

Work Injury Compensation (Amendment) Bill

Bill No. 18/2011.

Read the first time on 17th October 2011.

A BILL

i n t i t u l e d

An Act to amend the Work Injury Compensation Act (Chapter 354 of the 2009 Revised Edition).

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

Short title and commencement

1. This Act may be cited as the Work Injury Compensation (Amendment) Act 2011 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

5 Amendment of section 3

2. Section 3(5) of the Work Injury Compensation Act (referred to in this Act as the principal Act) is amended —

(a) by deleting the word “or” at the end of paragraph (a); and

10 (b) by deleting the full-stop at the end of paragraph (b) and substituting the word “; or”, and by inserting immediately thereafter the following paragraph:

“(c) any injury to an employee suffered in a fight or an attempted assault on one or more persons unless —

15 (i) the employee did not assault or attempt to assault any other person in the fight or attempted assault, or did assault any such person in the exercise of the right of private defence in accordance with sections 97 to 106 of the Penal Code (Cap. 224); or

20 (ii) the employee was, at the time when the injury was received, breaking up or preventing the fight or assault, or in the course of safeguarding life or any property of any person or maintaining law and order, under any instruction or with the consent (whether express or implied) of his employer or a principal referred to in section 17.”.

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30 Amendment of section 4

3. Section 4 of the principal Act is amended —

(a) by inserting, immediately after the words “opposite that occupation” in subsection (1)(b), the words “(referred to in this section as the limitation period for that occupational disease)”;

5 (b) by inserting, immediately after subsection (1), the following subsections:

“(1A) If an employee contracts, on or after the date of commencement of the Work Injury Compensation (Amendment) Act 2011 (referred to in this section as the appointed day), a disease which is not specified in the first column of the Second Schedule but which is directly attributable to an exposure, arising out of and in the course of his employment, to a chemical or biological agent and the incapacity or death of the employee results from that disease, compensation shall be payable as if the disease were a personal injury by accident arising out of and in the course of that employment and all the other provisions of this Act shall apply accordingly, subject to this section.

20 (1B) Subsection (1A) shall apply only if the exposure to a chemical or biological agent commences on or after the appointed day, or commences before and continues on or after the appointed day.”;

25 (c) by deleting subsection (3) and substituting the following subsection:

“(3) No compensation shall be payable by an employer under this section in respect of the incapacity or death of an employee resulting from an occupational disease specified in the first column of the Second Schedule or other disease referred to in subsection (1A) if —

30 (a) in the case of an occupational disease —

(i) the employee is, on or after the appointed day, employed by the employer in the occupation specified opposite the occupational disease;

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- (ii) the occupational disease is contracted on or after the appointed day; and
- (iii) the employee's incapacity commences or his death happens after ceasing to be so employed and after the lapse of the limitation period for that occupational disease; or
- (b) in the case of other disease referred to in subsection (1A), the employee's incapacity commences or his death happens more than one year after the employee ceases to be exposed to the chemical or biological agent referred to in that subsection.”;
- (d) by inserting, immediately after the words “occupational disease” in subsections (4), (5) and (6), the words “referred to in subsection (1) or other disease referred to in subsection (1A)”;
- (e) by deleting the words “an occupational disease specified in the Second Schedule” in subsection (7) and substituting the words “an occupational disease referred to in subsection (1) or other disease referred to in subsection (1A),”; and
- (f) by deleting the section heading and substituting the following section heading:

“Compensation for diseases”.

Amendment of section 11

4. Section 11 of the principal Act is amended by deleting subsection (4) and substituting the following subsections:

“(4) Subject to subsection (4A), the making of a claim after the lapse of the period specified in subsection (1) shall not be a bar to the maintenance of proceedings if it is found that the delay was occasioned by mistake, absence from Singapore or other reasonable cause.

(4A) The making of a claim after the lapse of the period specified in subsection (1) shall be a bar to the maintenance of proceedings in respect of an accident if it is found that the delay was occasioned by the claimant having instituted an action for damages in any court for compensation with respect to that accident if —

(a) the accident occurs on or after the date of commencement of the Work Injury Compensation (Amendment) Act 2011 (referred to in this subsection as the appointed day); or

(b) the accident occurred before the appointed day, and the claim is made after the expiry of the period of 12 months beginning on the appointed day.

(4B) For the purposes of subsections (4) and (4A), it is immaterial whether there were any previous claims made in respect of that accident.”.

Amendment of section 23

5. Section 23 of the principal Act is amended —

(a) by deleting the words “conditions or exceptions” in subsections (4) and (5) and substituting in each case the words “conditions, exclusions or exceptions”; and

(b) by deleting the words “the insurer’s liability under the policy” in subsection (5) and substituting the words “the insurer from any liability under the policy which the insurer may incur under the provisions of this Act”.

New section 25E

6. The principal Act is amended by inserting, immediately after section 25D, the following section:

“No objection on ground of double insurance

25E.—(1) In any proceedings under section 24, 25, 25A, 25B, 25C or 25D, an employer’s insurer shall not be entitled to raise any objection or defence on the ground that there is in

force a policy of insurance issued by another party covering the same liability to pay compensation or interest under this Act in respect of any accident as the policy of insurance issued by the employer's insurer.

- 5 (2) Nothing in subsection (1) shall be taken to affect any written or other law on double insurance and contribution or to prohibit an insurer from disproving liability in respect of any accident wholly or in part.”.

Amendment of section 28

- 10 7. Section 28(1A) of the principal Act is amended by inserting, immediately after the word “section”, “25A,”.

Amendment of section 29

8. Section 29(3) of the principal Act is amended by inserting, immediately after the word “section”, “25A,”.

15 **Amendment of section 32**

9. Section 32(1) of the principal Act is amended by deleting “25” and substituting “28”.

Amendment of section 45

- 20 10. Section 45(2) of the principal Act is amended by deleting the words “conditions and exceptions” in paragraph (k) and substituting the words “conditions, exclusions and exceptions”.

Savings and transitional provisions

- 25 11.—(1) Subject to subsections (2) and (3), the provisions of the principal Act as amended by this Act shall not apply with respect to any claim for compensation, or any right or obligation, in respect of any personal injury caused by any accident that occurred before the date of commencement of the Work Injury Compensation (Amendment) Act 2011 (referred to in this section as the appointed day), and the provisions of the principal Act in force immediately
30 before the appointed day shall continue to apply with respect to any

such claim for compensation, right or obligation as if this Act had not been enacted.

(2) Section 4 of the principal Act in force immediately before the appointed day shall continue to apply, as if this Act had not been enacted, to any claim for compensation, or any right or obligation, in respect of any occupational disease specified in the first column of the Second Schedule in force immediately before the appointed day —

- (a) that is contracted before the appointed day; or
- (b) that is contracted on or after the appointed day and the employee ceased, before the appointed day, to be employed in the occupation opposite the occupational disease specified in the second column of that Second Schedule.

(3) Sections 4, 7, 8 and 9 of this Act shall apply with respect to any claim for compensation, or any right or obligation, in respect of any personal injury caused by any accident, whether that accident occurred before, on or after the appointed day.

EXPLANATORY STATEMENT

This Bill seeks to amend the Work Injury Compensation Act (Cap. 354) for the following main purposes:

- (a) to exempt an employer from liability to pay compensation under the Act in respect of any injury to an employee suffered in a fight or an attempted assault on one or more persons unless the injury was suffered under one of the specified circumstances;
- (b) to expand the coverage of the Act to diseases that are directly attributable to an exposure, arising out of and in the course of employment, to a chemical or biological agent; and
- (c) to clarify legal ambiguities and to provide for better administration of the Act.

Clause 1 relates to the short title and commencement.

Clause 2 amends section 3(5) to exempt an employer totally from liability to pay compensation under the Act in respect of any injury to an employee if the injury was suffered in a fight or an attempted assault on one or more persons unless the employee did not assault or attempt to assault any other person in the

fight or attempted assault or did assault any such person in the exercise of the right of private defence, or the employee was, at the time he received the injury, breaking up or preventing the fight or assault, or in the course of safeguarding life or any property of any person or maintaining law and order, under any instruction or with the consent (whether express or implied) of his employer or a principal referred to in section 17.

Clause 3(a) makes a technical amendment to section 4(1)(b) to clarify the reference to the limitation period in the Second Schedule.

Clause 3(b) inserts a new section 4(1A) and (1B) to expand the coverage of the Act to allow for claims for compensation if the incapacity or death of an employee results from a disease which is not specified in the first column of the Second Schedule but which is directly attributable to an exposure, arising out of and in the course of the employee's employment, to a chemical or biological agent. The expanded coverage applies only if the exposure to a chemical or biological agent commences on or after the date of commencement of the Work Injury Compensation (Amendment) Act 2011, or commences before and continues on or after that date.

Clause 3(c) deletes and substitutes section 4(3). An employer is not liable to pay compensation in respect of the incapacity or death of an employee resulting from an occupational disease if the employee is, on or after the date of commencement of the Work Injury Compensation (Amendment) Act 2011, employed by the employer in the occupation specified opposite the occupational disease, the occupational disease is contracted on or after that date, and the employee's incapacity commences or his death happens after ceasing to be so employed and after the lapse of the limitation period for that occupational disease. In the case of a disease not specified in the first column of the Second Schedule but which is directly attributable to an exposure to a chemical or biological agent referred to in section 4(1A), an employer is not liable to pay compensation in respect of the incapacity or death of an employee resulting from that disease if the employee's incapacity commences or his death happens more than one year after the employee ceases to be exposed to that chemical or biological agent.

Clause 3(d), (e) and (f) makes technical amendments to section 4(4) to (7) and the heading to section 4 that are consequential to the inclusion of the new category of diseases in the new section 4(1A) that will be covered under the Act.

Clause 4 deletes subsection (4) of section 11 and substitutes new subsections (4), (4A) and (4B). As with today, the new section 11(4) provides that the making of a claim after the lapse of the limitation period specified in section 11(1) is not a bar to the maintenance of proceedings if the delay was occasioned by one of the 3 specified causes. The operation of this provision is now subject to the new section 11(4A). The new section 11(4A) provides that the making of a claim after the lapse of the limitation period is a bar to the

maintenance of proceedings in respect of an accident if the delay was occasioned by the claimant having instituted an action for damages in any court for compensation with respect to that accident if the accident occurs on or after the date of commencement of the Work Injury Compensation (Amendment) Act 2011, or the accident occurred before that date and the claim is made after the expiry of a period of 12 months beginning on that date. A new section 11(4B) is inserted to clarify that, for the purposes of the new section 11(4) and (4A), it is immaterial whether there were any previous claims made in respect of that accident.

Clause 5(a) amends section 23(4) and (5) to include a reference to exclusions in a policy of insurance in each of those subsections.

Clause 5(b) amends section 23(5) to clarify that the reference to the insurer's liability under the policy refers to such liability which the insurer may incur under the provisions of the Act.

Clause 6 inserts a new section 25E to provide that in proceedings under section 24, 25, 25A, 25B, 25C or 25D, the employer's insurer is not entitled to raise any objection or defence on the ground that there is in force another policy of insurance issued by another party covering the same liability to pay compensation or interest under the Act in respect of any accident as the policy of insurance issued by the employer's insurer. Notwithstanding this, the operation of any written or other law on double insurance and contribution, and the insurer's right to disprove liability in respect of any accident wholly or in part, is preserved.

Clause 7 makes a technical amendment to section 28(1A) by inserting a reference to section 25A.

Clause 8 makes a technical amendment to section 29(3) by inserting a reference to section 25A.

Clause 9 makes a technical amendment to section 32(1) by deleting the reference to section 25 and substituting a reference to section 28.

Clause 10 makes a technical amendment to section 45(2) that is consequential to the amendments to section 23(4) and (5).

Clause 11 contains savings and transitional provisions.

EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.
