

Employment of Foreign Workers (Amendment) Bill

Bill No. 17/2007.

Read the first time on 9th April 2007.

A BILL

intituled

An Act to amend the Employment of Foreign Workers Act (Chapter 91A of the 1997 Revised Edition) and to make consequential amendments to certain other written laws.

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 Employment of Foreign Workers (Amendment) Act 2007 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

5 **Amendment of long title**

2. The long title to the Employment of Foreign Workers Act (referred to in this Act as the principal Act) is amended by deleting the words “foreign workers” and substituting the words “foreign manpower”.

Amendment of section 1

10 3. Section 1 of the principal Act is amended by deleting the words “Foreign Workers” and substituting the words “Foreign Manpower”.

Amendment of section 2

4. Section 2 of the principal Act is amended —

15 (a) by deleting the words “Work Permits” in the definition of “Controller” and substituting the words “Work Passes”;

(b) by deleting the definition of “employer” and substituting the following definitions:

““employ” means to engage or use the service of any person for the purpose —

20 (a) of any work; or

(b) of providing any training for that person,

whether under a contract of service or otherwise, and with or without salary;

25 “employer” means any person employing a foreign employee and, for the purposes of an application for a work pass, any person who intends to employ a foreign employee;”;

(c) by inserting, immediately after the definition of “employment inspector”, the following definition:

““foreign employee” means —

(a) any foreigner, other than a self-employed foreigner, who seeks or is offered employment in Singapore; or

5 (b) such other person or class of persons as the Minister may, by notification in the *Gazette*, specify;”;

(d) by deleting the definition of “foreign worker”; and

10 (e) by deleting the definitions of “premises”, “salary” and “work permit” and substituting the following definitions:

““premises” includes —

(a) any building or structure, whether permanent or temporary;

(b) any land, whether or not built on;

15 (c) any place, whether or not enclosed, including any place situated underground or underwater;

(d) any vehicle, vessel or aircraft; and

(e) any part of any premises;

20 “self-employed foreigner” means any foreigner who, not being employed under a contract of service, engages in any trade, vocation, profession or other activity in Singapore for the purpose of gain;

25 “train”, in relation to a foreign employee, means to teach, instruct or educate the foreign employee in relation to the work in which the foreign employee is employed or to be employed;

“work pass” means a work pass belonging to any prescribed category of work passes which is issued by the Controller under section 7.”.

30 **New section 2A**

5. The principal Act is amended by inserting, immediately after section 2, the following section:

“Meaning of “personal identifier”

2A.—(1) In this Act, “personal identifier” means any of the identifiers specified in the Schedule (including any in digital form).

(2) The Minister may, by order published in the *Gazette*, amend the Schedule, except that any other personal identifier so prescribed in the order must —

(a) be an image of, or a measurement or recording of, an external part of the human body; and

(b) not be an identifier the obtaining of which would involve the taking of an intimate sample within the meaning of section 13A of the Registration of Criminals Act (Cap. 268).”

Amendment of section 3

6. Section 3 of the principal Act is amended by deleting the words “Work Permits” wherever they appear in subsections (1) and (1A) and in the section heading and substituting in each case the words “Work Passes”.

New section 3A

7. The principal Act is amended by inserting, immediately after section 3, the following section:

“Controller and employment inspectors to be public servants

3A. The Controller and every Deputy Controller of Work Passes, Assistant Controller of Work Passes and employment inspector appointed under section 3 shall be deemed to be public servants within the meaning of the Penal Code (Cap. 224).”

Amendment of section 5

8. Section 5 of the principal Act is amended —

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

“(1) No person shall employ a foreign employee unless the foreign employee has a valid work pass.”;

- (b) by deleting the words “foreign worker” in subsections (2) and (3) and in the section heading and substituting in each case the words “foreign employee”;
- (c) by deleting the words “work permit” in subsection (2) and in the section heading and substituting in each case the words “work pass”;
- (d) by deleting the words “the work permit” in subsection (3) and substituting the words “the foreign employee’s work pass”;
- (e) by deleting the word “worker” wherever it appears in subsections (4) and (5) and substituting in each case the word “employee”;
- (f) by deleting subsection (6) and substituting the following subsections:

“(6) Any person who contravenes subsection (1) shall be guilty of an offence and shall —

(a) be liable on conviction to a fine not exceeding \$15,000 or to imprisonment for a term not exceeding 12 months or to both; and

(b) on a second or subsequent conviction —

(i) in the case of an individual, be punished with imprisonment for a term of not less than one month and not more than 12 months and also be liable to a fine not exceeding \$15,000; and

(ii) in the case of a body corporate, be punished with a fine not exceeding \$30,000.

(6A) Where a court has convicted a person for the contravention of subsection (1), the court shall, in addition to imposing on that person any other punishment, order the payment by him of a sum which is equal to the levy which would have been payable if any work pass had been issued for the period during which any foreign employee was employed by the person in contravention of subsection (1), and any such payment ordered shall be recoverable as a fine.”;

- (g) by inserting, immediately after subsection (7), the following subsection:

“(7A) Any person who contravenes subsection (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000.”; and

(h) by deleting subsection (8) and substituting the following subsection:

“(8) For the purposes of this section —

(a) the levy payable shall be determined using the lowest applicable monthly rate of levy as specified in an order made by the Minister under section 11 in respect of the trade or type of occupation of the foreign employee at the date when he was first employed by the defendant without a valid work pass, and a certificate issued by the Controller and tendered in court shall be prima facie evidence of such rate;

(b) for the avoidance of doubt, where a person has been convicted of an offence under subsection (6), and he has on a previous occasion been convicted for contravening section 5(1) of the Employment of Foreign Workers Act in force immediately before the date of commencement of the Employment of Foreign Workers (Amendment) Act 2007, the first-mentioned conviction shall be considered a second or subsequent conviction under subsection (6); and

(c) all convictions against the same person for the contravention of subsection (1) at one and the same trial shall be deemed to be one conviction.”.

Amendment of section 6A

9. Section 6A of the principal Act is amended —

(a) by deleting the words “work permit” wherever they appear in subsections (1) to (4) and in the section heading and substituting in each case the words “work pass”;

(b) by deleting subsection (6) and substituting the following subsection:

“(6) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable —

(a) on conviction to a fine not exceeding \$15,000 or to imprisonment for a term not exceeding 12 months or to both; and

5 (b) on a second or subsequent conviction, to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 2 years or to both.”;

(c) by deleting the definition of “levy” in subsection (7); and

(d) by inserting, immediately after subsection (7), the following subsections:

10 “(7A) For the avoidance of doubt, where a person has been convicted of an offence under subsection (6), and he has on a previous occasion been convicted for contravening section 6A(1) of the Employment of Foreign Workers Act in force immediately before the date of commencement of the
15 Employment of Foreign Workers (Amendment) Act 2007, the first-mentioned conviction shall be considered a second or subsequent conviction under subsection (6).

20 (7B) All convictions against the same person for the contravention of subsection (1) at one and the same trial shall be deemed to be one conviction.”.

Repeal and re-enactment of section 7

10. Section 7 of the principal Act is repealed and the following section substituted therefor:

“Application for work pass

25 **7.—**(1) Every application for a work pass shall —

(a) where the work pass belongs to any category of work passes prescribed by the Minister, be made by a person prescribed for that category of work passes;

(b) be in such form as the Controller may determine;

30 (c) be accompanied by the prescribed fee, if any; and

(d) be accompanied by such information, statements and documents as the Controller may require.

(2) On receipt of an application under subsection (1), the Controller may —

(a) issue a work pass, with or without conditions —

(i) if the prescribed fee has been paid; and

(ii) if the Controller is satisfied that the foreign employee or self-employed foreigner to whom the work pass is to be issued is not a prohibited immigrant under section 8 of the Immigration Act (Cap. 133); or

(b) refuse to issue any work pass.

(3) A work pass may, on payment of the prescribed renewal fee, be renewed by the Controller for such period as the Controller may determine, starting from the day immediately following the day on which the work pass would have expired but for that renewal.

(4) The Controller may at any time —

(a) vary or revoke any of the existing conditions of a work pass or impose new conditions;

(b) vary, suspend or revoke a work pass;

(c) reinstate a work pass which has been suspended or revoked, if the prescribed fee has been paid; or

(d) debar any person from applying for or being issued with a work pass for such fixed period of time as may be determined by the Controller.

(5) Any person who is aggrieved by a decision of the Controller under subsection (2), (3) or (4) may appeal to the Minister, whose decision shall be final.

(6) There shall be no judicial review in any court of any decision or act of the Minister or the Controller under this section, except in regard to any question relating to compliance with any procedural requirement of this Act governing such decision.

(7) In subsection (6), “judicial review” includes proceedings instituted by way of —

(a) an application for a Mandatory Order, a Prohibiting Order or a Quashing Order;

(b) an application for a declaration or an injunction;

- (c) an Order for Review of Detention; and
- (d) any other suit or action relating to or arising out of any decision made or act done in pursuance of any power conferred upon the Minister or the Controller by this section.”.

5

Amendment of section 8

11. Section 8 of the principal Act is amended —

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

10

“(1) An employer shall keep, in accordance with section 95 of the Employment Act (Cap. 91), a register of foreign employees to whom work passes have been issued under section 7.”; and

- (b) by deleting the words “foreign workers” in the section heading and substituting the words “foreign employees”.

15

Amendment of section 9

12. Section 9 of the principal Act is amended —

- (a) by deleting subsections (1), (2) and (3) and substituting the following subsections:

20

“(1) Where the Controller has decided to suspend or revoke the work pass of a foreign employee under section 7(4), the Controller shall notify the employer of the foreign employee of his decision and the employer of the foreign employee shall, within 7 days of receiving the notification, terminate the employment of the foreign employee.

25

(2) Every employer of a foreign employee who intends to have the work pass of the foreign employee cancelled shall —

- (a) apply to the Controller to cancel the work pass; and

- (b) if so required, return the work pass to the Controller within 7 days of such cancellation.

30

(3) An employer who contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000.”;

- (b) by deleting the word “services” in subsection (4) and substituting the word “employment”;
- (c) by deleting the words “foreign worker” wherever they appear in subsection (4) and substituting in each case the words “foreign employee”; and
- (d) by deleting the words “foreign workers” in the section heading and substituting the words “foreign employees”.

Repeal and re-enactment of section 10

13. Section 10 of the principal Act is repealed and the following section substituted therefor:

“Self-employed foreigners to apply for work passes

10.—(1) No self-employed foreigner shall engage in any trade, vocation, profession or other activity for the purpose of gain in Singapore unless he has obtained a valid work pass which allows him to work in Singapore.

(2) Any self-employed foreigner who contravenes subsection (1) shall be guilty of an offence and shall —

- (a) be liable on conviction to a fine not exceeding \$15,000 or to imprisonment for a term not exceeding 12 months or to both; and
- (b) on a second or subsequent conviction, be punished with imprisonment for a term of not less than one month and not more than 12 months and also be liable to a fine not exceeding \$15,000.

(3) Where a court has convicted a person for the contravention of subsection (1), the court shall, in addition to imposing on that person any other punishment, order the payment by him of a sum which is equal to the levy which would have been payable if a valid work pass had been issued for the period during which the person was engaged in a trade, vocation, profession or other activity for the purpose of gain in Singapore, and any such payment ordered shall be recoverable as a fine.

(4) For the purposes of this section —

- 5 (a) the levy payable shall be determined using the lowest applicable monthly rate of levy as specified in an order made by the Minister under section 11 in respect of the trade, vocation, profession or other activity engaged in by the self-employed foreigner at the date when he was first so engaged, and a certificate issued by the Controller and tendered in court shall be prima facie evidence of such rate;
- 10 (b) for the avoidance of doubt, where a person has been convicted of an offence under subsection (2), and he has on a previous occasion been convicted for contravening section 10(1) of the Employment of Foreign Workers Act in force immediately before the date of commencement of the Employment of Foreign Workers (Amendment) Act 2007, the first-mentioned conviction shall be considered a second or subsequent conviction under subsection (2); and
- 15 (c) all convictions against the same person for the contravention of subsection (1) at one and the same trial shall be deemed to be one conviction.”.

20 **Amendment of section 11**

14. Section 11 of the principal Act is amended —

- 25 (a) by deleting the words “foreign worker or class of foreign workers or on persons who have, pursuant to section 10(1), obtained a work permit to engage in any trade, calling, occupation or other activity for the purposes of gain” in subsection (1) and substituting the words “foreign employee or class of foreign employees or on self-employed foreigners who have, pursuant to section 10(1), obtained a work pass to engage in any trade, vocation, profession or other activity in Singapore for the purpose of gain”;
- 30 (b) by deleting subsection (2) and substituting the following subsection:

“(2) The levy shall continue to be payable unless the work pass —

(a) has expired;

(b) has been suspended or revoked by the Controller; or

5 (c) has been cancelled by the Controller on application by the employer.”;

(c) by deleting the word “person” wherever it appears in subsections (4) and (9) and substituting in each case the words “self-employed foreigner”;

10 (d) by deleting the words “of 2% per month or the sum of \$5 whichever is the greater” in subsection (5) and substituting the words “specified by the Minister, by notification published in the *Gazette*, or the sum of \$5, whichever is the greater”;

15 (e) by inserting, immediately after the word “fit,” in subsection (6), the word “waive,”;

(f) by deleting the word “person” where it first appears in subsection (7) and substituting the words “self-employed foreigner”; and

(g) by deleting the section heading and substituting the following section heading:

20 **“Levy in respect of foreign employee or self-employed foreigner”.**

Repeal and re-enactment of sections 12 and 13

15 **15.** Sections 12 and 13 of the principal Act are repealed and the following sections substituted therefor:

25 **“Extent of validity of work pass**

12.—(1) A work pass for a foreign employee shall be valid only in respect of the trade or occupation, the type of employment, the employer and the foreign employee that may be specified therein.

30 (2) A work pass for a self-employed foreigner shall be valid only in respect of the trade, vocation, profession or activity and the self-employed foreigner that may be specified therein.

(3) A work pass shall be valid for the period specified in the work pass unless it is earlier suspended or revoked by the Controller, or earlier cancelled by the Controller on the application by the employer or self-employed foreigner, as the case may be.

5 **Custody of work pass, etc.**

13.—(1) A work pass holder shall not allow any other person to have possession of his work pass.

(2) If required by the Controller, a foreign employee shall hand over the work pass to his employer on the last day of his employment with that employer.

(3) An employer who is handed a work pass under subsection (2) shall return the work pass to the Controller within 7 days of the date he receives the work pass.

(4) Upon demand by an employment inspector, a work pass holder shall produce his work pass for inspection.”.

Amendment of section 14

16. Section 14 of the principal Act is amended —

(a) by deleting the words “work permit” wherever they appear in subsections (1), (2) and (3) and in the section heading and substituting in each case the words “work pass”;

(b) by deleting the words “foreign worker” wherever they appear in subsections (1) and (2) and substituting in each case the words “foreign employee”;

(c) by deleting the words “self-employed person” wherever they appear in subsections (1) and (2) and substituting in each case the words “self-employed foreigner”;

(d) by deleting the words “the Controller shall” in subsection (1) and substituting the words “the Controller may”; and

(e) by deleting the words “for cancellation” in subsection (2)(b) and substituting the words “to the Controller for revocation”.

Repeal and re-enactment of section 15

17. Section 15 of the principal Act is repealed and the following section substituted therefor:

“Burden of proof

15. The burden of proving the truth of the contents of a written application for a work pass under section 7 shall be on the person who makes the application.”.

5 **Amendment of section 16**

18. Section 16(1) of the principal Act is amended by deleting paragraph (g) and substituting the following paragraph:

10 “(g) 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.”.

Repeal and re-enactment of section 17

19. Section 17 of the principal Act is repealed and the following section substituted therefor:

“Change of address

15 **17.—**(1) If required by the Controller, any employer shall inform the Controller of any change in his address within 14 days of such change —

20 (a) where the employer is an individual registered under the National Registration Act (Cap. 201), by reporting the change of his place of residence under section 8 of that Act;

25 (b) where the employer is a body corporate incorporated under the Companies Act (Cap. 50), a sole proprietorship or a firm registered under the Business Registration Act (Cap. 32) or a limited liability partnership registered under the Limited Liability Partnerships Act (Cap. 163A), by reporting the change of the address of the registered office or place of business under section 143 of the Companies Act, section 14 of the Business Registration Act or section 26 of the Limited Liability Partnerships Act, as the case may be; or

30 (c) where paragraphs (a) and (b) are not applicable, in writing.

(2) The address as reported in subsection (1) shall be deemed to be the last known address of the employer for the purposes of section 18.

(3) If required by the Controller, any foreign employee or self-employed foreigner shall inform the Controller in writing of any change in his address within 14 days of such change.

5 (4) The address as reported in subsection (3) shall be deemed to be the last known address of the foreign employee or self-employed foreigner for the purposes of section 18.”.

Amendment of section 18

10 **20.** Section 18(2) of the principal Act is amended by inserting, immediately after the words “a partnership” in paragraph (c), the words “(including a limited liability partnership as defined in section 4(1) of the Limited Liability Partnerships Act (Cap. 163A))”.

Repeal and re-enactment of section 21 and new sections 21A to 21G

21. Section 21 of the principal Act is repealed and the following sections substituted therefor:

15 **“Power to arrest without warrant**

21.—(1) Any police officer or employment inspector may arrest without warrant any person whom he reasonably believes —

- (a) is employing a foreigner —
 - (i) without a valid work pass; or
 - 20 (ii) otherwise than in accordance with the conditions of a work pass;
- (b) is a foreign employee or self-employed foreigner who is working without a valid work pass;
- (c) has obstructed an employment inspector who is discharging his duties under this Act;
- 25 (d) has made any statement or furnished any information to the Controller or an employment inspector under this Act which is false in any material particular or is misleading by reason of the omission of any material particular;
- 30 (e) has given, sold, forged or unlawfully altered a work pass;

(f) has used or, without lawful authority, has possession of a forged or an unlawfully altered work pass, or a work pass which is issued to another person; or

(g) has abetted any other person in any act referred to in paragraphs (a) to (f).

(2) An employment inspector making an arrest without warrant shall, without unnecessary delay and subject to subsection (4), take or send the person arrested before a Magistrate's Court.

(3) No employment inspector 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.

(4) Any person who has been arrested by an employment inspector may be released on bail, or on his own bond, by an employment inspector.

Arrest how made

21A.—(1) In making an arrest, an employment inspector making the arrest shall 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 employment inspector may use all means necessary to effect the arrest.

No unnecessary restraint

21B.—(1) The person arrested shall not be subjected to more restraint than is necessary to prevent his escape.

(2) An employment inspector 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 means of restraint shall not be used for the purpose of punishment.

Search of persons arrested

5 **21C.**—(1) When a person is arrested, the employment inspector making the arrest may search the person and take possession of all articles (other than necessary wearing apparel) found upon the person that the employment inspector has reason to believe were connected with the offence for which the person was being arrested.

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

Employment inspector to be armed

15 **21D.** Every employment inspector shall be provided with such batons and accoutrements as may be necessary for the effective discharge of his duties.

Power to seize offensive weapons

21E. An employment inspector making any arrest may take from the person arrested any offensive weapons which he has about his person.

Power on escape to pursue and arrest

20 **21F.** If a person in lawful custody escapes or is rescued, the employment inspector 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.

Disposal of documents or articles

21G.—(1) Any document or article produced, retained or requisitioned under section 16(1)(b), (c) or (g) or 21E shall —

- 30 (a) where the document or article is produced in any criminal trial, be dealt with in accordance with section 386(1) of the Criminal Procedure Code (Cap. 68); or

(b) in any other case —

(i) be returned to the owner; or

(ii) if the owner is not known, be reported to a Magistrate’s Court.

5 (2) Where the report of any document or article produced, retained or requisitioned under section 16(1)(b), (c) or (g) or 21E is made to a Magistrate’s Court under subsection (1)(b)(ii), the Magistrate’s Court may order the document or article —

(a) to be forfeited; or

10 (b) to be disposed of in such manner as the Magistrate’s Court thinks fit.

(3) Nothing in this section shall be taken to prejudice any right to retain or dispose of property which may exist in law apart from this section.”.

15 **Repeal and re-enactment of section 22**

22. Section 22 of the principal Act is repealed and the following section substituted therefor:

“Offences

22.—(1) Any person who —

20 (a) being an employer, a foreign employee or a self-employed foreigner to whom a work pass applies, contravenes any of the conditions of the work pass;

(b) contravenes section 13(4);

25 (c) wilfully obstructs an employment inspector in the exercise of his powers under section 16, 21, 21A, 21B, 21C, 21E or 21F;

(d) makes any statement or furnishes any information to the Controller or an employment inspector under this Act which he knows or ought reasonably to know is false in any material particular or is misleading by reason of the omission of any material particular;

30

(e) gives, sells, forges or unlawfully alters a work pass;

(f) uses or, without lawful authority, has in his possession any forged or unlawfully altered work pass, or a work pass which is issued to another person; or

(g) contravenes section 13(1), (2) or (3), 14 or 17(1) or (3),

5 shall be guilty of an offence and shall be liable —

(i) in the case of an offence under paragraph (a), (b) or (c), on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both;

10 (ii) in the case of an offence under paragraph (d), (e) or (f), on conviction to a fine not exceeding \$15,000 or to imprisonment for a term not exceeding 12 months or to both; and

(iii) in the case of an offence under paragraph (g), on conviction to a fine not exceeding \$5,000.

15 (2) Any employer, foreign employee or self-employed foreigner who —

(a) knows, or has reason to believe, that an offence has been committed under subsection (1)(d); and

20 (b) intentionally omits to furnish any information to the Controller in respect of that offence,

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.”.

Amendment of section 23

25 **23.** Section 23(2) of the principal Act is amended by deleting the words “foreign worker” wherever they appear and substituting in each case the words “foreign employee”.

Repeal of section 25

24. Section 25 of the principal Act is repealed.

Amendment of section 27

30 **25.** Section 27 of the principal Act is amended by deleting “\$1,000” and substituting “\$2,000”.

Amendment of section 29

26. Section 29(2) of the principal Act is amended by deleting paragraph (c) and substituting the following paragraphs:

- 5 “(c) prescribe the categories of work passes, the period for which any work pass may be issued, renewed or reinstated, the criteria for the issuance, renewal or reinstatement of any work pass and any condition subject to which a work pass may be issued, renewed or reinstated;
- 10 (d) provide for the taking and recording of any personal identifier of any person —
- (i) who applies for or has been issued with a work pass; or
- (ii) who is suspected of committing an offence under this Act;
- 15 (e) provide for the use of any mechanical, electrical or other form of device or system for the taking or recording of all or any of the personal identifiers;
- 20 (f) provide for the collation of any personal identifier taken or recorded pursuant to regulations made under paragraph (d) and the dissemination thereof to the police and to any other law enforcement agency authorised by the Controller to receive it;
- (g) provide for any matter relating to the release of any arrested person on any bail or bond under section 21(4);
- 25 (h) provide for any matter relating to the security to be given by or in respect of any foreigner issued with a work pass, including any condition subject to which the security may be forfeited.”.

New Schedule

30 **27.** The principal Act is amended by inserting, immediately after section 30, the following Schedule:

“THE SCHEDULE

Section 2A

PERSONAL IDENTIFIERS

- 5 1. Fingerprints or handprints of a person (including those taken using paper and ink or digital livescanning technologies).
2. A photograph or other image of a person’s face and shoulders.
3. A person’s signature.”.

Consequential amendments to other written laws

10 **28.** The provisions of the Acts specified in the first column of the Schedule are amended in the manner set out in the second column thereof.

Savings and transitional provisions

15 **29.**—(1) The person who, immediately before the appointed day, is appointed as the Controller of Work Permits or a Deputy Controller of Work Permits or an Assistant Controller of Work Permits under section 3 of the principal Act in force immediately before that day shall be deemed to be the Controller of Work Passes or a Deputy Controller of Work Passes or an Assistant Controller of Work Passes, respectively, appointed under that section as amended by this Act, except that such appointment shall expire on the day the appointment would have expired as if this Act
20 had not been enacted.

(2) Any work permit issued under section 7 of the principal Act in force immediately before the appointed day shall, if such work permit remains in force immediately before that day, be deemed to be a work pass issued under that section as amended by this Act and the work pass shall expire
25 on the day the work permit would have expired as if this Act had not been enacted.

(3) Where an application has been made to the Controller under section 7 of the principal Act and the application has not been dealt with immediately before the appointed day, the application may be dealt with
30 as if it were an application for a work pass under that section as amended by this Act.

(4) This Act shall not affect —

(a) any decision of the Controller or the Minister made under section 7 of the principal Act in force immediately before the appointed day; and

5 (b) any right of appeal accrued before the appointed day in respect of any such decision.

(5) In any written law or document, any reference to the Employment of Foreign Workers Act shall be read as a reference to the Employment of Foreign Manpower Act.

10 (6) In this section, “appointed day” means the date of commencement of this Act.

THE SCHEDULE

Section 28

CONSEQUENTIAL AMENDMENTS TO OTHER WRITTEN LAWS

First column

Second column

- | | |
|--|--|
| <p>(1) Employment Act
(Chapter 91, 1996 Ed.)

Section 98(1)</p> | <p>Delete the words “Foreign Workers” and substitute the words “Foreign Manpower”.</p> |
| <p>(2) Employment Agencies Act
(Chapter 92, 1985 Ed.)</p> <p>(a) Section 23</p> <p>(b) Section 29(1)</p> | <p>Delete the word “worker” in paragraph (c) and substitute the word “employee”.</p> <p>Delete the word “workers” in paragraphs (c), (f) and (g) and substitute in each case the word “employees”.</p> |
| <p>(3) Immigration Act
(Chapter 133, 1997 Ed.)</p> <p>(a) Section 2</p> | <p>Delete the definition of “Controller of Work Permits” and substitute the following definition:</p> |

*First column**Second column*

- “Controller of Work Passes” means the Controller of Work Passes appointed under section 3 of the Employment of Foreign Manpower Act (Cap. 91A);”.
- (b) Section 57
- (i) Delete the words “Work Permits” in subsection (7D)(c)(i) and substitute the words “Work Passes”.
- (ii) Delete the words “work permit” in subsection (10)(c) and substitute the words “work pass”.
- (iii) Delete the words “Foreign Workers” in subsection (10)(c) and substitute the words “Foreign Manpower”.
- (c) Section 57B(3)
- Delete the words “Work Permits” in paragraph (c)(i) and substitute the words “Work Passes”.
- (4) Income Tax Act
(Chapter 134, 2004 Ed.)
- (a) Section 2(1)
- (i) Delete the definition of “employment pass”.
- (ii) Delete the definition of “work permit” and substitute the following definition:
- ““work pass” means a work pass issued by the Controller of Work Passes under the Employment of Foreign Manpower Act (Cap. 91A);”.
- (b) Section 10C
- Delete the words “, an employment pass or a work permit” in subsections (3) and (6) and substitute in each case the words “or a work pass”.
- (c) Section 14(1)
- Delete the words “, an employment pass or a work permit or who would be required to obtain such a pass or permit” in paragraph (iii) of the proviso to paragraph (e) and in the proviso to paragraph (f) and substitute in each case the words “or a work pass or who would be required to obtain such a pass”.

<i>First column</i>	<i>Second column</i>
<p>(d) Section 39</p>	<p>(i) Delete the words “, an employment pass or a work permit” in paragraph (vii) of the proviso to subsection (2)(g) and substitute the words “or a work pass”.</p> <p>(ii) Delete the words “Foreign Workers” in subsection (11) and substitute the words “Foreign Manpower”.</p>
<p>(5) Road Traffic Act (Chapter 276, 2004 Ed.) Section 12(1)</p>	<p>Delete paragraph (c) and substitute the following paragraph:</p> <p>“(c) the holder of a work pass issued under the Employment of Foreign Manpower Act (Cap. 91A),”.</p>
<p>(6) Termination of Pregnancy Act (Chapter 324, 1985 Ed.) Section 3(3)</p>	<p>Delete paragraph (b) and substitute the following paragraph:</p> <p>“(b) is the holder, or is the wife of a holder, of a work pass issued under the Employment of Foreign Manpower Act (Cap. 91A); or”.</p>

EXPLANATORY STATEMENT

This Bill seeks to amend the Employment of Foreign Workers Act (Cap. 91A) for the following main purposes:

- (a) to consolidate the legislative authority for the issuance and enforcement of all work passes, which includes work permits, special passes and employment passes;
- (b) to enhance the penalties for certain offences;
- (c) to introduce a new offence of failing to notify the Controller of Work Passes (the Controller) of any false information;
- (d) to enhance the investigative powers of employment inspectors; and

(e) to grant additional powers to the Controller.

The Bill also makes consequential amendments to certain other written laws.

Clause 1 relates to the short title and commencement.

Clause 2 amends the long title by substituting the term “foreign workers” with the term “foreign manpower”.

Clause 3 amends the short title to change it to the “Employment of Foreign Manpower Act”.

Clause 4 amends section 2 by amending existing definitions and inserting new definitions.

Clause 5 inserts a new section 2A to define what a “personal identifier” means, following the expression given to that term in the Immigration Act (Cap. 133). The expression “personal identifier” is defined to mean any of the following, specified in the new Schedule (inserted by clause 27), including any of the following in digital form: fingerprints and handprints of a person (including those taken using paper and ink and digital livescanning technologies); a photograph or other image of a person’s face and shoulders; a person’s signature. The Minister is empowered to amend the Schedule and prescribe by subsidiary legislation other identifiers, an image, measurement or recording of an external part of the human body. Allowing new types of personal identifiers to be prescribed by subsidiary legislation will permit the adoption of new technologies in a rapidly developing environment for example, voice or audio recordings or an iris scan may be included in future. However, new section 2A specifically prohibits a type of personal identifier the obtaining of which would involve the taking of an intimate sample within the meaning of section 13A of the Registration of Criminals Act (Cap. 268). For example, the taking of a sample of blood cannot be prescribed as a personal identifier in the regulations.

Clause 6 amends section 3 by substituting the term “Work Permits” with the term “Work Passes”.

Clause 7 inserts a new section 3A to deem the Controller and every Deputy Controller of Work Passes, Assistant Controller of Work Passes and employment inspector appointed under section 3 to be public servants within the meaning of the Penal Code (Cap. 224).

Clause 8 amends section 5 by prohibiting any person from employing a foreign employee unless the foreign employee has a valid work pass. Before the amendment, it is an offence for an employer to employ a foreign worker unless the employer has obtained in respect of the foreign worker a valid work permit which allows the foreign worker to work for the employer. Section 5 is amended to make it possible for the Controller to issue certain categories of work passes to certain foreign employees without specifying the employer and the type of employment. The clause further prohibits a foreign employee from being in the employment of an employer without a valid work pass. The clause also makes changes to certain phrases. The penalties are also enhanced. For the avoidance of doubt, if a person is convicted of an offence under new subsection (6) and he had, before the date of commencement of the Bill, been convicted for contravening section 5(1) of the Employment of Foreign Workers Act in

force immediately before that date, the first-mentioned conviction will be considered a second or subsequent conviction for the purposes of attracting the enhanced penalty under new subsection (6).

Clause 9 amends section 6A by increasing the penalties for the offence of allowing a foreigner without a valid work pass to enter or remain at the work place. For the avoidance of doubt, if a person is convicted of an offence under new subsection (6) and he had, before the date of commencement of the Bill, been convicted for contravening section 6A(1) of the Employment of Foreign Workers Act in force immediately before that date, the first-mentioned conviction will be considered a second or subsequent conviction for the purposes of attracting the enhanced penalty under new subsection (6).

Clause 10 repeals and re-enacts section 7. The clause provides for the application, issuance and renewal of work passes. It also empowers the Controller to vary, suspend, revoke or reinstate a work pass, and to debar any person from applying for or being issued with a work pass. Any person who is aggrieved by a decision of the Controller under subsection (2), (3) or (4) may appeal to the Minister, whose decision is final. The clause also excludes any judicial review of any act done or decision made by the Minister or the Controller under any provision of the Act except in regard to any question relating to compliance with any procedural requirement.

Clause 11 amends section 8(1) by requiring an employer to keep a register of foreign employees to whom work passes have been issued under section 7, and that such register is to be kept in accordance with the requirements under section 95 of the Employment Act (Cap. 91).

Clause 12 amends section 9 by requiring an employer to terminate the employment of a foreign employee where the Controller has decided to suspend or revoke the work pass of the foreign employee. The clause further requires an employer who intends to have the work pass of a foreign employee cancelled to apply to the Controller to cancel the work pass and, if so required, to return the work pass to the Controller within 7 days of such cancellation.

Clause 13 repeals and re-enacts section 10. The clause prohibits a self-employed foreigner from engaging in any trade, vocation, profession or other activity for the purpose of gain in Singapore unless he has obtained a valid work pass which allows him to work in Singapore. The clause also provides for the court to make, upon conviction of a person for contravening subsection (1), an order for the payment of a sum equal to the levy which would have been payable if a valid work pass had been issued for the period during which the person was engaged in a trade, vocation, profession or other activity in Singapore for the purpose of gain. For the avoidance of doubt, if a person is convicted of an offence under new subsection (2) and he had, before the date of commencement of the Bill, been convicted for contravening section 10(1) of the Employment of Foreign Workers Act in force immediately before that date, the first-mentioned conviction will be considered a second or subsequent conviction for the purposes of attracting the enhanced penalty under new subsection (2).

Clause 14 amends section 11 by making changes to certain phrases. It also provides that the levy payable under the section will continue to be payable unless the work pass has expired, or has been suspended or revoked by the Controller, or cancelled by the

Controller on application by the employer. The clause also allows the rate at which the penalty under subsection (4) is calculated to be prescribed by subsidiary legislation.

Clause 15 repeals and re-enacts sections 12 and 13.

Section 12 provides that a work pass for a foreign employee will be valid only in respect of the trade or occupation, the type of employment, the employer and the foreign employee that may be specified therein. It also provides that a work pass for a self-employed foreigner will be valid only in respect of the trade, vocation, profession or activity and the self-employed foreigner that may be specified therein. It further provides that a work pass will be valid for the period specified in the work pass unless it is suspended or revoked by the Controller, or cancelled by the Controller on application by the employer or self-employed foreigner, as the case may be.

Section 13 provides that a work pass holder must not allow any other person to have possession of his work pass. If required by the Controller, a foreign employee must hand over his work pass to his employer on the last day of his employment with that employer. Upon demand by an employment inspector, a work pass holder must produce his work pass for inspection. Failure to do so will be an offence under new section 22.

Clause 16 amends section 14 by making changes to certain phrases.

Clause 17 repeals and re-enacts section 15. The clause provides for the burden of proof.

Clause 18 amends section 16(1)(g) by empowering the employment inspector to require any person to produce any article which is relevant to any investigation under the Act and, if necessary, to take into custody any such article.

Clause 19 repeals and re-enacts section 17 by specifying the circumstances and manner in which any employer, foreign employee or self-employed foreigner is to inform the Controller of any change in his address.

Clause 20 amends section 18(2)(c) by deeming any notice, order or document served by ordinary or registered post and which is addressed to the last known business address or private address of any partnership (which includes a limited liability partnership) to have been duly served at the time it would have been received in the ordinary course of post.

Clause 21 repeals and re-enacts section 21 and introduces new sections 21A to 21G. These amendments relate to the power of a police officer or an employment inspector to arrest without warrant. The clause further provides for the mode of arrest, search and seizure, as well as the mode of disposal of documents and articles.

Clause 22 repeals and re-enacts section 22 by providing for offences and the penalties relating to those offences. The clause also makes it an offence for any employer, self-employed foreigner or foreign employee who knows, or has reason to believe, that an offence has been committed under section 22(1)(d), to intentionally omit to furnish any information to the Controller in respect of that offence.

Clause 23 amends section 23(2) by substituting the term “foreign worker” with the term “foreign employee”.

Clause 24 repeals section 25.

Clause 25 amends section 27 by increasing the maximum sum for which an offence may be compounded.

Clause 26 amends section 29(2) by empowering the Minister to make regulations relating to work passes, the taking and recording of any personal identifier of any person, the release of any arrested person on any bail or bond and the security to be given by or in respect of any foreigner issued with a work pass.

Clause 27 inserts a new Schedule relating to personal identifiers.

Clause 28 provides for consequential amendments to other written laws.

Clause 29 contains certain savings and transitional provisions.

EXPENDITURE OF PUBLIC MONEY

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