for that day an amount that is equivalent to a day's pay at the gross rate of pay or to absent herself from work on another day at the end of the benefit period.

[36/95]

- (4) Subject to any collective agreement or award to the contrary, a female employee shall not be entitled to any payment under subsection (1A) for any confinement if, at the time of the confinement —
- (a) she has 2 or more living children; and
 - (b) those children were born during more than one previous confinement.

[41/2004; 32/2008]

(5) Subsection (4) shall not apply to such class or classes of employees as the Minister may, from time to time by notification in the Gazette, specify.

(6) Where the employment of a female employee is terminated (whether by resignation or dismissal, upon the completion of her contract of service, or for any other reason) before she has

exercised, wholly or partly, her entitlement to absent herself from work during a period referred to in subsection (1)(c)(ii), she shall forfeit that entitlement (or the balance thereof) upon the termination of her employment.

[41/2004]

Payments to include holidays, etc.

77. — (1) The payment referred to in section 76 shall be paid for every day of the benefit period, including holidays, but not any day during the benefit period on which the female employee takes no-pay leave.

[21/84]

[Act 27 of 2015 wef 22/08/2015]

(2) Nothing in this section shall be construed to require an employer to pay to a female employee an extra day's salary for a holiday which falls within the benefit period.

[21/84]

[Act 27 of 2015 wef 22/08/2015]

When payment is to be made

78. —(1) In the case of a female employee who is a daily-rated employee, the payment referred to in section 76 shall be paid in 2 instalments, the first for the period up to and including the day of confinement, to be paid within 7 days from the date of confinement, and the second, for the period after confinement, to be paid within 7 days from the end of that period.

(2) In the case of any other female employee, the payment shall be paid at such time as the salary earned by the employee under her contract of service is due to be paid to her.

Payment of benefit on death of female employee before confinement

79. —(1) If a female employee, after giving notice to her employer under section 80(1), abstains from work in expectation of her confinement and dies from any cause before her confinement, the employer shall pay to the person nominated by her under section 80(4) or, if there is no such

person, to her personal representative a sum of money at the rate prescribed under section 76 from the date immediately following the last day on which she worked to the day immediately preceding the day of her death and except in the circumstances mentioned in this subsection no employer shall be liable to pay any sum in respect of a period exceeding 30 days.

[21/84]

(2) If a female employee dies from any cause on or after the day of her confinement and before any payment to which she is entitled has been paid to her, the employer shall pay to the person nominated by her under section 80(4) or, if there is no such person, to her personal representative any sum of money to which she was on the date of her death entitled in respect of the period up to the day of confinement and in respect of the period after confinement up to the day immediately preceding the day of her death.

Notice of confinement

80. — (1) A female employee shall at least one week before absenting herself from work in accordance with section 76 give notice to her employer specifying the date on which she intends to commence absenting herself from work.

[21/84]

(2) A female employee who has been confined shall as soon as practicable inform her employer of the date on which she was confined.

(3) Any female employee who omits to give notice as required under subsection (1) or fails to inform her employer as required under subsection (2) shall be entitled to only half the amount of any payment to which she is entitled to under this Part unless she was prevented by any sufficient cause from giving such notice.

(4) A female employee may at any time in writing nominate some other person to whom any payment to which she is entitled under this Part may be paid on her

behalf; and any such payment made to the person so nominated shall for the purpose of this Act be deemed to be payment to the female employee who nominated such person.

Dismissal during absence prohibited

81. Without prejudice to sections 84 and 84A, when a female employee absents herself from work in accordance with the provisions of this Part it shall not be lawful for her employer to give her notice of dismissal during her absence or on such a day that the notice will expire during her absence.

[28/2008]

Employment after confinement

82. Any employer who knowingly employs a female employee at any time during the period of 4 weeks immediately following her confinement shall be guilty of an offence.

Forfeiture of payment

83. If a female employee works for any other employer after she has absented herself from work under the provisions of this Part, she shall forfeit her claim to any payment to which she is entitled under this Part and shall be liable to dismissal.

Right to benefit unaffected by notice of dismissal given without sufficient cause

84. — (1) Without prejudice to sections 81 and 84A, no notice of dismissal given without sufficient cause by an employer to a female employee which —

- (a) if given before 1st May 2013, is given —
 - (i) within a period of 6 months preceding the estimated delivery date for her confinement (as certified by a medical practitioner); or
 - (ii) within a period of 6 months preceding the date of her confinement;
- (b) if given on or after 1st May 2013, is given at any time of her pregnancy (as certified by a medical practitioner before the notice of dismissal is given), where the female employee has served the employer for a

- period of 3 months or more immediately preceding the day the notice is given; or
- (c) if given on or after 1st May 2013 but before 1st August 2013 and where the female employee has served the employer for a period of less than 3 months, is given —
 - (i) within a period of 6 months preceding the estimated delivery date for her confinement (as certified by a medical practitioner); or
 - (ii) within a period of 6 months preceding the date of her confinement,

shall have the effect of depriving her of any payment to which, but for that notice, she would have been entitled or would, on or before the date of her confinement, have become entitled to under this Part.

[Act 12 of 2013 wef 01/05/2013]

(1A) In any case where there are 2 or more estimated delivery dates (each certified by a medical practitioner) for the confinement of a female employee, the estimated delivery date that is relevant for the purposes of subsection (1) shall be the estimated delivery date —

- (a) which is certified by a medical practitioner before the notice of dismissal is given by her employer; and
- (b) the date of such certification of which is closest to the date the notice of dismissal is given.

[28/2008]

(2) If any question arises as to whether any notice of dismissal given under subsection (1) was or was not given for sufficient cause, it shall be referred to the Minister within 2 months from the date of the employee's confinement.

[36/95]

(3) Where the Minister is satisfied that the employee has been dismissed without sufficient cause, he may, notwithstanding any rule of law or agreement to the contrary:

- (a) direct the employer to reinstate the employee in her former employment and pay the employee an amount equal to the wages that the employee would have

earned had she not been dismissed by the employer; or

- (b) direct the employer to pay such amount of wages as compensation as the Minister may consider just and equitable having regard to all the circumstances of the case, and the employer shall comply with the direction of the Minister.

[36/95]

- (4) The decision of the Minister under subsection (3) shall be final and conclusive and shall not be challenged in any court.

[36/95]

- (5) Any direction of the Minister under subsection (3) shall operate as a bar to any action for damages by the employee in any court in respect of the dismissal without sufficient cause under subsection (1).

[36/95]

- (6) An employer who fails to comply with the direction of the Minister under subsection (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

[36/95; 28/2008]

- (7) Where any amount to be paid by an employer under subsection (3) is not paid in accordance with the direction of the Minister and the employer has been convicted of an offence under subsection (6), the amount or so much thereof as remains unpaid shall be recoverable by the court as if it were a fine and the amount so recoverable shall be paid to the employee entitled to payment under the direction of the Minister.

[36/95]

Right to benefit unaffected by notice of dismissal given on ground of redundancy or by reason of reorganisation of employer's profession, business, trade or work

84A.— (1) Without prejudice to sections 81 and 84, no notice of dismissal given to a female employee by her employer on the ground of redundancy or by reason of any reorganisation of her employer's profession, business, trade or work —

- (a) if given before 1st May 2013, is given —
- (i) within a period of 3 months preceding the estimated delivery date for her confinement (as certified by a medical practitioner); or
- (ii) within a period of 3 months preceding the date of her confinement;
- (b) if given on or after 1st May 2013, is given at any time of her pregnancy (as certified by a medical practitioner before the notice of dismissal is given), where the female employee has served the employer for a period of 3 months or more immediately preceding the day the notice is given; or
- (c) if given on or after 1st May 2013 but before 1st August 2013 and where the female employee has served the employer for a period of less than 3 months, is given —
- (i) within a period of 3 months preceding the estimated delivery date for her confinement (as certified by a medical practitioner); or
- (ii) within a period of 3 months preceding the date of her confinement,

shall have the effect of depriving her of any payment to which, but for that notice, she would have been entitled or would, on or before the date of her confinement, have become entitled to under this Part.

[Act 12 of 2013 wef 01/05/2013]

- (2) In any case where there are 2 or more estimated delivery dates (each certified by a medical practitioner) for the confinement of a female employee, the estimated delivery date that is relevant for the purposes of subsection (1) shall be the estimated delivery date —

- (a) which is certified by a medical practitioner before the notice of dismissal is given by her employer; and
- (b) the date of such certification of which is closest to the date the notice of dismissal is given.

[28/2008]

- (3) The payment referred to in subsection (1) shall be in addition to any retrenchment benefit or other payment to which the female employee is entitled under the terms of her contract of service or under any other written law.

[28/2008]

85. [Repealed by Act 12 of 2013 wef 01/05/2013]

Contracting out

- 86. Any contract of service whereby a female employee relinquishes any right to maternity benefit under this Part shall be null and void in so far as it purports to deprive her of that right or to remove or reduce the liability of any employer to make any payment under this Part.

Offences and penalties

- 87. — (1) Any employer who —
 - (a) fails, without reasonable cause, to grant maternity leave under this Part to a female employee who is entitled to and requests for such leave;
 - (b) fails to pay his female employee in accordance with any of the provisions of this Part (other than section 87A); or
 - (c) acts in contravention of section 81,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both.

- (2) Any employer who is guilty of an offence under section 82 shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both.
- (3) Where an employer who is convicted or found guilty of an offence under subsection (1)(a), (b) or (c) or section 82 is a repeat offender, he shall be liable on

conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

- (4) For the purposes of subsection (3), a person is a repeat offender in relation to an offence under subsection (1)(a), (b) or (c) or section 82 if the person who is convicted or found guilty of an offence under subsection (1)(a), (b) or (c) or section 82 (referred to as the current offence) has been convicted or found guilty of —
 - (a) an offence under subsection (1)(a), (b) or (c) or section 82; or
 - (b) an offence under section 17(1) of the Child Development Co-Savings Act (Cap. 38A) in force before, on or after 1st May 2013,

on at least one other occasion on or after 1st May 2013 and before the date on which he is convicted or found guilty of the current offence.

[Act 12 of 2013 wef 01/05/2013]

Childcare leave for parent

87A.— (1) Subject to subsection (2), where any employee —

- (a) has served an employer for a period of not less than 3 months; and
- (b) has any child below the age of 7 years at any time during any relevant period,

he shall be entitled to childcare leave of 2 days for that relevant period.

[41/2004]

- (2) An employee —
 - (a) shall not be entitled to more than 14 days of childcare leave in respect of any child; and
 - (b) shall —
 - (i) take his first entitlement of childcare leave of 2 days for a relevant period in that relevant period or the next succeeding relevant period; and
 - (ii) thereafter, take his next and each subsequent entitlement of childcare leave of 2 days for a relevant period in the next succeeding relevant period and in each subsequent succeeding relevant period, respectively.

[41/2004; 28/2008]

(3) The childcare leave shall be in addition to the rest days, holidays, annual leave and sick leave to which an employee is entitled under sections 36, 88, 43 and 89, respectively.

[41/2004; 32/2008]

(4) An employer shall grant, and an employee who is entitled to childcare leave shall take, the entitlement of childcare leave of 2 days for a relevant period not later than the last day of that relevant period, and any employee who fails to take that leave by that day —

- (a) shall thereupon cease to be entitled to that leave; and
- (b) shall not be entitled to any payment in lieu thereof.

[41/2004]

(5) An employer shall pay an employee who is entitled to childcare leave his gross rate of pay for every day of such leave that is taken by the employee.

[41/2004]

(5A) Despite subsection (5), no employee is entitled to take paid childcare leave on a day the employee takes no-pay leave.

[Act 27 of 2015 wef 22/08/2015]

(6) If the employment of an employee who is entitled to childcare leave is terminated (whether by resignation or dismissal, upon the completion of his contract of service, or for any other reason) before he has taken the entitlement of childcare leave of 2 days for a relevant period, the employee —

- (a) shall cease to be entitled to that leave upon the termination of his employment; and
- (b) shall not be entitled to any payment in lieu thereof.

[41/2004]

(7) Any employer who contravenes subsection (5) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both.

[Act 12 of 2013 wef 01/05/2013]

(7A) Any employer who fails, without reasonable cause, to grant childcare leave to an employee who is entitled to and requests for such leave shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both.

[Act 12 of 2013 wef 01/05/2013]

(7B) Where an employer who is convicted or found guilty of an offence under subsection (7) or (7A) is a repeat offender, he shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

[Act 12 of 2013 wef 01/05/2013]

(7C) For the purposes of subsection (7B), a person is a repeat offender in relation to an offence under subsection (7) or (7A) if the person who is convicted or found guilty of an offence under subsection (7) or (7A) (referred to as the current offence) has been convicted or found guilty of —

- (a) an offence under subsection (7) or (7A);
- (b) an offence under section 12B (12) or (14) of the Child Development Co-Savings Act (Cap. 38A) in force before, on or after 1st May 2013; or
- (c) an offence under section 12B (13) of the Child Development Co-Savings Act,

on at least one other occasion on or after 1st May 2013 and before the date on which he is convicted or found guilty of the current offence.

[Act 12 of 2013 wef 01/05/2013]

(8) In this section —

“*child*”, in relation to an employee, includes any adopted child and step-child of the employee;

“*relevant period*”, in relation to an employee, means —

- (a) any period of 12 months as is agreed to by the employee and his employer; or
- (b) where there is no such agreement, a calendar year.

[41/2004]

Part X

Holiday and Sick Leave Entitlements

Holidays

88. — (1) Every employee shall be entitled to a paid holiday at his gross rate of pay on a public holiday that falls during the time that he is employed, subject to the following:

(a) by agreement between the employer and the employee any other day or days may be substituted for any one or more public holidays;

[Act 27 of 2015 wef 22/08/2015]

(b) if any public holiday falls on a rest day, the working day next following that rest day shall be a paid holiday; and

[Act 27 of 2015 wef 22/08/2015]

(c) if any public holiday falls on a day when the employee is not required to work under his contract of service, the employer may either pay the employee for that holiday at his gross rate of pay or give the employee a day off in substitution for that holiday.

[32/2008]

[Act 27 of 2015 wef 22/08/2015]

[Act 27 of 2015 wef 22/08/2015]

(1) Notwithstanding subsection (1), no employee shall be entitled to holiday pay for any public holiday which falls on a day when the employee is on leave of absence without pay granted by the employer at the request of the employee.

[32/2008]

[Act 27 of 2015 wef 22/08/2015]

(2) An employee who absents himself from work on the working day immediately preceding or immediately succeeding a public holiday or any day substituted therefor under subsection (1) without the prior consent of his employer or without reasonable excuse shall not be entitled to any holiday pay for that holiday.

[32/2008]

[Act 27 of 2015 wef 22/08/2015]

(3) Notwithstanding subsection (1), any employee may be required by his employer to work on any public holiday to which he would otherwise be entitled under that subsection and, in such event, he shall be paid an extra day's salary at the basic rate of pay for one day's work in addition to the gross rate of pay for that day and to a travelling allowance, if payable to him under the terms of his agreement with his employer, for one day.

[32/2008]

[Act 27 of 2015 wef 22/08/2015]

(4A) Notwithstanding subsections (1) and (4), where an employee who is employed in a managerial or an executive position is required by his employer to work on any public holiday to which he would otherwise be entitled under subsection (1), the employee shall be paid the gross rate of pay for that day and may be given the following, in lieu of a day off in substitution for that holiday or an extra day's salary at the basic rate of pay:

(a) part of a day off on a working day comprising such number of hours as may be agreed between the employee and his employer; and

(b) in the case where there is no such agreement —

(i) part of a day off on a working day comprising 4 hours if the employee worked on that holiday for a period not exceeding 4 hours; or

(ii) a day off on a working day if the employee worked on that holiday for a period of more than 4 hours.

[Act 26 of 2013 wef 01/04/2014]

[Act 27 of 2015 wef 22/08/2015]

(4) No employee shall, by reason of subsection (4), receive double any housing allowance or food allowance.

[32/2008]

(5) Subsection (4) shall not apply to an employee who is employed by the Government or a statutory body in any of the essential services as defined under Part III of the Criminal Law (Temporary Provisions) Act (Cap. 67), but —

- (a) any such employee may, notwithstanding subsection (1), be required by his employer to work on a public holiday or part thereof to which he would otherwise be entitled under that subsection; and

[Act 27 of 2015 wef 22/08/2015]

- (b) in any such case, he shall be given a day or part of a day off, as the case may be, in substitution for the public holiday or part thereof.

[32/2008]

[Act 27 of 2015 wef 22/08/2015]

- (6) For the purposes of this section if any public holiday falls on a half working day, the gross or basic rate of pay payable shall be that of a full working day.

[32/2008]

[Act 27 of 2015 wef 22/08/2015]

Sick leave

89. — (1) Any employee who has served an employer for a period of not less than 6 months shall, after examination at the expense of the employer by a medical practitioner appointed by the employer or a medical officer, be entitled to such paid sick leave, as may be certified by the medical practitioner or medical officer, not exceeding in the aggregate —

- (a) if no hospitalisation is necessary, 14 days in each year; or
- (b) if hospitalisation is necessary, the lesser of the following:
- (i) 60 days in each year;
- (ii) the aggregate of 14 days plus the number of days on which he is hospitalised.

[32/2008]

- (1) Any employee who has served an employer for a period of at least 3 months, but less than 6 months shall, after examination at the expense of the employer by a medical practitioner appointed by the employer or a medical officer, be entitled to such paid sick leave, as may be certified by the medical practitioner or medical officer, not exceeding in the aggregate —

- (a) where the employee has served the employer for a period of at least 3 months but less than 4 months —

- (i) if no hospitalisation is necessary, 5 days in each year; or
- (ii) if hospitalisation is necessary, the lesser of the following:

- (A) 15 days in each year;
- (B) the aggregate of 5 days plus the number of days on which he is hospitalised;

- (b) where the employee has served the employer for a period of at least 4 months but less than 5 months —

- (i) if no hospitalisation is necessary, 8 days in each year; or
- (ii) if hospitalisation is necessary, the lesser of the following:

- (A) 30 days in each year;
- (B) the aggregate of 8 days plus the number of days on which he is hospitalised; or

- (c) where the employee has served the employer for a period of at least 5 months but less than 6 months —

- (i) if no hospitalisation is necessary, 11 days in each year; or
- (ii) if hospitalisation is necessary, the lesser of the following:

- (A) 45 days in each year;
- (B) the aggregate of 11 days plus the number of days on which he is hospitalised.

[32/2008]

- (2) If an employee is certified by a medical practitioner appointed by the employer or a medical officer to be ill enough to need to be hospitalised but is not hospitalised for any reason whatsoever, the employee shall be deemed to be hospitalised for the purposes of this section.

[32/2008]

- (3) An employee who absents himself on sick leave —

- (a) which is not certified by a medical practitioner appointed by the employer or a medical officer; or
- (b) which is certified by a medical officer, but without informing or attempting to inform

his employer of such sick leave within 48 hours of the commencement thereof,

shall be deemed to have absented himself from work without the permission of his employer and without reasonable excuse for the days on which he is so absent from work.

[32/2008]

(4) The employer shall pay the employee for every day of such sick leave —

- (a) where no hospitalisation is necessary, at the gross rate of pay excluding any allowance payable in respect of shift work; and
- (b) where hospitalisation is necessary, at the gross rate of pay.

[32/2008]

(5) Notwithstanding subsection (5), no employee shall be entitled to paid sick leave on a rest day or on a holiday to which he is entitled under section 36 or 88 respectively or on any day of paid annual leave or on a day when he is not required to work under his contract of service or on a day when he is on leave of absence without pay granted by the employer at his request.

[32/2008]

(6) No employee shall be entitled to paid sick leave for the period during which he is receiving or is entitled to receive compensation for temporary incapacity under paragraph 4 of the Third Schedule to the Work Injury Compensation Act (Cap. 354).

[32/2008]

(7) For the purposes of subsections (1) and (2), an employer shall be deemed to fulfil the obligation imposed by those subsections to bear the fees of any medical examination of his employees if —

(a) the Commissioner, after considering the merits of any healthcare scheme that the employer provides to his employees and such other matters as the Commissioner may consider relevant, by order in writing directs that the employer fulfils that

obligation for so long as he provides such a healthcare scheme for his employees; or

(b) the employer complies with such other requirement as the Minister may, by regulations, prescribe.

[32/2008]

(8) An order made under subsection (8)(a) —

- (a) may be subject to such terms or conditions as the Commissioner may determine, which the Commissioner may from time to time add to, vary or revoke;
- (b) need not be published in the Gazette; and
- (c) may be revoked by the Commissioner in writing at any time.

[32/2008]

(9) This section shall not apply to any employee seeking or undergoing medical treatment which, in the opinion of a medical practitioner or medical officer performing the examination under subsection (1) or (2), is for cosmetic purposes.

[Act 26 of 2013 wef 01/04/2014]

Offence

90. —(1) Any employer who employs any person as an employee contrary to the provisions of this Part or fails to pay any salary in accordance with the provisions of this Part shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000, and for a second or subsequent offence to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

[4/2010 wef 05/02/2010]

(2) Notwithstanding subsection (1) —

- (a) an employer and his employees or a trade union representing his employees may negotiate for and agree to terms of service relating to leave more favourable than those contained in section 89; and
- (b) it shall not be an offence for an employer to grant to his employee's terms of service

relating to leave more favourable than those contained in section 89.

[4/2010 wef 05/02/2010]

or particulars about the employment by the employer of the employee or former employee, as the case may be.

[Act 27 of 2015 wef 01/04/2016]

Part XI

Health, Accommodation and Medical Care

- 91. [Repealed by Act 32 of 2008]
- 92. [Repealed by Act 32 of 2008]
- 93. [Repealed by Act 32 of 2008]
- 94. [Repealed by Act 32 of 2008]

Part XII

Registers, Returns and Other Documentary Requirements

Employers' obligation in relation to employee records

95. — (1) An employer must make, and keep for the period prescribed (called in this section the record retention period), employee records containing the prescribed particulars for —
- (a) every employee the employer employs; and
 - (b) every former employee of the employer.
- (2) An employer must ensure that an employee record made and kept under subsection (1) is, during the record retention period prescribed for the employee record, readily accessible to the employee or former employee to which the employee record relates.
- (3) An employer is taken to have failed to comply with subsection (1) if the employer makes or keeps an employee record that is incomplete or inaccurate, whether or not the employer knew that the record is incomplete or inaccurate.
- (4) Different record retention periods may be prescribed for different classes of employees or former employees, and for different types of employee records.
- (5) In this section, “employee record”, for an employee or a former employee of an employer, means a record of information

Employers' obligation to give record of key employment terms

- 95A.— (1) This section only applies to, and in relation to, every employee —
- (a) who enters into a contract of service with the employer on or after the date of commencement of section 9 of the Employment (Amendment) Act 2015; and
 - (b) who is employed under that contract for a period not shorter than the prescribed minimum period of service.
- (2) An employer must give each employee of the employer a written record of the key employment terms of the employee not later than 14 days after the day that the employee starts employment with the employer, or within such other period as may be prescribed in substitution.
- (3) The requirement to give a written record of key employment terms to an employee in subsection (2) is satisfied if —
- (a) an electronic record containing the key employment terms is provided in a manner that enables the information contained in the electronic record to be accessible and useable by the employee for subsequent reference; or
 - (b) the key employment terms are published on an Internet website —
 - (i) which is authorised by the employer and readily accessible to the employee; and
 - (ii) which address is disseminated by the employer to the employee.
- (4) To avoid doubt, subsection (3) does not limit any other manner of giving to an employee a written record of the key employment terms of the employee.
- (5) An employer is taken to have failed to comply with subsection (2) if the written record given is incomplete or inaccurate, whether or not the employer knew that the record is incomplete or inaccurate.
- (6) The Minister may, by order published in the Gazette and subject to such conditions

as are specified in the order, exempt from any provision in this section —

- (a) any class of employers specified in the order, in respect of all employees; or
 - (b) all employers or any class of employers, in respect of any class of employees, specified in the order.
- (7) In this section, “key employment term”, for an employee, means any type of term of employment contained in a contract of service between an employer and the employee that is prescribed to be a key employment term.

[Act 27 of 2015 wef 01/04/2016]

Employers’ obligation in relation to pay slips

96. — (1) Subject to subsection (2), an employer must give —
- (a) to every employee of the employer a pay slip, within the time prescribed for giving pay slips, for all salary paid by the employer for the salary period or salary periods to which the pay slip relates; and
 - (b) to every employee a pay slip for every sum paid by the employer under section 22 or 23.
- (2) A pay slip given by an employer to an employee must be in the form prescribed (if prescribed) and must contain all the information prescribed.
- (3) The requirement to give a pay slip to an employee under this section is satisfied if an electronic record containing the prescribed information of a pay slip is provided in a manner that enables the information contained in the electronic record to be accessible and useable by the employee for subsequent reference.
- (4) An employer is taken to have failed to comply with subsection (1) if the pay slip given to an employee is incomplete or inaccurate, whether or not the employer knew that the pay slip is incomplete or inaccurate.
- (5) The Minister may, by order published in the Gazette and subject to such conditions as are specified in the order, exempt from any provision in this section —

- (a) any class of employers specified in the order, in respect of all employees; or
- (b) all employers or any class of employers, in respect of any class of employees, specified in the order.

[Act 27 of 2015 wef 01/04/2016]

Returns

97. — (1) The Commissioner may, by notification in the Gazette, require any employer or class of employers to forward to the Commissioner at such time or times as may be specified in the notification a return in such form or forms as may be approved by the Commissioner giving the particulars and information prescribed therein, and any such employer shall furnish particulars and information so prescribed.
- (2) No person shall be bound to furnish any particulars or information other than such as are accessible to him in the course of or derivable from any profession, business, trade or work in the conduct or supervision of which he is engaged.

Commissioner may call for further returns

98. — (1) The Commissioner may give notice in writing to any employer when and as often as he thinks necessary requiring the employer to furnish within a reasonable time stated in the notice fuller or further returns respecting any matter as to which a return is required under this Act or the Employment of Foreign Manpower Act (Cap. 91A).

[30/2007]

- (2) Such requisition may specify —
 - (a) the form in which and the time within which the particulars and information are to be furnished;
 - (b) the particulars and information to be furnished; and
 - (c) the place or manner at or in which the particulars and information are to be delivered.

Power to call for returns, books, etc.

99. For the purpose of obtaining full information in respect of any employer’s

employees, the Commissioner may give notice in writing to such person requiring him, within the time stated in the notice, to complete and deliver to the Commissioner any return specified in the notice and in addition or alternatively requiring him to attend personally before the Commissioner or any inspecting officer specified in the notice and to produce for examination any books, documents, accounts and returns which the Commissioner may consider necessary.

[21/84]

Service of requisitions

100. [Repealed by Act 32 of 2008]

Offence

101. — (1) Any employer who —

- (a) wilfully refuses or without lawful excuse (the proof of which shall lie on him) neglects to furnish the particulars or information required within the time allowed for furnishing the particulars and information, or to furnish the particulars and information in the form specified or prescribed, or to authenticate the particulars and information at the place or in the manner specified or prescribed for the delivery thereof;
- (b) wilfully furnishes or causes to be furnished any false particulars or information in respect of any matter specified in the notice requiring particulars or information to be furnished; or
- (c) refuses to answer, or wilfully gives a false answer to, any question necessary for obtaining any information or particulars required to be furnished under this Act,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both, and in the case of a continuing offence to a further fine not exceeding \$500 for every day during which the offence continues, and in respect of false particulars, information and answers, the offence shall be deemed to continue until true particulars, information or answers have been furnished or given.

- (2) A certificate under the hand of the Commissioner stating that such returns have not been furnished or are incorrect shall be sufficient prima facie evidence of the truth of the facts stated in the certificate.

Returns not to be published or disclosed

102. — (1) No return of particulars or information and no part of a return furnished, and no answer to any question put, for the purposes of this Act shall, without the previous consent in writing of the person having the control, management or superintendence of the profession, business, trade or work in relation to which the return or answer was furnished or given, be published nor, except for the purposes of a prosecution under this Act, shall any person not engaged in connection with the collection or preparation of statistics under this Act be permitted to see any such individual return or any such part of an individual return.

- (2) Every person engaged in connection with the collection, preparation or publication of statistics under this Act shall be required to make a declaration in the prescribed form that he will not disclose or, except for the purposes of this Act, make use of the contents of any such part of an individual return, or any such answer; and any person who knowingly acts in contravention of any declaration which he has so made shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 12 months or to both.

[32/2008]

- (3) In any report, summary of statistics, or other publication prepared under this Act with reference to any trade or industry, the particulars comprised in any return shall not be disclosed in any manner whatever or arranged in any way which would enable any person to identify any particulars so published as being

particulars relating to any individual person or business.

- (4) If any person, having possession of any information which to his knowledge has been disclosed in contravention of this section, publishes or communicates to any other person any such information, he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 12 months or to both.

[32/2008]

Part XIII

Inspection and Enquiry

Powers of Commissioner and inspecting officers

103.— (1) The Commissioner or any inspecting officer shall, for the purposes of this Act, have power to do all or any of the following:

- (a) to enter and search, by day or by night, any premises or part thereof when he has reasonable cause to believe that evidence of the commission of an offence under this Act or of a civil contravention can be found therein;

[Act 27 of 2015 wef 01/04/2016]

(aa) to enter without previous notice at any reasonable time any place of employment for the purpose of conducting any audit in relation to the terms and conditions of employment of any employee;

[Act 26 of 2013 wef 01/04/2014]

(b) to examine orally any person reasonably believed to be acquainted with the facts and circumstances relevant to the carrying out of the provisions of this Act, and to reduce into writing the answer given or statement made by that person;

(c) to require any person whom the Commissioner or inspecting officer has reason to believe has any document, including documents of identity or documents containing information relevant to the carrying out of the provisions of this Act, to produce any such

document and to answer such questions relating thereto as he may think proper to ask;

- (d) to examine notices and all documents which are required to be kept under the provisions of this Act or any regulations made thereunder, and any document required to be produced under paragraph (c);
- (e) to make copies of or retain any notice or document referred to in paragraph (d);
- (f) to retain for purposes of analysis samples of materials and substances used or handled by employees, except that the employer or his representative shall be notified of any such samples of materials or substances taken or removed for this purpose;
- (g) to take such photographs, or audio or video recording, as the Commissioner or inspecting officer thinks necessary, of the premises and persons reasonably believed to be acquainted with the facts and circumstances relevant to the carrying out of the provisions of this Act;

[Act 27 of 2015 wef 22/08/2015]

- (h) to require any person to produce any article which is relevant to any investigation under this Act and, if necessary, to take into custody any such article.

[32/2008]

(2) The person referred to in subsection (1)(b) shall be bound to state truly the facts and circumstances with which he is acquainted.

[32/2008]

(3) A statement made by the person referred to in subsection (1)(b) shall be read over to him and shall, after correction, if necessary, be signed by him.

[32/2008]

(4) The Commissioner or the inspecting officer shall, if required to do so, show his credentials.

[32/2008]

Notice to employer by Commissioner or inspecting officer of inspection or visit

104. On entering any place of employment under section 103, the Commissioner or the inspecting officer shall notify the employer or his representative of his presence unless he considers that such a notification may be prejudicial to the efficient performance of his duties.

[21/84; 36/95; 32/2008]

Power to arrest without warrant

105.— (1) Any inspecting officer may arrest without warrant any person whom he reasonably suspects —

- (a) is committing or has committed an offence under section 21, 22 or 23 read with section 34; or
 - (b) has abetted the commission of any offence referred to in paragraph (a).
- (2) Any inspecting officer may arrest without warrant any person who is an officer or a member of a body corporate or an unincorporated association or a partner of a partnership and whom the inspecting officer reasonably suspects has consented to, connived in or due to neglect on his part caused the commission of an offence referred to in subsection (1)(a).
- (3) An inspecting officer making an arrest without warrant shall, without unnecessary delay and subject to subsection (5), produce the person arrested before a Magistrate's Court.
- (4) No inspecting officer shall detain in custody a person arrested without warrant for longer than is reasonable in the circumstances, and such period shall not exceed 48 hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court.
- (5) Any person who has been arrested by an inspecting officer may be released on bail, or on his own bond, by an inspecting officer.

[Act 26 of 2013 wef 01/04/2014]

How to arrest

105A.— (1) In making an arrest, an inspecting officer making the arrest must touch or confine the body of the person to be arrested unless the person submits to arrest by word or action.

- (2) If the person forcibly resists or tries to evade arrest, the inspecting officer may use all means necessary to effect the arrest.

[Act 26 of 2013 wef 01/04/2014]

No unnecessary restraint

105B.— (1) The person arrested shall not be subjected to more restraint than is necessary to prevent his escape.

- (2) An inspecting officer may use handcuffs or any similar means of restraint on a person arrested to prevent him from —
- (a) inflicting any bodily injury to himself or others;
 - (b) damaging any property;
 - (c) creating any disturbance; or
 - (d) escaping from custody.
- (3) The handcuffs or similar means of restraint shall not be used for the purpose of punishment.

[Act 26 of 2013 wef 01/04/2014]

Search of persons arrested

105C.— (1) When a person is arrested, the inspecting officer making the arrest may search the person and take possession of all articles (other than necessary wearing apparel) found upon the person that the inspecting officer has reason to believe were connected with the offence for which the person is being arrested.

- (2) Whenever it is necessary to cause a person to be searched, the search shall be made by an inspecting officer of the same sex as the person, with strict regard to decency.

[Act 26 of 2013 wef 01/04/2014]

Inspecting officer to be armed

105D. Every inspecting officer shall be provided with such batons and accoutrements as may be necessary for the effective discharge of his duties.

[Act 26 of 2013 wef 01/04/2014]

Power to seize offensive weapons

105E. An inspecting officer making any arrest may take from the person arrested any offensive weapons which he has about his person.

[Act 26 of 2013 wef 01/04/2014]

Power on escape to pursue and arrest

105F. If a person in lawful custody escapes or is rescued, the inspecting officer from whose custody he escaped or was rescued may immediately pursue and arrest him in any place within Singapore and deal with that person as he might have done on the original arrest.

[Act 26 of 2013 wef 01/04/2014]

Inspecting officer not to reveal secrets

106. No person shall otherwise than in the performance of his duties reveal any manufacturing or commercial secrets which may at any time come to his knowledge in the course of his duty as an inspecting officer.

Disposal of documents, articles, etc.

106A.— (1) Any document, article or thing that the Commissioner or an inspecting officer takes possession of under this Part must —

- (a) where the document, article or thing is produced in any criminal trial, be dealt with in accordance with section 364 of the Criminal Procedure Code (Cap. 68); and
 - (b) in any other case, be returned to the owner or reported to a Magistrate.
- (2) Where the report of any document, article or thing is made to a Magistrate under subsection (1)(b), the Magistrate may order the document, article or thing —
- (a) to be forfeited; or
 - (b) to be disposed of in such manner as the Magistrate thinks fit.
- (3) Nothing in this section is taken to prejudice any right to retain or dispose of property which may exist in law apart from this section.

[Act 27 of 2015 wef 22/08/2015]

Offence

107. Any person who —

- (a) without reasonable excuse, neglects or refuses to produce any document or article as required under section 103;
- (b) makes to the Commissioner or an inspecting officer exercising the powers under section 103 a statement either orally or in writing which is false in a material particular; or
- (c) otherwise hinders or obstructs the Commissioner or an inspecting officer in the exercise of the powers under section 103,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both.

[32/2008]

Part XIV General

Calculation of gross and basic rates of pay of employee employed on monthly rate or piece rates

107A.— (1) The gross rate of pay per day of an employee employed on a monthly rate or on piece rates shall be calculated in accordance with the second column of the Third Schedule.

[36/95]

- (2) The basic rate of pay per day of an employee employed on a monthly rate or on piece rates shall be calculated in accordance with the third column of the Third Schedule.

[36/95]

Wrongful detention of employee

108. Any employer who without reasonable excuse, the proof of which shall lie on him, refuses to allow an employee whose contract of service has been determined in any of the ways hereinbefore provided to leave his service shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both, and the whole or any portion of any fine recoverable under this

section may be adjudged by the court to be paid to the employee.

[21/84; 32/2008]

Employee not answerable for debt, default or miscarriage of another

109. No employee shall be bound, by virtue of any contract of service under this Act, to answer for the debt, default or miscarriage of any other person.

Obstruction of employee by employer

110. Any employer or other person who in any way obstructs any employee in appearing before the Commissioner in pursuance of this Act shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both.

[21/84; 32/2008]

Punishment for obstruction

111. Any person who wilfully obstructs or impedes any entry, inspection, inquiry or investigation made under this Act for which no penalty is expressly provided shall be guilty of an offence.

[32/2008]

Penalties

112. Any person who is guilty of any breach or any offence under this Act for which no penalty is otherwise provided shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both, and for a subsequent offence under the same section to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

[21/84; 32/2008]

Abetment of offences

112A. Any person who abets the commission of an offence under this Act shall be guilty of the offence and shall be liable on conviction to be punished with the punishment provided for that offence.

[Act 26 of 2013 wef 01/04/2014]

Penalty for fraudulently inducing employee to emigrate

113. Any person who by force, intoxication or ill-treatment, intimidation or fraud, or by means of false representations, induces or attempts to induce any person to enter into a contract of service to work beyond the limits of Singapore shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 2 years or to both.

[32/2008]

Offences by bodies corporate, etc.

113A.— (1) Where an offence under this Act committed by a body corporate is proved —

- (a) to have been committed with the consent or connivance of an officer of the body corporate; or
- (b) to be attributable to any neglect on his part,

The officer as well as the body corporate shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

- (2) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.
- (3) Where an offence under this Act committed by a partnership is proved —
 - (a) to have been committed with the consent or connivance of a partner; or
 - (b) to be attributable to any neglect on his part,

the partner as well as the partnership shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

- (4) Where an offence under this Act committed by an unincorporated association (other than a partnership) is proved —
 - (a) to have been committed with the consent or connivance of an officer of the unincorporated association or a member of its governing body; or

- (b) to be attributable to any neglect on the part of such an officer or member,

the officer or member as well as the unincorporated association shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

- (5) For the purposes of this section, where an offence under this Act has been committed by a body corporate, an unincorporated association (other than a partnership) or a partnership, it shall be presumed, until the contrary is proved, that the offence is attributable to the neglect of an officer or a member of the body corporate or unincorporated association or a partner of the partnership, as the case may be, who —

- (a) is primarily responsible for the act or omission which constitutes the offence; and
- (b) has failed to exercise reasonable supervision or oversight as such officer, member or partner.

- (6) In this section —

“*body corporate*” includes a limited liability partnership registered under the Limited Liability Partnerships Act (Cap. 163A);

“*officer*” —

- (a) in relation to a body corporate, means any director, partner, member of the committee of management, chief executive, manager, secretary or other similar officer of the body corporate and includes any person purporting to act in any such capacity; or
- (b) in relation to an unincorporated association (other than a partnership), means the president, the secretary, or any member of the committee of the unincorporated association, or any person holding a position analogous to that of president, secretary or member of such a committee and includes any person purporting to act in any such capacity;

“*partner*” includes a person purporting to act as a partner.

- (7) The Minister may make regulations to provide for the application of any provision of this section, with such modifications as the Minister considers appropriate, to anybody corporate or unincorporated association formed or recognised under the law of a territory outside Singapore.

[Act 26 of 2013 wef 01/04/2014]

Power to compound offences

114. The Commissioner may in his discretion compound any such offence under this Act as may be prescribed as being an offence which may be compounded by accepting from the person reasonably suspected of committing that offence a sum not exceeding \$5,000.

[32/2008]

[Act 26 of 2013 wef 01/04/2014]

Part XV Claims, Complaints and Investigations into Offences

Commissioner’s power to inquire into complaints

- 115.— (1) Subject to this section, the Commissioner may inquire into and decide any dispute between an employee and his employer or any person liable under the provisions of this Act to pay any salary due to the employee where the dispute arises out of any term in the contract of service between the employee and his employer or out of any of the provisions of this Act, and in pursuance of that decision may make an order in the prescribed form for the payment by either party of such sum of money as he considers just without limitation of the amount thereof.

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

- (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.

[Act 21 of 2016 wef 01/04/2017]

(2) The Commissioner shall not inquire into any dispute in respect of matters arising earlier than one year from the date of lodging a claim under section 119 or the termination of the contract of service of or by the person claiming under that section:

Provided that the person claiming in respect of matters arising out of or as the result of a termination of a contract of service has lodged a claim under section 119 within 6 months of the termination of the contract of service.

(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)).

[Act 21 of 2016 wef 01/04/2017]

(3) The powers of the Commissioner under subsection (1) shall include the power to hear and decide, in accordance with the procedure laid down in this Part, any claim by a subcontractor for labour against a contractor or subcontractor for any sum which the subcontractor for labour claims to be due to him in respect of any labour provided by him under his contract with the contractor or subcontractor and to make such consequential orders as may be necessary to give effect to his decision.

(3A) Where the employee is employed in a managerial or an executive position, an order for the payment of money under subsection (1) shall not exceed \$20,000.

[36/2010 wef 01/02/2011]

(3B) Subject to subsection (3C), any order made by the Commissioner under subsection (1) in the absence of a party concerned or affected by the order may be set aside or varied by the Commissioner, on the application of that

party, on such terms as the Commissioner thinks just.

[Act 26 of 2013 wef 01/04/2014]

(3C) An application to set aside or vary an order made by the Commissioner referred to in subsection (3B) shall be made no later than 14 days after the date of the order.

[Act 26 of 2013 wef 01/04/2014]

(4) In this section, “employer” includes the transferor and the transferee of an undertaking or part thereof referred to in section 18A.

[36/95]

Prohibiting order by Commissioner to third party

116.— (1) Whenever the Commissioner has made an order under section 115 against any employer or any person liable for the payment of any sum of money to any workman or subcontractor for labour and after inquiry finds that there exists between that employer or person liable and some other person a contract in the course of the execution of which the workman or subcontractor for labour performed the work in respect of which the order has been made, the Commissioner may summon that other person and may make an order prohibiting him from paying to the employer or person liable and requiring him to pay to the Commissioner any money (not exceeding the amount found due to the workman or subcontractor for labour) admitted by him to be owing to the employer or person liable in respect of the contract.

(2) Where that other person admits to the Commissioner in writing that money is owing by him under the contract to the employer or person liable, he need not be summoned before the Commissioner and the Commissioner may make such order in his absence.

(3) Where that other person is liable as a principal under section 65 to pay any salary due by the employer or person liable and where the money admitted by him to be owing to the employer or person

liable is not sufficient to pay the whole of the salary, nothing in this subsection shall relieve him of his liability for the balance of the salary up to the amount for which he is liable under that section.

- (4) Any person so summoned shall be legally bound to attend at the time and place mentioned in the summons and to answer truthfully all questions relating to the contract which the Commissioner may put to him.
- (5) The payment of any money in pursuance of an order under subsection (1) shall be a discharge and payment up to the amount so paid of money due to the employer or person liable under the contract.

Right of appeal

- 117.— (1) Where any person interested is dissatisfied with the decision or order of the Commissioner, he may, within 14 days after the decision or order, appeal to the High Court from the decision or order.
- (2) The procedure governing any such appeal to the High Court shall be as provided for in the Rules of Court.

[Act 2 of 2012 wef 01/03/2012]

Fees and enforcement of orders

- 118.—(1) No fees other than a registration fee in accordance with the rates specified in the Second Schedule shall be charged by the Commissioner in respect of processes issued by him under this Part and all orders made by the Commissioner shall, notwithstanding that they may in respect of the amount or value be in excess of the ordinary jurisdiction of the court, be enforced by a District Court in the same manner as a judgment of that Court and all necessary processes may be served by the Court on behalf of the Commissioner.
- (2) No sale of immovable property shall for the purposes of the enforcement be ordered except by the High Court.

Procedure for making and hearing claims

- 119.— (1) The mode of procedure for the making and hearing of claims shall be as follows:

- (a) the person claiming shall lodge a memorandum at the office of the Commissioner, specifying shortly the subject-matter of the claim and the remedy sought to be obtained, or he may make his claim in person to the Commissioner who shall immediately reduce it or cause it to be reduced in writing;
- (b) upon receipt of the memorandum or verbal claim and of the registration fee payable by the person in accordance with the rates specified in the Second Schedule, the Commissioner shall summon in writing the party against whom the claim is made, giving reasonable notice to him of the nature of the claim and the time and place at which the claim will be inquired into, and he shall also notify or summon all persons whose interests may appear to him likely to be affected by the proceedings;
- (c) the Commissioner may also summon such witnesses as either party may wish to call;
- (d) if the party against whom a claim is made wishes to make a counterclaim against the party claiming, he shall notify the Commissioner and the other party in writing of the nature and amount of the counterclaim not less than 3 days before the date of the inquiry;
- (e) at any time between the issuing of summons and the hearing of the claim, the Commissioner may hold or cause to be held a preliminary inquiry at which the party claiming and the party against whom the claim is made shall be present after having been notified in writing of the inquiry;
- (f) at the preliminary inquiry the parties may amend or withdraw the whole claim or portion thereof, make a counterclaim or reach a settlement in respect of the claim;
- (g) if a settlement is affected at a preliminary inquiry in respect of a claim or portion thereof, the Commissioner shall make an order recording the terms of the settlement and that order shall have effect as if it were an order made under paragraph (h);
- (h) at the time and place appointed the parties shall attend and state their case before the

Commissioner and may call evidence, and the Commissioner, having heard on oath or affirmation the statements and evidence and any other evidence which he may consider necessary, shall give his decision and make such order in the prescribed form as may be necessary for giving effect to the decision;

- (i) if any person interested has been duly summoned by the Commissioner to attend at the inquiry and makes default in so doing, the Commissioner may hear the claim and make his decision in the absence of that person notwithstanding that the interest of that person may be prejudicially affected by his decision;
- (j) the Commissioner shall keep a case book, in which he shall enter notes of the evidence taken and the decisions arrived at in each case heard before him and shall authenticate them by attaching his signature thereto, and the record in the case book shall be sufficient evidence of the giving of any decision, or of the making of any order, and of the terms thereof; and any person interested in a dispute, decision or order, shall be entitled to a copy of the record upon payment of the prescribed fee.

[32/2008]

- (2) In hearing claims or conducting proceedings under this Part, the Commissioner —
 - (a) shall not be bound to act in a formal manner or in accordance with the Evidence Act (Cap. 97) but may inform himself on any matters in such manner as he thinks just; and
 - (b) shall act according to equity, good conscience and the merits of the case without regard to technicalities.
- (3) All proceedings before the Commissioner shall be held in private.

[Act 26 of 2013 wef 01/04/2014]

Representation before Commissioner

120. In proceedings before the Commissioner, a party —
- (a) being an employee and a member of a trade union that has been given

recognition under Part III of the Industrial Relations Act (Cap. 136) by the employer of the employee, may be represented by an officer of the trade union; and

[36/2010 wef 01/02/2011]

- (b) being an employer may be represented by one of his employees,

but shall not be represented by an advocate or solicitor or a paid agent.

Joining of claims

121.—(1) In proceedings under this Part where it appears to the Commissioner that there are more employees or subcontractors for labour than one having a common claim or similar claims against the same employer or person liable, it shall not be necessary for each of them to make a separate claim under this Part, but the Commissioner may, if he thinks fit, permit one or more of them to lodge a memorandum or make a claim and to attend and act on behalf of and generally to represent the others, and the Commissioner may proceed to adjudicate on the several or joint claim of each and every such employee or subcontractor for labour.

- (2) Where the Commissioner is of the opinion that the interest of the employer or person liable are or are likely to be prejudiced by the non-attendance of any employee or subcontractor for labour, the Commissioner shall require the personal attendance of the employee or subcontractor for labour.

Jurisdiction of courts not affected

122. Nothing in this Part shall limit or affect the jurisdiction of any court.

No division of claims

123. No claim shall be divided and pursued in separate proceedings before the Commissioner for the sole purpose of bringing the sum claimed in each of such proceedings within the jurisdiction of this Act.

[Act 26 of 2013 wef 01/04/2014]

Investigations of complaints and offences

124.—(1) Whenever the Minister, the Parliamentary Secretary to the Minister, the Permanent Secretary to the Ministry of Manpower, the Commissioner or an inspecting officer has reasonable grounds for believing that an offence under this Act has been committed, or wishes to inquire into any matter for which provision is made by this Act or any dispute as to such matter or the death of an employee, or any matter connected with hospital and medical facilities, quarters, sanitation, inspections or the keeping of registers and other documents or whenever any person complains to the Minister, the Parliamentary Secretary to the Minister, the Permanent Secretary to the Ministry of Manpower, the Commissioner or an inspecting officer of any breach of any provision of this Act, the Minister, the Parliamentary Secretary to the Minister, the Permanent Secretary to the Ministry of Manpower, the Commissioner or an inspecting officer, as the case may be, may summon any other person who he has reason to believe can give information regarding the subject-matter of the inquiry or complaint, and the person so summoned shall be legally bound to attend at the time and place specified in the summons to furnish information or documents, produce any article or give statements, and to answer truthfully all questions which the Minister, the Parliamentary Secretary to the Minister, the Permanent Secretary to the Ministry of Manpower, the Commissioner or an inspecting officer, as the case may be, may put to him.

[36/95; 32/2008]

(2) Any person who in any way wilfully obstructs the service of or obedience to such summons, and any person summoned who neglects to attend as required in such summons shall be guilty of an offence.

[32/2008]

(3) The Commissioner or inspecting officer shall have the power to report any failure by such person to attend as required by a summons under subsection (2) to a Magistrate, who may thereupon issue a warrant to secure the attendance of that person as required by the summons.

[32/2008]

Procedure after inquiry

125.—(1) If upon an inquiry under section 124 it appears that an offence has been committed or that the complaint is well founded, the Commissioner may institute such proceedings, civil or criminal, as he may consider necessary under the circumstances and where the proceedings arise from a complaint made by an employee or a subcontractor for labour he shall institute the proceedings for and in the name of the employee or subcontractor for labour.

(2) In the event of there being more employees or subcontractors for labour than one making a similar complaint, the Commissioner may, if he institutes civil proceedings for and in the name of those employees or subcontractors for labour, consolidate the complaint of all those employees or subcontractors for labour into one cause of action and he shall only be required to sue out one summons for and in the name of all those employees or subcontractors for labour in respect of such causes of action.

(3) Any court which would have jurisdiction to hear and determine separate suits based on such causes of action shall be competent to hear and determine such consolidated suit, notwithstanding that the subject-matter of the consolidated subject-matter suit is in excess of the ordinary jurisdiction of that court.

(4) Judgment may be given without any amendment for such one or more of the plaintiffs as may be found to be entitled to relief for such relief as he or they may be entitled to.

Costs of proceedings

126. No court fees shall be chargeable in the first instance on any proceedings commenced by an employee or a subcontractor for labour or by the Commissioner on his behalf against his employer or person liable under this Act but, in case a conviction is had or judgment given against his employer or person liable, the court fees shall be paid by the employer or person liable together with the general costs of the proceedings.

Part XVA Administrative Penalties

[Act 27 of 2015 wef 01/04/2016]

Civil contraventions

126A. The following contraventions are declared to be civil contraventions for the purposes of this Act:

- (a) a failure by an employer to comply with section 95(1), 95A (2) or 96(1);
- (b) provision by an employer of inaccurate information or particulars to the Commissioner or an inspecting officer under this Act, inadvertently or without intent to mislead or defraud.

[Act 27 of 2015 wef 01/04/2016]

Payment of administrative penalty

126B.— (1) An authorised officer may issue a contravention notice to an employer requiring the employer to pay an administrative penalty of the prescribed amount, for —

- (a) each occasion of an alleged failure by the employer to comply with section 95(1), 95A (2) or 96(1) with respect to any one employee or former employee; or
 - (b) each occasion of an alleged provision by the employer of inaccurate information or particulars to the Commissioner or an inspecting officer under this Act, inadvertently or without intent to mislead or defraud.
- (2) A contravention notice must —

- (a) specify the amount of administrative penalty to be paid;
 - (b) specify the date by which the administrative penalty must be paid; and
 - (c) set out the brief details of the alleged contravention and such other particulars as may be prescribed.
- (3) Different amounts of administrative penalty may be prescribed for different civil contraventions or different circumstances in which a civil contravention takes place.
- (4) Any employer who is issued a contravention notice under subsection (1) must pay the administrative penalty specified in the contravention notice to the authorised officer within the time, in such mode of payment and at such place as is specified in that notice.

[Act 27 of 2015 wef 01/04/2016]

Appeal, etc.

126C.— (1) Any employer who is issued a contravention notice by an authorised officer under section 126B (1) (called in this section the initial authorised officer) may —

- (a) within the prescribed period and in accordance with the prescribed procedure, request for an internal reconsideration of the contravention notice by another authorised officer (called in this section the reviewing authorised officer); or
 - (b) within the prescribed period (and despite not requesting for an internal reconsideration), appeal to the High Court which may hear and determine the matter afresh.
- (2) A reviewing authorised officer reconsidering a contravention notice issued to an employer must not be subordinate to the initial authorised officer who issued the contravention notice.
- (3) A reviewing authorised officer may, after reconsidering the issue of a contravention notice by the initial authorised officer —
- (b) confirm the contravention notice issued by the initial authorised officer; or
 - (c) cancel the contravention notice.

- (4) Any employer who is aggrieved by the reviewing authorised officer's decision under subsection (3)(a) may, within the prescribed period, appeal to the High Court which may hear and determine the matter afresh.
- (5) The procedure governing any such appeal to the High Court is as provided in the Rules of Court.
- (6) The enforcement of the payment of any administrative penalty required by a contravention notice to be paid under section 126B is stayed —
 - (b) if a request for internal reconsideration under subsection (1)(a) is made, until after the reconsideration is completed; or
 - (c) if an appeal under subsection (1)(b) or (4) is filed, until after the appeal is completed.
- (7) In relation to a contravention notice issued to an employer under section 126B(1), where —
 - (b) an appeal to the High Court has been filed under subsection (1)(b) or (4) and the appeal is dismissed;
 - (c) the prescribed period for requesting an internal reconsideration under subsection (1)(a) has lapsed without such request made, and the prescribed period for filing an appeal to the High Court under subsection (1)(b) has lapsed and no appeal is filed; or
 - (d) the prescribed period for filing an appeal to the High Court under subsection (4) has lapsed and no appeal is filed,
- (8) the contravention notice may, by leave of a District Court, be enforced against the employer in the same manner as a judgment of the District Court, and where leave is so given, judgment may be entered in terms of that contravention notice.
- (9) The initial authorised officer may, in any case in which the initial authorised officer thinks fit, waive, remit or refund in whole or in part any administrative penalty paid or required to be paid under section 126B.

[Act 27 of 2015 wef 01/04/2016]

Directions

126D.— (1) In lieu of or in addition to giving an employer a contravention notice under section 126B, an authorised officer may —

- (a) issue such directions to the employer as the authorised officer thinks appropriate to bring the civil contravention to an end; and
 - (b) where necessary, require the employer to take such action as is specified in the direction to remedy, mitigate or eliminate any effects of the civil contravention and to prevent the recurrence of the civil contravention.
- (2) An employer who, without reasonable excuse, fails to comply with a direction given to the employer under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both.

[Act 27 of 2015 wef 01/04/2016]

Part XVI Procedure and Regulations

Officers to be public servants

127. For the purposes of this Act and of the Penal Code (Cap. 224), the Commissioner, every other officer appointed or acting under this Act, and every authorised person (when carrying out any function or duty of the Commissioner) shall be deemed to be public servants within the meaning of the Penal Code.

[Act 21 of 2016 wef 01/04/2017]

Protection from personal liability

127A. No liability shall lie against any person appointed under section 3 or any other person acting under the direction of the Commissioner for anything which is done with reasonable care and in good faith in the execution or purported execution of this Act.

[Act 26 of 2013 wef 01/04/2014]

Place of employment deemed to be public place

128. For the purposes of section 14(1) of the Liquor Control (Supply and Consumption) Act 2015, every place of employment shall be deemed to be a public place.

[Act 5 of 2015 wef 01/04/2015]

Jurisdiction of Magistrates' and District Courts

129. — (1) Subject to any special provision to the contrary in this Act, all convictions and penalties for offences under this Act may be had and recovered before a Magistrate's Court or a District Court on complaint by any person aggrieved or by the Commissioner or any person authorised by him in that behalf.

(2) A Magistrate's Court or a District Court may, notwithstanding anything in the Criminal Procedure Code (Cap. 68), impose the full punishment prescribed by this Act, excepting that a Magistrate's Court shall not impose a sentence of imprisonment exceeding 12 months.

Right to hearing

130. The Commissioner and any officer authorised by him in writing shall have the right to appear and be heard before a Magistrate's Court or a District Court in any proceedings under this Act and shall also have the right to be heard before those Courts in any prosecution under Chapter XVI of the Penal Code (Cap. 224) instituted by him in accordance with section 125.

Onus of proof

131. In all proceedings under Part XV, the onus of proving that he is not the employer or the person whose duty it is under this Act to do or abstain from doing anything shall be on the person who alleges that he is not the employer or other person, as the case may be.

Civil proceedings not barred

132. Nothing in this Act shall operate to prevent any employer or employee from enforcing his respective civil rights and remedies for

any breach or non-performance of a contract of service by any suit in court in any case in which proceedings are not instituted, or, if instituted, are not proceeded with to judgment under this Act.

Power to deal with evidence taken down by another officer

133. Where the Commissioner or any officer performing the duties or exercising the powers conferred on the Commissioner has, for the purpose of inquiring into any matter under this Act, taken down any evidence or made any memorandum and is prevented by death, transfer or other cause from concluding the inquiry, any successor to the Commissioner or other officer may deal with the evidence or memorandum as if he had taken it down or made it and proceed with the inquiry from the stage at which his predecessor left it.

Application of fines

134. When under this Act any court imposes a fine or enforces the payment of any sum secured by a recognizance or bond, the court may, if it thinks fit, direct that the whole or any part of the fine or sum when recovered be paid to the party complaining, or where the offence was committed by an employer in respect of a liability to pay money to an employee, that employee.

[36/95]

Imprisonment to be in discharge of fine, compensation, etc.

135. Subject to any special provision to the contrary in this Act, from and after the determination of any imprisonment suffered under this Act for non-payment of the amount of any fine, compensation or damages, with the costs assessed and directed to be paid by any order of court, the amount so ordered shall be deemed to be liquidated and discharged, and the order shall be annulled.

Recovery of money as fines

136. In the event of any employer being subjected to any fine or penalty (but not an administrative penalty under Part XVA) under the provisions of this Act, the fine or penalty may, in addition to any other means of recovery, be recovered by distress and sale of the place of employment, or of any property belonging to him and in such place of employment.

[Act 27 of 2015 wef 01/04/2016]

Service of requisitions and summons

137. — (1) Any requisition issued under section 98 or 99 or any summons issued under section 116, 119 or 124 may be served on any person:

- (a) by delivering it to the person or to some adult member of his family at his last known place of residence;
- (b) by leaving it at or sending it by registered post to his usual or last known place of residence or business in an envelope addressed to the person; or
- (c) where the person is a body of persons or a body corporate —
 - (i) by delivering it to the director, manager, secretary or other like officer of the body of persons or body corporate at its registered office or principal place of business; or
 - (ii) by sending it by registered post addressed to the body of persons or body corporate at its registered office or principal place of business.

[32/2008]

(2) Any requisition or summons sent by registered post to any person in accordance with subsection (1) shall be deemed to be duly served on the person at the time when the requisition or summons, as the case may be, would in the ordinary course of post be delivered and, in proving service of the requisition or summons, it shall be sufficient to prove that the envelope containing the requisition or summons, as the case may be, was properly addressed, stamped and posted by registered post.

[32/2008]

Power to make reciprocal provisions with Malaysia for the service, execution and enforcement of summonses, warrants and orders

138. If the Minister is satisfied that arrangements have been or will be made under any legislation in force in Malaysia for the service, execution or enforcement in Malaysia of summonses, warrants or orders issued or made under this Act, he may, by regulations made under this Act:

- (a) prescribe the procedure for sending such summonses, warrants and orders to Malaysia for service, execution or enforcement and specify the conditions under which any such summons shall be deemed to have been served; and
- (b) make reciprocal provisions for the service, execution or enforcement in Singapore of summonses, warrants or orders issued or made in Malaysia under any corresponding or similar legislation in force there.

Power to make regulations

139. — (1) The Minister may, in addition to the powers expressly conferred by any other provisions of this Act, make regulations for carrying out the purposes of this Act.

- (2) In particular and without prejudice to the generality of subsection (1), such regulations may —
 - (a) prescribe the circumstances and conditions under which females may be employed as workmen;
 - (b) require records to be maintained and prescribe the form and contents thereof and the manner in which they shall be displayed;

[Act 27 of 2015 wef 01/04/2016]

- (c) regulate the method of collecting statistics either in connection with or independently of any other public department, the staff to be employed in connection therewith, the duties to be performed and the publications, if any, to be issued;
- (d) prescribe the forms and manner in which and the times and places at which particulars or information shall be furnished, and the manner in which the

Power to amend First and Second Schedules

140. The Minister may, from time to time by notification in the Gazette, add to or amend the First or Second Schedule.

[36/95]

same shall be authenticated, and any other thing which under this Act is required to be prescribed;

- (e) exempt from the obligation to furnish particulars or information under this Act, either wholly or to the prescribed extent, and either unconditionally or subject to the prescribed conditions, any employer or class of employers;
- (f) prescribe the form of register to be kept under section 29 and the forms of orders to be made under sections 115 and 119;
- (g) prescribe the fees payable for copies of notes of evidence and decisions recorded under section 119(1)(j);
- (ga) provide for any matter relating to the release of any arrested person on any bail or bond under section 105(5);

[Act 26 of 2013 wef 01/04/2014]

- (h) prescribe the administrative penalties for civil contraventions under Part XVA of an amount not exceeding \$1,000 for each occasion of a civil contravention, and \$2,000 in the case of a second or subsequent occasion of the civil contravention.

[Act 27 of 2015 wef 22/08/2015]

(2A) The Minister may, in making any regulations under this Act, provide that any contravention of or failure to comply with any of the provisions of the regulations shall be an offence punishable with a fine not exceeding —

- (a) \$5,000 in the case of a first conviction; and
- (b) \$10,000 in the case of a second or subsequent conviction for contravening or failing to comply with the same provision within one year after the immediately preceding conviction.

[Act 27 of 2015 wef 22/08/2015]

- (3) All regulations made under this Act shall be published in the Gazette and shall be presented to Parliament as soon as possible after publication.

First Schedule

Section 2 Workmen

- (1) Cleaners.
- (2) Construction workers.
- (3) Labourers.
- (4) Machine operators and assemblers.
- (5) Metal and machinery workers.
- (6) Train, bus, lorry and van drivers.
- (7) Train and bus inspectors.
- (8) All workmen employed on piece rates in the premises of the employer.

Second Schedule

Sections 118 and 119 Registration Fee

The registration fee payable by any person making a claim with the Commissioner for Labour shall be as follows:

- (a) where the claim is made by an employee ... \$3
- (b) where the claim is made by an employer ...\$20.

Third Schedule

CALCULATION OF GROSS AND BASIC RATES OF PAY OF AN EMPLOYEE EMPLOYED ON A MONTHLY RATE OR ON PIECE RATES

<i>First column</i>	<i>Second column</i>	<i>Third column</i>
<i>Item</i>	<i>Calculation of gross rate of pay</i>	<i>Calculation of basic rate of pay</i>
1. Where an employee is employed on piece rates.	<p>The gross rate of pay for one day is to be calculated by dividing the total salary including allowances but excluding —</p> <p>(a) additional payments by way of overtime payments;</p> <p>(b) additional payments by way of bonus payments or annual wage supplements;</p> <p>(c) any sum paid to the employee to reimburse him for special expenses incurred by him in the course of his employment;</p> <p>(d) productivity incentive payments; and</p> <p>(e) travelling, food and housing allowances,</p> <p>earned by the employee during the period of 14 days immediately preceding the date of termination, day of absence or period of absence, holiday, day of leave or period of leave, or benefit period, as the case may be, by the number of days on which the employee actually worked during that period of 14 days.</p>	<p>The basic rate of pay for one day is to be calculated by dividing the total salary including wage adjustments and increments but excluding —</p> <p>(a) additional payments by way of overtime payments;</p> <p>(b) additional payments by way of bonus payments or annual wage supplements;</p> <p>(c) any sum paid to the employee to reimburse him for special expenses incurred by him in the course of his employment;</p> <p>(d) productivity incentive payments; and</p> <p>(e) any allowance however described,</p> <p>earned by the employee during the period of 14 days immediately preceding the rest day or holiday, as the case may be, by the number of days on which the employee actually worked during that period of 14 days.</p>
2. Where an employee is employed on a monthly rate of pay and the number of days on which the employee is required to work in a week is the same in every week under his contract of service.	<p>The gross rate of pay for one day is to be calculated according to the following formula:</p> $\frac{12 \times \text{monthly gross rate of pay}}{52 \times \text{number of days on which the employee is required to work in a week}}$	<p>The basic rate of pay for one day is to be calculated according to the following formula:</p> $\frac{12 \times \text{monthly basic rate of pay}}{52 \times \text{number of days on which the employee is required to work in a week}}$
3. Where an employee is employed on a monthly rate of	<p>The gross rate of pay for one day is to be calculated according to the following formula:</p>	<p>The basic rate of pay for one day is to be calculated according to the following formula:</p>

pay and is required under his contract of service to work on a certain number of days in one week and on a different number of days in the following week in every period of 2 consecutive weeks.

$$\frac{12 \times \text{monthly gross rate of pay}}{52 \times \text{average number of days on which the employee is required to work in a week over any period of 2 consecutive weeks.}}$$

$$\frac{12 \times \text{monthly basic rate of pay}}{52 \times \text{average number of days on which the employee is required to work in a week over any period of 2 consecutive weeks.}}$$

4. Where an employee is employed on a monthly rate of pay and is required under his contract of service to work on different number of days in different weeks.

The gross rate of pay for one day is to be calculated according to the following formula or such other formula as may be approved by the Commissioner:

$$\frac{12 \times \text{monthly gross rate of pay}}{52 \times \text{average number of working days in a week.}}$$

The basic rate of pay for one day is to be calculated according to the following formula or such other formula as may be approved by the Commissioner:

$$\frac{12 \times \text{monthly basic rate of pay}}{52 \times \text{average number of working days in a week.}}$$

5. In this Schedule —

“average number of working days in a week” means —

- (a) for the purposes of calculating, under section 11(1), the salary that is payable in lieu of notice of termination —
 - (i) the average number of days on which the employee was required, under his contract of service, to work in a week over the period of 3 weeks immediately preceding the termination of the contract; or
 - (ii) where the employee was in employment for less than 3 weeks, the average number of days on which the employee would have been required to work in a week over the first 3 weeks of his employment, if the contract of service had not been terminated;
- (b) for the purposes of calculating, under section 28(2), the salary that may be deducted for absence from work —
 - (i) the average number of days on which the employee was required, under his contract of service, to work in a week over the period of 3 weeks immediately preceding the day of absence or period of absence, as the case may be; or
 - (ii) where the employee was in employment for less than 3 weeks, the average number of days on which the employee was required to work under his contract of service in a week over the period of 3 weeks immediately following the day of absence or period of absence, as the case may be;
- (c) in any other case —
 - (i) the average number of days on which the employee was required, under his contract of service, to work in a week over the period of 3 weeks immediately

preceding the rest day, holiday, day of leave or period of leave, as the case may be; or

- (ii) where the employee was in employment for less than 3 weeks, the average number of days on which the employee was required to work under his contract of service in a week over the period of 3 weeks immediately following the rest day, holiday, day of leave or period of leave, as the case may be;

“week” means a continuous period of 7 days commencing at midnight on Sunday.

6. Paragraphs (a) and (b) of the definition of “average number of working days in a week” in item 5 are not applicable in the third column.

7. In calculating the number of working days in a week or the average number of working days in a week, any day on which an employee is required to work for 5 hours or less under his contract of service shall be regarded as half a day.

Fourth Schedule

Section 38(6)

Employee’s hourly basic rate of pay for calculation of payment due for overtime

FOURTH SCHEDULE

Section 38(6)

EMPLOYEE’S HOURLY BASIC RATE OF PAY FOR CALCULATION OF PAYMENT DUE FOR OVERTIME

<i>First column</i>	<i>Second column</i>
<i>Type of employee</i>	<i>Calculation of hourly basic rate of pay</i>
1. A workman employed on a monthly rate of pay	$\frac{12 \times \text{monthly basic rate of pay}}{52 \times 44}$
2. A non-workman whose monthly basic rate of pay is less than \$2,250	$\frac{12 \times \text{monthly basic rate of pay}}{52 \times 44}$
3. A non-workman whose monthly basic rate of pay is \$2,250 or more	$\frac{12 \times \$2,250}{52 \times 44}$

4.	A workman employed on piece rates	The total weekly pay at the basic rate of pay received divided by the total number of hours worked in the week
5.	A non-workman employed on piece rates	The total weekly pay at the basic rate of pay received divided by the total number of hours worked in the week, or the hourly basic rate of pay of an employee specified in this column for item 3, whichever is the lower
6.	A workman employed on a hourly rate of pay	Actual hourly basic rate of pay
7.	A non-workman employed on a hourly rate of pay	Actual hourly basic rate of pay, or the hourly basic rate of pay of an employee specified in this column for item 3, whichever is the lower
8.	A workman employed on a daily rate of pay	Daily basic rate of pay divided by the number of working hours per day
9.	A non-workman employed on a daily rate of pay	Daily basic rate of pay divided by the number of working hours per day, or the hourly basic rate of pay of an employee specified in this column for item 3, whichever is the lower

[\[Act 26 of 2013 wef 01/04/2014\]](#)

Fifth Schedule

NUMBER OF DAYS
ON WHICH A FEMALE EMPLOYEE IS ENTITLED TO
ABSENT HERSELF FROM WORK UNDER SECTION 76(1)(C)(II)

First column

Second column

Number of days on which a female employee is required to work under her contract of service (referred to in this Schedule as her work days)

Calculation of total number of days on which a female employee is entitled to absent herself from work under section 76(1)(c)(ii) for one or more periods

1. Where the number of work days in a week is the same in every week.

4 x the number of work days in a week

2. Where the number of work days varies from one week to another and there is a consistent or regular pattern repeated over a number of fixed weeks.

$$\frac{4 \times \text{the total number of work days in the number of fixed weeks}}{\text{The number of fixed weeks}}$$

3. Where the number of work days varies from one week to another and there is no consistent or regular pattern repeated over a number of fixed weeks.

4 x the average number of work days in a week over the period of 3 weeks immediately preceding the day of confinement or the first day of leave, whichever is the earlier

4. In this Schedule, the calculation of the number of days on which a female employee is entitled to absent herself from work under section 76(1)(c)(ii) shall be determined in accordance with her work

pattern under her contract of service immediately preceding the day of confinement or the first day of leave, whichever is the earlier.

5. In this Schedule, where the number of days in the second column is not a whole number, that number shall be rounded down to the nearest half day or whole day.

6. In this Schedule —

“week” means a continuous period of 7 days commencing at midnight on Sunday;

“work pattern” means a work pattern described in item 1, 2 or 3 in the first column.

7. In calculating the number of work days, any day on which a female employee is required to work for 5 hours or shorter under her contract of service shall be regarded as half a day.

[Act 26 of 2013 wef 01/04/2014]