

Child Development Co-Savings (Amendment) Bill

Bill No. 10/2013.

Read the first time on 15th March 2013.

A BILL

intituled

An Act to amend the Child Development Co-Savings Act (Chapter 38A of the 2002 Revised Edition) and to make related amendments to the Employment Act (Chapter 91 of the 2009 Revised Edition).

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

Deletion and substitution of heading to Part III

3. Part III of the principal Act is amended by deleting the Part heading and substituting the following Part heading:

“MATERNITY PROTECTION AND BENEFITS, ADOPTION LEAVE,
 CHILDCARE LEAVE, EXTENDED CHILDCARE LEAVE, UNPAID
 INFANT CARE LEAVE, SHARED PARENTAL LEAVE AND
 PATERNITY LEAVE”.

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Amendment of section 9

4. Section 9 of the principal Act is amended —

(a) by deleting the words “section 9A” in subsections (1), (1A),
 (1B), (1C), (1D), (1E), (1F), (4), (4A), (4B) and (4C) and
 substituting in each case the words “sections 9A and 12E”;

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

“(5A) Unless disqualified by subsection (5B), and
 subject to section 9A and any regulations made under
 section 20, every woman who is or was a female
 employee or a self-employed woman, who delivers a
 child and satisfies the requirements under section 9A(2),
 shall be entitled to claim from the Government —

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(a) an amount equivalent to 56 days of her total
 income during such period before delivery as
 may be prescribed, where the child is delivered
 during her first or second confinement; or

(b) an amount equivalent to 112 days of her total
 income during such period before delivery as
 may be prescribed, where the child is delivered
 during her third or subsequent confinement.

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(5B) A woman who is or was a female employee or a
 self-employed woman shall not be entitled to claim any
 payment from the Government under subsection (5A) in
 respect of any period if —

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(a) she is also a female employee who is entitled to
 absent herself from work or to receive payment

from her employer under subsection (1), (1A), (1B), (1C), (1D), (1E) or (1F), in respect of the same confinement, regardless of whether she has forfeited her entitlement (or balance thereof) to absent herself from work or to receive payment from her employer under subsection (3) or (3A), as the case may be; or

(b) she is also a self-employed woman who is entitled to claim from the Government her loss of income under subsection (4), (4A), (4B) or (4C), in respect of the same confinement.

(5C) Notwithstanding subsections (3), (3A) and (5B), but subject to section 9A and any regulations made under section 20, a female employee whose employment is terminated upon the completion of her contract of service, before she has exercised, wholly or partly, her entitlement to absent herself from work or to receive payment from her employer under subsection (1), (1A), (1B), (1C), (1D), (1E) or (1F), shall be entitled to claim from the Government payment at her gross rate of pay for the applicable period in subsection (5D) if —

(a) her confinement occurs, or the estimated delivery date (as certified by a medical practitioner) for her confinement is, on or after 1st January 2013; and

(b) she is entitled to absent herself from work or to receive payment from her employer under subsection (1), (1A), (1B), (1C), (1D), (1E) or (1F).

(5D) Where —

(a) the child is delivered during a former female employee's first or second confinement, the period shall be determined by the formula $56 - N$; and

- (b) the child is delivered during a former female employee's third or subsequent confinement, the period shall be determined by the formula $112 - N$,

where "N" means the number of days in which the former female employee has exercised her entitlement to absent herself from work or to receive payment from her employer under subsection (1), (1A), (1B), (1C), (1D), (1E) or (1F), before her employment was terminated upon the completion of her contract of service.";

- (c) by inserting, immediately after subsection (6), the following subsections:

"(7) In subsection (5A), "total income", in relation to a period prescribed for the purposes of subsection (5A), means —

- (a) in the case of a female employee who is or was employed by one or more employers in that period, the total gross rate of pay which she is entitled to receive from all her employers in respect of that period;

- (b) in relation to a woman who is or was self-employed, the income she derived from her trade, business, profession or vocation during the prescribed period; and

- (c) in relation to a woman who is or was both a female employee and a self-employed woman in that period, the aggregate of —

- (i) the total gross rate of pay which she is entitled to receive from all her employers in respect of the period she was employed during the prescribed period; and

- (ii) the income she derived from her trade, business, profession or vocation, where

she was self-employed, during the prescribed period.

(8) Where —

(a) any amount has been paid by the Government to a woman who delivers a child and who is or was a female employee or a self-employed woman under subsection (5A);

(b) the woman is entitled to absent herself from work or to receive payment from her employer under subsection (1), (1A), (1B), (1C), (1D), (1E) or (1F) or to claim from the Government her loss of income under subsection (4), (4A), (4B) or (4C), as the case may be, for that same child; and

(c) subsection (5C) does not apply to the woman, the Government may recover that amount from the woman as a civil debt.”; and

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

“Length of maternity benefit period, etc., for female employee or self-employed woman”.

Amendment of section 9A

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

(a) by deleting paragraphs (c) and (d) of subsections (1), (1A), (1B) and (1C) and substituting in each case the following paragraphs:

“(c) in the case of a female employee —

(i) whose confinement occurs 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, she has served the employer for at

least 90 days immediately preceding the day of her confinement; and

- (ii) whose confinement occurs on or after 1st May 2013, or whose confinement occurs 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, she has served the employer for at least 3 months immediately preceding the day of her confinement; and 5

(d) in the case of a self-employed woman —

- (i) whose confinement occurs 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, she has been carrying on her trade, business, profession or vocation for a continuous period of at least 90 days immediately preceding the day of her confinement; and 15
- (ii) whose confinement occurs on or after 1st May 2013, or whose confinement occurs 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, she has been carrying on her trade, business, profession or vocation for a continuous period of at least 3 months immediately preceding the day of her confinement.”; 25

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

5 “(2) Subject to this section and without prejudice to section 9(5B), a woman who is or was a female employee or self-employed woman shall be entitled to payment by the Government under section 9(5A) if and only if —

10 (a) her confinement occurs, or the estimated delivery date (as certified by a medical practitioner) for her confinement is, on or after 1st January 2013;

(b) the child delivered during her confinement —

(i) is a citizen of Singapore at the time of his birth; or

15 (ii) is not a citizen of Singapore at the time of his birth but becomes a citizen of Singapore within 12 months commencing on the date of his birth;

(c) she —

20 (i) is lawfully married to the child’s natural father at the time the child is conceived;

(ii) becomes lawfully married to the child’s natural father after the child is conceived but before the child’s birth, whether or not such marriage remains subsisting at the time of the child’s birth; or

25 (iii) is not lawfully married to the child’s natural father at the time the child is conceived or at any time after the child is conceived but before the child’s birth, but becomes lawfully married to the child’s natural father within the period of 12 months commencing on the date of the child’s birth; and

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(d) she has, for at least 90 days in the aggregate during the 12 months preceding the day of her confinement, been employed by one or more employers or been self-employed or both.

(2A) For the purposes of reckoning the number of days under subsection (2)(d) in which a woman has been employed or self-employed — 5

(a) the aggregate number of days need not immediately precede the day of her confinement; 10

(b) Saturdays, Sundays and public holidays shall be included, in the case of a female employee who is or was employed by an employer for a continuous period, or a self-employed woman who is or was engaged in her trade, business, profession or vocation for a continuous period; 15

(c) in the case of a female employee who is or was a daily-rated employee, the number of days shall be the actual number of days in which the female employee had worked; 20

(d) in the case of a self-employed woman who is or was engaged in her trade, business, profession or vocation for a non-continuous period, the number of days shall be the actual number of days in which the self-employed woman was engaged in her trade, business, profession or vocation; and 25

(e) where 2 or more periods of employment overlap, the overlapping periods shall be counted only once.”; 30

(c) by inserting, immediately after subsection (5), the following subsection:

“(5A) The amount of payment that a female employee or a self-employed woman is entitled to receive from the

Government under section 9(5A) or (5C), as the case may be, shall not exceed \$10,000 for every 28 days.”;

(d) by deleting the words “subsections (4) and (5)” in subsection (6) and substituting the words “subsections (4), (5) and (5A)”; and

(e) by deleting the words “other written law” in subsection (7) and substituting the words “written law”.

Amendment of section 10

6. Section 10(1) of the principal Act is amended by inserting, immediately after the words “Subject to subsection (2)”, the words “, section 12E”.

Amendment of section 11

7. Section 11 of the principal Act is amended —

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

“(1) Where any payment has been made by an employer or the Government to an employee, or by the Government to a self-employed person under section 9, 10A, 12A, 12AA, 12AB, 12E, 12H or 12K, as the case may be, by reason of a mistake of fact or in reliance on any false or misleading statement or document made or furnished by that employee or self-employed person —

(a) the employer (who is not the Government) may, if he has not been reimbursed by the Government for the payment to the employee under section 9, 10A, 12A, 12AA, 12E, 12H or 12K, as the case may be, recover the payment directly from the employee;

(b) in the case of a payment made by the employer (who is the Government) or by the Government to an employee under section 9, 10A, 12A, 12AA, 12E, 12H or 12K, as the case may be, the

Government may recover the payment or part thereof from the employee as a civil debt; and

(c) the Government may —

(i) where it has reimbursed the employer under section 10, 10A, 12A, 12AD, 12G, 12J or 12K, as the case may be, for the whole or any part of the payment to the employee, recover the payment or part thereof from the employee as a civil debt; or

(ii) where the payment is made to a self-employed person, recover the payment from that person as a civil debt.

(2) Where the Government is satisfied that an employer, despite all reasonable efforts to recover under subsection (1)(a) from his employee any payment he made under section 9, 10A, 12A, 12AA, 12E, 12H or 12K to the employee, has been unable to recover the whole or any part of the payment successfully, the Government shall reimburse the employer under section 10, 10A, 12A, 12AD, 12G, 12J or 12K, as the case may be, for the payment or part thereof not recovered by the employer.

(3) Where any payment has been made by an employer to an employee under section 12B by reason of a mistake of fact, in reliance on any false or misleading statement or document made or furnished by the employee, or for any childcare leave or extended childcare leave taken by the employee in any relevant period which is in excess of the childcare leave or extended childcare leave to which the employee is entitled under that section for that relevant period —

(a) the employer (who is not the Government) may, if he has not been reimbursed by the Government for the payment to the employee

under that section, recover the payment directly from the employee;

(b) the employer (who is the Government) may, if it has made payment to the employee under that section, recover the payment or part thereof from the employee as a civil debt; and

(c) the Government may, where it has reimbursed the employer under section 12C or 12CA, as the case may be, for the whole or any part of the payment to the employee, recover the payment or part thereof from the employee as a civil debt.”;

(b) by inserting, immediately after the words “section 12C” in subsection (4), the words “or 12CA, as the case may be,”;

(c) by deleting the words “section 10, 10A, 12A or 12C” in subsection (6) and substituting the words “section 10, 10A, 12A, 12AD, 12C, 12CA, 12G, 12J or 12K”; and

(d) by inserting, immediately after the words “section 12C(3) or (4)” in subsection (8), the words “or 12CA(3) or (4)”.

Amendment of section 12

8. Section 12 of the principal Act is amended —

(a) by deleting the words “to 86” in subsection (1) and substituting the words “to 84 and 86”;

(b) by deleting the words “Parts XV and XVI” in subsection (2) and substituting the words “Parts XIII, XV and XVI”;

(c) by deleting the words “12B or 12D” in subsection (2)(a) and substituting the words “12AA, 12B, 12D, 12E, 12H or 12K”; and

(d) by deleting the words “section 12B, 12D or 17” in subsection (2)(c) and substituting the words “section 12AA, 12B, 12D, 12E, 12H or 17”.

Amendment of section 12A

9. Section 12A of the principal Act is amended —

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

“(a) a female employee applies to adopt a child, before 1st May 2013, in accordance with any written law relating to the adoption of children;”;

(b) by deleting paragraph (a) of subsection (4) and substituting the following paragraph:

“(a) a self-employed woman applies to adopt a child, before 1st May 2013, in accordance with any written law relating to the adoption of children;”;

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

“Reimbursement of employer of female employee, and self-employed woman in respect of adoption leave for application made before 1st May 2013”.

New sections 12AA to 12AD

10. The principal Act is amended by inserting, immediately after section 12A, the following sections:

“Adoption leave for female employee

12AA.—(1) Subject to subsections (2) and (3), section 12AC and any regulations made under section 20, every female employee who applies to adopt a child in accordance with any written law relating to the adoption of children, and who satisfies the requirements of section 12AC, shall be entitled to adoption leave for such period or periods specified in subsection (2).

(2) The period or periods of adoption leave referred to in subsection (1) shall be —

(a) a period of 4 weeks commencing not earlier than —

(i) in the case of an application to adopt a child who is a citizen of Singapore, the date the application to adopt is made; and

5 (ii) in the case of an application to adopt a child who is not a citizen of Singapore, the date on which the dependant's pass in respect of the child is issued; or

10 (b) one or more periods, not exceeding 24 days in the aggregate, as agreed to between the female employee and her employer, commencing not earlier than —

(i) in the case of an application to adopt a child who is a citizen of Singapore, the date the application to adopt is made; and

15 (ii) in the case of an application to adopt a child who is not a citizen of Singapore, the date on which the dependant's pass in respect of the child is issued.

20 (3) An employer shall grant, and a female employee who is entitled to adoption leave shall take, the entitlement of adoption leave within a period of 12 months commencing on the date of the birth of the child, and any employee who fails to take that leave within that period —

(a) shall thereupon cease to be entitled to that leave; and

25 (b) shall not be entitled to any payment in lieu thereof.

(4) Subject to subsection (5), an employer shall pay a female employee who is entitled to adoption leave, her gross rate of pay for every day of such leave that is taken by the female employee.

30 (5) The amount of payment that the female employee is entitled to receive from her employer under subsection (4) for adoption leave that the female employee is entitled to take under subsection (1) and that is taken by the female employee shall not exceed \$10,000.

(6) The amount of payment referred to in subsection (5) shall be inclusive of any contribution to the Central Provident Fund which an employer or an employee is liable to make under the Central Provident Fund Act (Cap. 36).

(7) If the employment of a female employee who is entitled to take adoption leave 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 adoption leave, she —

(a) shall cease to be entitled to that leave upon termination of her employment; and

(b) shall not be entitled to any payment in lieu thereof.

(8) Any employer who fails, without reasonable cause, to grant adoption leave to a female 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.

(9) Any employer who fails to pay his female employee in accordance with this section 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.

(10) Where an employer has been convicted of an offence under subsection (9), the court may order the employer to make restitution of any moneys paid out to the employer by the Government under section 12AD which have not been paid to a female employee in accordance with this section.

(11) Where an employer who is convicted or found guilty of an offence under subsection (8) or (9) 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.

(12) For the purposes of subsection (11), a person is a repeat offender in relation to an offence under subsection (8) or (9) if the person who is convicted or found guilty of an offence under subsection (8) or (9) (referred to as the current offence) has been convicted or found guilty of an offence under subsection (8) or

(9) on at least one other occasion before the date on which he is convicted or found guilty of the current offence.

(13) Nothing in this section shall be construed as derogating from any other benefits that a female employee is entitled to, during any period of adoption leave taken by her, under the terms of her contract of service or under any written law.

Adoption leave for self-employed woman

12AB.—(1) Subject to subsections (2) and (3), section 12AC and any regulations made under section 20, every self-employed woman who applies to adopt a child in accordance with any written law relating to the adoption of children, and who satisfies the requirements of section 12AC shall, if she —

(a) ceases to be actively engaged in her trade, business, profession or vocation during one or more periods, not exceeding 24 days in the aggregate, which shall be within the period of 12 months commencing on the date of the birth of the child; and

(b) has lost any income by reason of her ceasing to be actively engaged in such trade, business, profession or vocation,

be entitled to claim from the Government any income she would otherwise have derived from her trade, business, profession or vocation had she continued to be actively engaged in such trade, business, profession or vocation during that period or periods referred to in paragraph (a) not exceeding 24 days in the aggregate.

(2) A self-employed woman shall not be entitled to claim from the Government under subsection (1) unless her claim for lost income by reason of her cessation of active engagement in her trade, business, profession or vocation relates to one or more periods commencing —

(a) in the case of an application to adopt a child who is a citizen of Singapore, not earlier than the date the application is made; and

(b) in the case of an application to adopt a child who is not a citizen of Singapore, not earlier than the date the dependant's pass in respect of the child is issued.

(3) The amount of payment a self-employed woman shall be entitled to receive from the Government under subsection (1) shall not exceed \$10,000. 5

(4) The amount of payment referred to in subsection (3) shall be inclusive of any contribution to the Central Provident Fund which a self-employed woman is liable to make under the Central Provident Fund Act (Cap. 36). 10

Eligibility criteria for adoption leave

12AC. Subject to this section, a female employee or a self-employed woman who applies to adopt a child in accordance with any written law relating to the adoption of children shall be entitled to absent herself from work and to payment by her employer under section 12AA(4), or to payment by the Government under section 12AB(1), as the case may be, if — 15

(a) in the case of a child who is a citizen of Singapore, the application to adopt is made on or after 1st May 2013; 20

(b) in the case of a child who is not a citizen of Singapore, the dependant's pass in respect of the child is issued on or after 1st May 2013;

(c) in the case of a female employee, she has served the employer for at least 3 months immediately preceding the date the application to adopt the child is made, or the date the dependant's pass in respect of the child is issued, as the case may be; 25

(d) in the case of a self-employed woman, she has been carrying on her trade, business, profession or vocation for a continuous period of at least 3 months immediately preceding the date the application to adopt the child is made, or the date the dependant's pass in respect of the child is issued, as the case may be; 30

(e) on the date the application to adopt is made, or the dependant's pass in respect of the child is issued, as the case may be —

(i) the child is below the age of one year; and

(ii) the female employee or the self-employed woman, as the case may be, is lawfully married, widowed or divorced; and

(f) where the child is not a citizen of Singapore and a dependant's pass in respect of the child has been issued —

(i) in the case of an application to adopt made in the sole name of the female employee or the self-employed woman, the female employee or the self-employed woman, as the case may be, is a citizen of Singapore on the date the dependant's pass is issued; and

(ii) in the case of an application made in the joint names of the female employee and her husband (referred to in this sub-paragraph as "the other party"), or the self-employed woman and her husband (referred to in this sub-paragraph as "the other party"), either the female employee or the self-employed woman, as the case may be, or the other party to the application is a citizen of Singapore on the date the dependant's pass is issued.

Reimbursement from, or payment by, Government for adoption leave

12AD.—(1) Subject to subsection (2), where a female employee has received payment from her employer at her gross rate of pay under section 12AA(4), the employer shall be entitled to claim reimbursement from the Government, in accordance with regulations made under section 20, for —

(a) the amount of such payment; and

- (b) any contribution which the employer has made under the Central Provident Fund Act (Cap. 36) in respect of such payment which is not recoverable from the employee's wages.

(2) The amount of reimbursement that an employer shall be entitled to claim from the Government in respect of a female employee under subsection (1) shall not exceed \$10,000. 5

(3) Where —

- (a) the Government has reimbursed an employer for any payment made by the employer to a female employee under subsection (1); and 10

- (b) the child referred to in section 12AA(1) whom the employee has applied to adopt —

- (i) is not adopted by that employee within 12 months commencing on the date the application to adopt is made, or the dependant's pass in respect of the child is issued, as the case may be; and 15

- (ii) where the child is not a citizen of Singapore by birth, does not become a citizen of Singapore within 6 months commencing on the date he is adopted by that employee, 20

the Government may recover the payment from that employee as a civil debt.

(4) Where —

- (a) any payment has been made by the Government to a self-employed woman under section 12AB(1); and 25

- (b) the child referred to in that section whom the self-employed woman has applied to adopt —

- (i) is not adopted by that self-employed woman within 12 months commencing on the date the application to adopt is made, or the dependant's pass in respect of the child is issued, as the case may be; and 30

(ii) where the child is not a citizen of Singapore by birth, does not become a citizen of Singapore within 6 months commencing on the date he is adopted by that self-employed woman,

5 the Government may recover the payment from that self-employed woman as a civil debt.”.

Amendment of section 12B

11. Section 12B of the principal Act is amended —

10 (a) by inserting, immediately after the words “childcare leave” in subsection (1), the words “(referred to in this section and section 12CA as childcare leave)”;

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

15 “(1A) Subject to subsection (2) and any regulations made under section 20, where any employee —

(a) has served an employer for a period of not less than 3 months; and

20 (b) has any child who is of or above the age of 7 years but below the age of 13 years, and who is, or who becomes, a qualifying child, at any time during any relevant period,

25 the employee shall be entitled to 2 days of extended childcare leave (referred to in this section and section 12CA as extended childcare leave) for that relevant period.”;

(c) by deleting paragraph (a) of subsection (2) and substituting the following paragraph:

“(a) shall not be entitled to —

30 (i) more than 42 days of childcare leave in respect of any qualifying child;

- (ii) more than 12 days of extended childcare leave in respect of any qualifying child; and
 - (iii) more than a combined total of 6 days of childcare leave and extended childcare leave during any relevant period;” 5
- (d) by inserting, immediately after the words “childcare leave” in subsection (2)(b)(i) and (ii), the words “or extended childcare leave”;
- (e) by inserting, immediately after subsection (6), the following subsection: 10
- “(6A) Where —
- (a) an employee satisfies the requirements under subsection (1A)(a) and (b);
 - (b) between 1st January 2013 and 30th April 2013 (both dates inclusive), his employer has granted him, and he has taken, any leave of absence for childcare purposes (not being any other leave of absence to which he is entitled under any written law) in accordance with this section; and 15 20
 - (c) he has received payment from his employer at his gross rate of pay for the period of such leave of absence for childcare purposes,
- then —
- (i) such leave of absence for childcare purposes shall be treated, for the purposes of this Act, as extended childcare leave under this section; and 25
 - (ii) the payment referred to in paragraph (c) shall be treated, for the purposes of this Act, as a payment made by his employer to him under subsection (9).” 30

(f) by deleting subsections (7), (8) and (9) and substituting the following subsections:

“(7) The childcare leave and extended childcare leave shall be in addition to —

5 (a) the rest days, holidays, annual leave and sick leave to which an employee is entitled under sections 36, 88, 43 and 89, respectively, of the Employment Act; and

10 (b) in the case of childcare leave, any unpaid infant care leave to which an employee may be entitled under section 12D.

15 (8) Subject to subsection (2)(b), an employer shall grant, and an employee who is entitled to childcare leave or extended childcare leave shall take, the entitlement of childcare leave or extended childcare leave, as the case may be, 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 —

20 (a) shall thereupon cease to be entitled to that leave; and

 (b) shall not be entitled to any payment in lieu thereof.

25 (9) Subject to subsections (10) and (10A), an employer shall pay an employee who is entitled to childcare leave or extended childcare leave, as the case may be, his gross rate of pay for every day of such leave that is taken by the employee.”;

(g) by inserting, immediately after subsection (10), the following subsection:

30 “(10A) The amount of payment an employee is entitled to receive from his employer under subsection (9) shall not exceed \$500 for each day of extended childcare leave that the employee is entitled to

under subsection (1A) and that is taken by the employee.”;

(h) by deleting subsections (12), (13) and (14) and substituting the following subsections:

“(12) 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. 5 10

(13) Any employer who fails, without reasonable cause, to grant extended 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. 15

(14) Any employer who fails to pay his employee in accordance with this section 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. 20

(14A) Where an employer has been convicted of an offence under subsection (14), the court may order the employer to make restitution of any moneys paid out to the employer by the Government under section 12C or 12CA, as the case may be, which have not been paid to an employee in accordance with this section. 25

(14B) Where an employer who is convicted or found guilty of an offence under subsection (12), (13) or (14) 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. 30

(14C) For the purposes of subsection (14B), a person is a repeat offender in relation to an offence under 35

subsection (12), (13) or (14) if the person who is convicted or found guilty of an offence under subsection (12), (13) or (14) (referred to as the current offence) has been convicted or found guilty of —

- 5 (a) an offence under subsection (12), (13) or (14); or
- (b) an offence under section 87A(7) or (7A) of the Employment Act in force before, on or after 1st May 2013,

10 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.”;

(i) by inserting, immediately after the words “childcare leave” in subsections (11) and (15), the words “or extended childcare leave, as the case may be,”;

15 (j) by inserting, immediately after subsection (16), the following subsection:

 “(16A) Subject to subsections (18A) and (19), where on or after 1st January 2013 any self-employed person —

- 20 (a) has been carrying on his trade, business, profession or vocation for a continuous period of not less than 3 months;
- (b) has any child who is of or above the age of 7 years but below the age of 13 years, and who is, or who becomes, a qualifying child, at any time during any calendar year;
- 25 (c) ceases to be actively engaged in his trade, business, profession or vocation for childcare purposes during one or more periods not exceeding 2 days during that calendar year; and
- 30 (d) has lost any income by reason of such cessation of active engagement in his trade, business, profession or vocation,

he shall be entitled to claim from the Government the income he would otherwise have derived from his trade, business, profession or vocation had he continued to be actively engaged in such trade, business, profession or vocation, during the period or periods, not exceeding 2 days, in which he had ceased to be actively engaged in his trade, business, profession or vocation.”;

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- (k) by inserting, immediately after subsection (18), the following subsection:

“(18A) A self-employed person shall not be entitled to claim from the Government under subsection (16A) —

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(a) more than 12 days of income lost by reason of his cessation of active engagement in his trade, business, profession or vocation for childcare purposes in respect of any qualifying child; or

15

(b) any income lost by reason of his cessation of active engagement in his trade, business, profession or vocation for childcare purposes during any period occurring before 1st January 2013.”;

20

- (l) by inserting, immediately after the words “subsection (16)” in subsection (19), the words “or (16A), as the case may be,”;

- (m) by inserting, immediately after the words “subsections (10)” in subsection (20), “, (10A)”;

- (n) by deleting the words “sections 11 and 12C” in subsection (21) and substituting the words “sections 11, 12C and 12CA”;

25

- (o) by deleting the definition of “qualifying child” in subsection (21) and substituting the following definition:

“ “qualifying child” means a child who is a citizen of Singapore;”;

30

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

“Childcare leave and extended childcare leave and benefits for parent of qualifying child”.

5 **New section 12CA**

12. The principal Act is amended by inserting, immediately after section 12C, the following section:

“Reimbursement from Government for extended childcare leave

10 **12CA.**—(1) Subject to subsections (2), (3) and (4) and any regulations made under section 20, where an employer has made payment to an employee under section 12B(9) for extended childcare leave taken in any relevant period by the employee, the employer shall be entitled to claim reimbursement from the
15 Government for the amount paid to the employee for the extended childcare leave not exceeding 2 days.

(2) Subject to subsections (3) and (4), the amount of reimbursement which an employer shall be entitled to claim from the Government under subsection (1) in respect of an
20 employee —

(a) shall not exceed \$500 for each day of extended childcare leave taken by the employee; and

(b) shall not exceed \$1,000 in any calendar year.

(3) Notwithstanding subsections (1) and (2), the Government
25 may refuse to reimburse an employer for any amount paid by the employer to an employee for any day of extended childcare leave taken by the employee in any calendar year, if the Government has already reimbursed the employer or any other employer or employers for the amount or amounts paid to the employee for a total of 2 days of extended childcare leave taken by the employee
30 in that calendar year.

(4) Notwithstanding subsections (1) and (2), the Government may refuse to reimburse an employer for any amount paid by the employer to an employee for any day of extended childcare leave

taken by the employee in respect of a qualifying child, if the Government has already reimbursed the employer or any other employer or employers for the amount or amounts paid to the employee for a total of 12 days of extended childcare leave taken by the employee in respect of that qualifying child.”.

5

Amendment of section 12D

13. Section 12D of the principal Act is amended —

(a) by deleting paragraphs (a) and (b) of subsection (7) and substituting the following paragraphs:

“(a) to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both; and

10

(b) for a subsequent offence, to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.”; and

15

(b) by deleting the definition of “qualifying child” in subsection (10) and substituting the following definition:

“ “qualifying child” means a child who is a citizen of Singapore;”.

New sections 12E to 12L

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14. The principal Act is amended by inserting, immediately after section 12D, the following sections:

“Length of benefit period, etc., in respect of shared parental leave

12E.—(1) Subject to this section and any regulations made under section 20, every male employee who is the natural father of a child and who satisfies the requirements of section 12F(1) shall be entitled to absent himself from work on shared parental leave for —

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(a) a period of one week, which must be consumed within the period of 12 months commencing on the date of the birth of the child; or

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(b) one or more periods, not exceeding 6 days in the aggregate, as agreed to by the male employee and his employer, which must be consumed within the period of 12 months commencing on the date of the birth of the child,

provided an election for the natural father to take shared parental leave is made in accordance with subsection (4).

(2) An employer shall grant a male employee his entitlement to shared parental leave in accordance with this Act and shall pay the employee who is entitled to such leave his gross rate of pay for every day of such leave that is taken by the employee.

(3) Subject to this section and any regulations made under section 20, every self-employed man who is the natural father of a child and who satisfies the requirements of section 12F(1) shall, if he —

(a) ceases to be actively engaged in his trade, business, profession or vocation during one or more periods, not exceeding 6 days in the aggregate, which shall be within the period of 12 months commencing on the date of the birth of the child; and

(b) has lost any income by reason of his ceasing to be actively engaged in such trade, business, profession or vocation,

be entitled to claim from the Government, the income he would otherwise have derived from his trade, business, profession or vocation had he continued to be actively engaged in such trade, business, profession or vocation during that period or periods referred to in paragraph (a) not exceeding 6 days in the aggregate, provided an election for the natural father to take shared parental leave is made in accordance with subsection (4).

(4) For the purposes of subsections (1) and (3), an election for the natural father to take shared parental leave —

(a) may be made by the mother of the child before, on or after the birth of the child but not later than the expiry of

the period of 12 months commencing on the date of the birth of the child;

(b) shall be made in such form and manner as the Minister may provide; and

(c) shall be irrevocable, except as provided in subsection (6). 5

(5) Subject to subsection (6), where an election is made in accordance with subsection (4), the mother's entitlement to absent herself from work and to receive payment under section 9 shall be reduced by the following period: 10

(a) one week, where the mother's entitlement to absent herself from work under section 9 is prescribed only in weeks, which shall be taken from the last week of that entitlement; or

(b) in a case other than paragraph (a), 6 days, which shall be taken from the last 24 days or 48 days, as the case may be, of that entitlement. 15

(6) A male employee or self-employed man, as the case may be, or the mother of the child may, at any time within the period of 12 months commencing on the date of the birth of the child and in accordance with any regulations made under section 20, revoke the election made under subsection (4) and return the whole of the entitlement of the male employee or self-employed man to the mother of the child, in any of the following circumstances, failing which the entitlement of the male employee or self-employed man shall be forfeited: 20 25

(a) where the employment of the male employee is terminated (whether by resignation or dismissal, upon the completion of his contract of service, or for any other reason), after an election is made under subsection (4) but before he has consumed any part of his entitlement to absent himself from work on shared parental leave within the period of 12 months commencing on the date of the birth of the child; 30

5 (b) where the self-employed man ceases to be self-employed, after an election is made under subsection (4) but before he has consumed any part of his entitlement to cease to be actively engaged in his trade, business, profession or vocation on shared parental leave within the period of 12 months commencing on the date of the birth of the child.

10 (7) In a case other than subsection (6)(a) or (b), where a male employee or a self-employed man, as the case may be, has not consumed any part of his entitlement to shared parental leave within the period of 12 months commencing on the date of the birth of the child, his entitlement shall be forfeited unless that entitlement is dealt with in accordance with any regulations made under section 20.

15 (8) Where a male employee or a self-employed man, as the case may be, has consumed any part of his entitlement to shared parental leave within the period of 12 months commencing on the date of the birth of the child, the remaining part of that entitlement and his entitlement to receive payment under subsection (2) or (3), as the case may be, shall be forfeited in any of the following circumstances:

20 (a) in the case of a male employee, if his employment is terminated (whether by resignation or dismissal, upon the completion of his contract of service, or for any other reason);

25 (b) if he does not consume the remaining part of that entitlement within the period of 12 months commencing on the date of the birth of the child.

30 (9) For the purposes of this section, a natural father's entitlement to shared parental leave, where it is consumed in accordance with subsection (1)(b), shall be based on the natural father's work week which, in any event, shall not exceed 6 days.

35 (10) Any employer who fails, without reasonable cause, to grant shared parental leave to a male 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.

(11) Any employer who fails to pay his male employee in accordance with this section and section 12F 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.

(12) Where an employer has been convicted of an offence under subsection (11), the court may order the employer to make restitution of any moneys paid out to the employer by the Government under section 12G which have not been paid to a male employee in accordance with this section and section 12F.

(13) Where an employer who is convicted or found guilty of an offence under subsection (10) or (11) 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.

(14) For the purposes of subsection (13), a person is a repeat offender in relation to an offence under subsection (10) or (11) if the person who is convicted or found guilty of an offence under subsection (10) or (11) (referred to as the current offence) has been convicted or found guilty of an offence under subsection (10) or (11) on at least one other occasion before the date on which he is convicted or found guilty of the current offence.

Eligibility criteria and cap in respect of shared parental leave benefits

12F.—(1) A male employee who is the natural father of a child shall be entitled to absent himself from work on shared parental leave and to payment under section 12E(1) and (2), and a self-employed man who is the natural father of a child shall be entitled to payment by the Government under section 12E(3), if —

- (a) the mother's confinement occurs, or whose estimated delivery date (as certified by a medical practitioner) for her confinement is, on or after 1st May 2013;

(b) the child delivered during the mother's confinement is —

- (i) a citizen of Singapore at the time of his birth; or
- (ii) not a citizen of Singapore at the time of his birth but becomes a citizen of Singapore within the period of 12 months commencing on the date of his birth;

(c) the child's mother —

(i) is lawfully married to the child's natural father at the time the child is conceived;

(ii) becomes lawfully married to the child's natural father after the child is conceived but before the birth of the child, whether or not such marriage remains subsisting at the time of the birth of the child; or

(iii) is not lawfully married to the child's natural father at the time the child is conceived or at any time after the child is conceived but before the child's birth, but becomes lawfully married to the child's natural father within the period of 12 months commencing on the date of the birth of the child;

(d) the child's mother, who is a female employee, is entitled to the benefits under section 9(1), (1A), (1B), (1C), (1D), (1E) or (1F) at the time an election is made in accordance with section 12E(4); and

(e) the child's mother, who is a self-employed woman, is entitled to the benefits under section 9(4), (4A), (4B) or (4C), at the time an election is made in accordance with section 12E(4).

(2) Subject to any regulations made under section 20, where a male employee absents himself from work on shared parental leave for any period referred to in section 12E(1), the amount of payment he shall be entitled to receive from his employer under section 12E(2) shall not exceed a total of \$2,500.

(3) Subject to any regulations made under section 20, where a self-employed man ceases to be actively engaged in his trade, business, profession or vocation during any period referred to in section 12E(3), the amount of payment he shall be entitled to receive from the Government under section 12E(3) shall not exceed a total of \$2,500. 5

(4) The amounts of payment referred to in subsections (2) and (3) shall be inclusive of any contribution to the Central Provident Fund which an employer, a male employee or a self-employed man is liable to make under the Central Provident Fund Act (Cap. 36). 10

(5) Nothing in this section and section 12E shall be construed as derogating from any other benefits that a male employee is entitled to, during the period in which he is entitled to shared parental leave and to payment for such leave, under the terms of his contract of service or under any written law. 15

Reimbursement from Government for shared parental leave benefits

12G.—(1) Subject to subsection (2) and any regulations made under section 20, where an employer makes payment to a male employee under section 12E(2), he shall be entitled to claim reimbursement from the Government for — 20

(a) the amount paid to the employee under section 12E(2) for the period of his absence from work under that provision; and 25

(b) any contribution which the employer has made under the Central Provident Fund Act (Cap. 36) in respect of such payment which is not recoverable from the employee's wages.

(2) The amount of reimbursement an employer shall be entitled to claim from the Government under subsection (1) in respect of a male employee shall not exceed a total of \$2,500. 30

Length of benefit period, etc., in respect of paternity leave

5 **12H.**—(1) Subject to subsection (5) and any regulations made under section 20, every male employee, who is the natural father of a child and who satisfies the requirements of section 12I(1), or who is the adoptive father of a child and who satisfies the requirements of section 12I(2), shall be entitled to absent himself from work on paternity leave for —

10 (a) a period of one week which must be consumed within the period of 16 weeks commencing on the date of the birth of the child; or

15 (b) one or more periods, not exceeding 6 days in the aggregate, as agreed to by the male employee and his employer, which must be consumed within the period of 12 months commencing on the date of the birth of the child.

(2) An employer shall grant an employee his entitlement to paternity leave in accordance with this Act and pay the employee who is entitled to such leave his gross rate of pay for every day of such leave that is taken by the employee.

20 (3) Where the employment of a male employee is terminated (whether by resignation or dismissal, upon the completion of his contract of service, or for any other reason) before he has exercised, wholly or partly, his entitlement to absent himself from work on paternity leave, he shall forfeit his entitlement (or the balance thereof) upon the termination of his employment.

30 (4) Subject to subsection (5) and any regulations made under section 20, every self-employed man, who is the natural father of a child who satisfies the requirements of section 12I(1), or who is the adoptive father of a child who satisfies the requirements of section 12I(2), and who ceases to be actively engaged in his trade, business, profession or vocation —

(a) during one or more periods, not exceeding 6 days in the aggregate, which shall be within the period of 12 months commencing on the date of the birth of the child; and

- (b) who has lost any income by reason of his ceasing to be actively engaged in such trade, business, profession or vocation,

shall be entitled to claim from the Government the income he would otherwise have derived from his trade, business, profession or vocation had he continued to be actively engaged in such trade, business, profession or vocation during that period or periods referred to in paragraph (a) not exceeding 6 days in the aggregate.

(5) Every male employee or self-employed man who is the adoptive father of a child and who satisfies the requirements of section 12I(2) shall only be entitled to take the paternity leave commencing not earlier than —

- (a) the date on which an application is made by the adoptive father to adopt the child, where the child is a citizen of Singapore; or

- (b) the date on which the dependant's pass in respect of the child is issued, where the child is not a citizen of Singapore.

(6) For the purposes of this section, a natural father's or an adoptive father's entitlement to paternity leave, where it is consumed in accordance with subsection (1)(b), shall be based on the father's work week which, in any event, shall not exceed 6 days.

(7) Any employer who fails, without reasonable cause, to grant paternity leave to a male 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.

(8) Any employer who fails to pay his male employee in accordance with this section and section 12I 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.

(9) Where an employer has been convicted of an offence under subsection (8), the court may order the employer to make restitution of any moneys paid out to the employer by the Government under section 12J which have not been paid to a male employee in accordance with this section and section 12I.

(10) Where an employer who is convicted or found guilty of an offence under subsection (7) or (8) 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.

(11) For the purposes of subsection (10), a person is a repeat offender in relation to an offence under subsection (7) or (8) if the person who is convicted or found guilty of an offence under subsection (7) or (8) (referred to as the current offence) has been convicted or found guilty of an offence under subsection (7) or (8) on at least one other occasion before the date on which he is convicted or found guilty of the current offence.

Eligibility criteria and cap in respect of paternity leave benefits

12I.—(1) A male employee who is the natural father of a child shall be entitled to absent himself from work on paternity leave and to payment under section 12H(1) and (2), and a self-employed man who is the natural father of a child shall be entitled to payment by the Government under section 12H(4), if —

(a) the mother's confinement occurs, or whose estimated delivery date (as certified by a medical practitioner) for her confinement is, on or after 1st May 2013;

(b) the child delivered during the mother's confinement is —

- (i) a citizen of Singapore at the time of his birth; or
- (ii) not a citizen of Singapore at the time of his birth but becomes a citizen of Singapore within the period of 12 months commencing on the date of his birth;

(c) the child's mother —

- (i) is lawfully married to the child's natural father at the time the child is conceived;
 - (ii) becomes lawfully married to the child's natural father after the child is conceived but before the child's birth, whether or not such marriage remains subsisting at the time of the birth of the child; or
 - (iii) is not lawfully married to the child's natural father at the time the child is conceived or at any time after the child is conceived but before the child's birth, but becomes lawfully married to the child's natural father within the period of 12 months commencing on the date of the birth of the child;
- (d) in the case of a male employee, he has served the employer for at least 3 months immediately preceding the date of the birth of the child; and
- (e) in the case of a self-employed man, he has been carrying on his trade, business, profession or vocation for a continuous period of at least 3 months immediately preceding the date of the birth of the child.

(2) A male employee who is the adoptive father of a child shall be entitled to absent himself from work on paternity leave and to payment under section 12H(1) and (2), and a self-employed man who is the adoptive father of a child shall be entitled to payment by the Government under section 12H(4), if —

- (a) in the case of a child who —
 - (i) is a citizen of Singapore, the application to adopt the child is made on or after 1st May 2013; or
 - (ii) is not a citizen of Singapore, the dependant's pass in respect of the child is issued on or after 1st May 2013;

(b) the adoptive father —

(i) is lawfully married —

(A) on the date an application is made to adopt the child or on the date the dependant's pass is issued in respect of the child, as the case may be; and

(B) the child is below the age of one year; or

(ii) becomes lawfully married within the period of 12 months commencing on the date of the birth of the child;

(c) where the child is not a citizen of Singapore, the adoptive father or his wife, if she is a joint applicant to the adoption, is a citizen of Singapore on the date the dependant's pass is issued in respect of the child;

(d) in the case of a male employee, he has served the employer for at least 3 months immediately preceding —

(i) the date the application is made by the employee to adopt the child, where the child is a citizen of Singapore; or

(ii) the date the dependant's pass in respect of the child is issued, where the child is not a citizen of Singapore; and

(e) in the case of a self-employed man, he has been carrying on his trade, business, profession or vocation for a continuous period of at least 3 months immediately preceding —

(i) the date the application is made by the self-employed man to adopt the child, where the child is a citizen of Singapore; or

(ii) the date the dependant's pass in respect of the child is issued, where the child is not a citizen of Singapore.

(3) Subject to any regulations made under section 20, where a male employee absents himself from work on paternity leave for any period referred to in section 12H(1), the amount of payment he shall be entitled to receive from his employer under section 12H(2) shall not exceed a total of \$2,500. 5

(4) Subject to any regulations made under section 20, where a self-employed man ceases to be actively engaged in his trade, business, profession or vocation during any period referred to in section 12H(4), the amount of payment he shall be entitled to receive from the Government under section 12H(4) shall not exceed a total of \$2,500. 10

(5) The amounts of payment referred to in subsections (3) and (4) shall be inclusive of any contribution to the Central Provident Fund which an employer, a male employee or a self-employed man is liable to make under the Central Provident Fund Act (Cap. 36). 15

(6) Nothing in this section and section 12H shall be construed as derogating from any other benefits that a male employee is entitled to, during the period in which he is entitled to paternity leave and to payment for such leave, under the terms of his contract of service or under any written law. 20

(7) In this section and section 12H, “adoptive father” includes a male person who applies or who intends to apply to adopt a child in accordance with any written law relating to the adoption of children. 25

Reimbursement from Government for paternity leave benefits

12J.—(1) Subject to subsection (2) and any regulations made under section 20, where an employer makes payment to a male employee under section 12H(2), he shall be entitled to claim reimbursement from the Government, for — 30

- (a) the amount paid to the employee under section 12H(2) for the period of his absence from work under that provision; and

(b) any contribution which the employer has made under the Central Provident Fund Act (Cap. 36) in respect of such payment which is not recoverable from the employee's wages.

5 (2) The amount of reimbursement an employer shall be entitled to claim from the Government under subsection (1) in respect of a male employee shall not exceed a total of \$2,500.

(3) Where —

10 (a) the Government has reimbursed an employer for any payment made by the employer to a male employee under subsection (1); and

(b) the child referred to in section 12I(2) whom the employee has applied to adopt —

15 (i) is not adopted by that employee within 12 months commencing on the date the application to adopt is made, or the dependant's pass in respect of the child is issued, as the case may be; and

20 (ii) where the child is not a citizen of Singapore by birth, does not become a citizen of Singapore within 6 months commencing on the date he is adopted by that employee,

the Government may recover that payment from that employee as a civil debt.

(4) Where —

25 (a) any payment has been made by the Government to a self-employed man under section 12H(4); and

(b) the child referred to in section 12I(2) whom the self-employed man has applied to adopt —

30 (i) is not adopted by that self-employed man within 12 months commencing on the date the application to adopt is made, or the dependant's pass in respect of the child is issued, as the case may be; and

- (ii) where the child is not a citizen of Singapore by birth, does not become a citizen of Singapore within 6 months commencing on the date he is adopted by that self-employed man,

the Government may recover that payment from that self-employed man as a civil debt. 5

Shared parental leave and paternity leave benefits for child delivered between 1st January 2013 and 30th April 2013

12K.—(1) Subject to subsections (2) and (3), where —

- (a) in relation to a male employee who is the natural father of the child under section 12E or 12H, either of the following applies to the male employee: 10

- (i) the child is born between 1st January 2013 and 30th April 2013 (both dates inclusive), and the estimated delivery date (as certified by a medical practitioner) for the mother’s confinement is before 1st May 2013; or 15

- (ii) the child is born before 1st January 2013, but the estimated delivery date (as certified by a medical practitioner) for the mother’s confinement is between 1st January 2013 and 30th April 2013 (both dates inclusive); 20

- (b) in relation to a male employee who is the adoptive father of a child under section 12H, either of the following applies to the male employee: 25

- (i) in the case of a child who is a citizen of Singapore, the application to adopt the child is made between 1st January 2013 and 30th April 2013 (both dates inclusive); or

- (ii) in the case of a child who is not a citizen of Singapore, the dependant’s pass in respect of the child is issued between 1st January 2013 and 30th April 2013 (both dates inclusive); 30

(c) the male employee otherwise satisfies the requirements set out in section 12F(1) or 12I(1) or (2) (other than the requirements in section 12F(1)(a) or 12I(1)(a) or (2)(a), as the case may be);

5 (d) the employer has granted the male employee shared parental leave for such period referred to in section 12E(1) or paternity leave for such period referred to in section 12H(1);

10 (e) the male employee absents himself from work during the whole or any part of the period referred to in paragraph (d); and

(f) the male employee has received payment from his employer at his gross rate of pay during such period of absence,

15 the employer shall be entitled to claim reimbursement from the Government in accordance with any regulations made under section 20 for the payments referred to in subsection (2).

(2) The payments for which an employer shall be entitled to be reimbursed by the Government under subsection (1) shall be —

20 (a) the amount paid to the employee for the period of his absence from work; and

(b) any contribution which the employer has made under the Central Provident Fund Act (Cap. 36) in respect of such payment which is not recoverable from the employee's wages.

(3) The amount of reimbursement an employer shall be entitled to claim from the Government under subsection (1) in respect of a male employee shall not exceed a total of \$2,500.

(4) Subject to subsection (5), where —

30 (a) in relation to a self-employed man who is the natural father of the child under section 12E or 12H, either of the following applies to the self-employed man:

(i) the child is born between 1st January 2013 and 30th April 2013 (both dates inclusive), and the

estimated delivery date (as certified by a medical practitioner) for the mother's confinement is before 1st May 2013; or

- (ii) the child is born before 1st January 2013, but the estimated delivery date (as certified by a medical practitioner) for the mother's confinement is between 1st January 2013 and 30th April 2013 (both dates inclusive); 5
- (b) in relation to a self-employed man who is the adoptive father of a child under section 12H, either of the following applies to the self-employed man: 10
 - (i) in the case of a child who is a citizen of Singapore, the application to adopt the child is made between 1st January 2013 and 30th April 2013 (both dates inclusive); or 15
 - (ii) in the case of a child who is not a citizen of Singapore, the dependant's pass in respect of the child is issued between 1st January 2013 and 30th April 2013 (both dates inclusive);
- (c) the self-employed man otherwise satisfies the requirements set out in section 12F(1) or 12I(1) or (2) (other than the requirements in section 12F(1)(a) or 12I(1)(a) or (2)(a), as the case may be); 20
- (d) the self-employed man takes shared parental leave or paternity leave and ceases to be actively engaged in his trade, business, profession or vocation during the whole or part of such period referred to in section 12E(3) or 12H(4), as the case may be; and 25
- (e) the self-employed man has lost any income by reason of his ceasing to be actively engaged in such trade, business, profession or vocation during the whole or any part of the period referred to in paragraph (d), 30

he shall be entitled to claim from the Government, in accordance with any regulations made under section 20, the income he would otherwise have derived from his trade, business, 35

profession or vocation had he continued to be actively engaged in such trade, business, profession or vocation during the whole or any part of the period referred to in paragraph (d).

5 (5) The amount of payment that a self-employed man shall be entitled to receive from the Government under subsection (4) shall not exceed a total of \$2,500.

Payments to include holidays

10 **12L.**—(1) For the avoidance of doubt, the payment for any benefit period referred to in sections 12AA, 12AB, 12E and 12H shall be paid for every day of the benefit period, including holidays.

15 (2) Nothing in this section shall be construed to require an employer to pay an employee an extra day's salary for a holiday which falls within any of the benefit period referred to in subsection (1).”.

Amendment of section 13

15. Section 13 of the principal Act is amended by deleting the words “self-employed women or” in paragraph (b).

Amendment of section 14

20 **16.** Section 14(1) of the principal Act is amended —

(a) by deleting the words “or 12A” in paragraph (d) and substituting the words “, 12A or 12AB”;

(b) by inserting, immediately after paragraph (da), the following paragraphs:

25 “(db) the entitlement of a female employee to any payment from the Government under section 9(5A) or (5C);

(dc) the entitlement of a self-employed man to any payment under section 12E, 12H or 12K;”;

30 (c) by deleting the words “or 12C” in paragraph (e) and substituting the words “, 12AD, 12C, 12CA, 12G, 12J or 12K”.

Amendment of section 17

17. Section 17 of the principal Act is amended —

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

“(1) Any employer who —

(a) fails, without reasonable cause, to grant maternity leave, in accordance with sections 9 and 9A, to a female employee who is entitled to and requests for such leave;

(b) fails to pay his female employee in accordance with sections 9 and 9A;

(c) fails to pay his female employee in accordance with any provision of sections 77 to 80, 84(1) and 84A(1) of the Employment Act (Cap. 91) as made applicable by section 12;

(d) acts in contravention of section 81 of the Employment Act as made applicable by section 12; or

(e) acts in contravention of section 82 of the Employment Act as made applicable by section 12,

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.

(1A) Where an employer who is convicted or found guilty of an offence under subsection (1)(a), (b), (c), (d) or (e) 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.

(1AA) For the purposes of subsection (1A), a person is a repeat offender in relation to an offence under subsection (1)(a), (b), (c), (d) or (e) if the person who is convicted or found guilty of an offence under

subsection (1)(a), (b), (c), (d) or (e) (referred to as the current offence) has been convicted or found guilty of —

(a) an offence under subsection (1)(a), (b), (c), (d) or (e); or

(b) an offence under section 82 or 87(1) of the Employment Act 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.”;

(b) by deleting the words “subsection (1)” in subsection (2) and substituting the words “subsection (1)(b), (c) or (d)”; and

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

“Offences and penalties”.

Amendment of section 19

18. Section 19(2) of the principal Act is amended by deleting the words “section 12B, 12D or 17” and substituting the words “section 12AA, 12B, 12D, 12E, 12H or 17”.

Amendment of section 20

19. Section 20(2) of the principal Act is amended by deleting paragraphs (a) to (d) and substituting the following paragraphs:

“(a) the terms and conditions, manner and method of —

(i) any payment to any female or male employee or self-employed man or woman under section 9, 10A, 12A, 12AA, 12AB, 12E, 12H or 12K, as the case may be; and

(ii) any payment to any employee or self-employed person under section 12B;

- (b) the manner of and method for determining —
- (i) the income which a self-employed man or woman is entitled to claim from the Government under section 9, 10A, 12A, 12AB, 12E, 12H or 12K, as the case may be; and 5
 - (ii) the income which a self-employed person is entitled to claim from the Government under section 12B;
- (c) the manner of and method for determining the amount of reimbursement which an employer is entitled to claim under section 10, 10A, 12A, 12AD, 12C, 12CA, 12G, 12J or 12K and the terms and conditions subject to which the employer may be reimbursed; 10
- (d) the authority responsible for the assessment and payment of — 15
- (i) the income which a self-employed man or woman is entitled to claim under section 9, 10A, 12A, 12AB, 12E, 12H or 12K, as the case may be;
 - (ii) the income which a self-employed person is entitled to claim under section 12B; and 20
 - (iii) the reimbursement which an employer is entitled to claim under section 10, 10A, 12A, 12AD, 12C, 12CA, 12G, 12J or 12K;”.

Repeal and re-enactment of section 21 and new section 22

20. Section 21 of the principal Act is repealed and the following sections substituted therefor: 25

“Class exemption

21. The Minister may, by order published in the *Gazette*, exempt any class of persons from complying with any provision of this Act or any regulations made thereunder, subject to such terms or conditions as may be specified in the order. 30

Exemption on application

22.—(1) The Minister may, on the application of any person, exempt that person from complying with any requirement of this Act or any regulations made thereunder.

5 (2) An exemption under subsection (1) —

(a) may be granted subject to such terms or conditions as the Minister considers appropriate;

(b) shall have effect for such period as the Minister considers appropriate;

10 (c) shall be in writing and sent by the Minister to the person to whom the exemption is granted; and

(d) need not be published in the *Gazette*.

(3) An exemption under this section shall, unless previously revoked in accordance with the terms of such exemption, continue in force for such period as may be specified in the exemption.

(4) The Minister may, on the application of any person —

(a) extend the period for which an exemption granted under subsection (1) has effect;

20 (b) vary or revoke any existing term or condition specified in an exemption granted under subsection (1);

(c) revoke, whether wholly or partly, any exemption granted to a person under subsection (1); or

25 (d) impose additional terms or conditions in an exemption granted under subsection (1).

(5) In this section, any reference to the Minister shall include a reference to any of the following persons designated by the Minister to exercise the power to exempt under this section in place of the Minister:

30 (a) a Second Minister, Minister of State or Senior Minister of State for his Ministry;

(b) a Parliamentary Secretary or Senior Parliamentary Secretary to his Ministry.”.

Related amendments to Employment Act

21. The Employment Act (Cap. 91) is amended —

(a) by deleting subsections (2) and (2A) of section 76 and substituting the following subsections: 5

“(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. 10

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

(a) on or after 1st May 2013; or 15

(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.”; 20

(b) by deleting subsection (1) of section 84 and substituting the following subsection:

“(1) Without prejudice to sections 81 and 84A, no notice of dismissal given without sufficient cause by an employer to a female employee which — 25

(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 30

(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.”;

(c) by deleting subsection (1) of section 84A and substituting the following subsection:

“(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.”;

(d) by repealing section 85;

(e) by repealing section 87 and substituting the following section:

“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,

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.

10 (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.

15 (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.

20 (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

30 (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.”; and

(f) by deleting subsections (7) and (7A) of section 87A and substituting the following subsections:

“(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.

(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.

(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.

(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.”

EXPLANATORY STATEMENT

This Bill seeks to amend the Child Development Co-Savings Act (Cap. 38A) for the following main purposes:

- (a) to introduce paid maternity benefits for a female employee or self-employed woman who has worked for one or more periods of at least 90 days in the aggregate during the 12 months preceding the day of her confinement, if certain requirements are satisfied;
- (b) to modify the current paid maternity benefits, to allow a female employee to claim maternity benefits from the Government for the portion of her maternity leave which is forfeited where her employment is terminated upon the completion of her contract of service, if certain requirements are satisfied;
- (c) to mandate paid adoption leave for a female employee and to provide for the Government to reimburse an employer of such employee who grants the employee paid adoption leave, if certain requirements are satisfied;
- (d) to provide for the Government to reimburse a self-employed woman who has lost any income due to her ceasing to be actively engaged in her trade, business, profession or vocation on adoption leave, if certain requirements are satisfied;
- (e) to introduce paid extended childcare leave for an employee who is a parent of a qualifying child, and to provide for the Government to reimburse the employer of such an employee who grants the employee paid extended childcare leave, if certain requirements are satisfied;
- (f) to provide for the Government to reimburse a self-employed person who has lost any income during his ceasing to be actively engaged in his trade, business, profession or vocation for extended childcare purposes, if certain requirements are satisfied;
- (g) to provide for a parent who has never been married to be entitled to childcare leave, extended childcare leave and unpaid infant care leave;
- (h) to introduce shared parental leave for a male employee, who is the natural father of a child where the child's mother qualifies for maternity leave, and to provide for the Government to reimburse the employer of such an employee who grants the employee shared parental leave, if certain requirements are satisfied;
- (i) to provide for the Government to reimburse a self-employed man, who is the natural father of a child and who has lost any income during his ceasing to be actively engaged in his trade, business, profession or vocation when he is on shared parental leave, where the child's mother qualifies for maternity leave, if certain requirements are satisfied;

- (j) to introduce paid paternity leave for a male employee, who is the natural father or adoptive father of a child, and to provide for the Government to reimburse the employer of such an employee who grants the employee paid paternity leave, if certain requirements are satisfied; and
- (k) to provide for the Government to reimburse a self-employed man, who is the natural father or adoptive father of a child, and who has lost any income during his ceasing to be actively engaged in his trade, business, profession or vocation when he is on paid paternity leave, if certain requirements are satisfied.

The Bill also makes related amendments to the Employment Act (Cap. 91).

Clause 1 relates to the short title and commencement.

Clause 2 amends section 2(1) —

- (a) to insert the definition of “dependant’s pass” (found in the existing section 12A, which is to be amended by clause 9). The definition of “dependant’s pass” now includes a document evidencing that the application for a dependant’s pass has been approved;
- (b) to insert a new definition for “productivity incentive payment”; and
- (c) to insert a new definition for “self-employed man”.

Clause 3 amends the heading to Part III as Part III will be expanded to provide for extended childcare leave, shared parental leave and paternity leave benefits.

Clause 4 amends section 9 to insert a new subsection (5A) to provide for payment by the Government to a woman who is or was a female employee or self-employed woman of an amount equivalent to 56 days of her total income during such period before delivery as may be prescribed (where the child is delivered during her first or second confinement) or 112 days of her total income during such period before delivery as may be prescribed (where the child is delivered during her third or subsequent confinement), where she satisfies the requirements set out in the new section 9A(2) (to be inserted by clause 5).

Clause 4 also amends section 9 to insert a new subsection (5B) to provide that a woman who is or was a female employee or self-employed woman is not entitled to payment from the Government under the new section 9(5A) if —

- (a) she is already entitled to paid maternity benefits under section 9(1), (1A), (1B), (1C), (1D), (1E) or (1F), in respect of the same confinement, regardless of whether she has forfeited her entitlement (or balance thereof) to absent herself from work or to receive payment from her employer under subsection (3) or (3A); or
- (b) she is entitled to claim from the Government her loss of income under subsection (4), (4A), (4B) or (4C) in respect of the same confinement.

However a female employee who is entitled to maternity benefits under section 9(1), (1A), (1B), (1C), (1D), (1E) or (1F), and whose employment is terminated upon the completion of her contract of service, before she has exercised wholly or partly her entitlement to the maternity benefits, will be entitled to claim from the Government payment under the new section 9(5C) for the applicable period stipulated in the new section 9(5D).

Clause 4 also —

- (a) inserts a new section 9(7) to define the “total income” of a female employee or self-employed woman in relation to a prescribed period for the purposes of the new section 9(5A);
- (b) inserts a new section 9(8) to enable the Government to recover, as a civil debt, any payment made to a female employee or a self-employed woman under subsection (5A) where the female employee or self-employed woman is entitled to maternity benefits under section 9(1), (1A), (1B), (1C), (1D), (1E), (1F), (4), (4A), (4B) or (4C), and where subsection (5C) does not apply to that woman; and
- (c) amends the section heading of section 9.

Clause 5 amends section 9A(1), (1A), (1B) and (1C) to change the minimum period of employment from 90 days immediately preceding the day of confinement to 3 months immediately preceding the day of confinement, in order for a female employee or self-employed woman to be eligible for maternity benefits under section 9(1), (1A), (1B), (1C), (1D), (1E), (1F), (4), (4A), (4B) or (4C), as the case may be. The minimum period of 3 months will only apply to a female employee or self-employed woman whose confinement occurs on or after 1st May 2013, or whose confinement occurs 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.

Clause 5 also inserts —

- (a) a new section 9A(2) and (5A) to provide the eligibility criteria for payment by the Government to a female employee or self-employed woman who is entitled to such payment under section 9(5A), and the maximum amounts that a female employee or self-employed woman is entitled to receive from the Government under section 9(5A) or (5C), which will be inclusive of any contribution to the Central Provident Fund which an employer, a female employee or a self-employed woman is liable to make under the Central Provident Fund Act (Cap. 36); and
- (b) a new section 9A(2A) to stipulate the manner in which the number of days a woman has been employed or self-employed should be reckoned.

Clause 6 amends section 10(1) to stipulate that the amount of reimbursement in which an employer is entitled to claim from the Government is also subject to the new section 12E (to be inserted by clause 14).

Clause 7 amends section 11 —

- (a) to empower an employer to recover from an employee any payment made by the employer to the employee under the new section 12AA, 12E, 12H or 12K (to be inserted by clauses 10 and 14), as the case may be, by reason of a mistake of fact or in reliance on any false or misleading statement or document made or furnished by that employee, where the employer has not been reimbursed by the Government for the payment to the employee;
- (b) to empower the Government to recover from an employee, as a civil debt, any payment made by the Government to the employee under section 9, 10A or 12A or the new section 12AA, 12E, 12H or 12K (to be inserted by clauses 10 and 14), as the case may be, by reason of a mistake of fact or in reliance on any false or misleading statement or document made or furnished by that employee;
- (c) to empower the Government, where it has reimbursed an employer under the new section 12AD, 12G, 12J or 12K (to be inserted by clauses 10 and 14), as the case may be, for the whole or any part of the payment made by the employer to an employee, to recover that payment or part thereof from the employee as a civil debt, where the payment was made by the employer to the employee by reason of a mistake of fact or in reliance on any false or misleading statement or document made or furnished by that employee;
- (d) to empower the Government to recover from a self-employed person, as a civil debt, any payment made by the Government to the person under the new section 12AB, 12E, 12H or 12K (to be inserted by clauses 10 and 14), as the case may be, by reason of a mistake of fact or in reliance on any false or misleading statement or document made or furnished by that employee;
- (e) to provide for the Government, if satisfied that an employer in section 11(1)(a) has been unable to recover from his employee the whole or any part of the payment successfully despite making all reasonable efforts to do so, to reimburse the employer under the new section 12AD, 12G, 12J or 12K (to be inserted by clauses 10 and 14), as the case may be, for the payment or part thereof not recovered by the employer;
- (f) to empower an employer (including the Government) to recover from an employee any payment made by the employer to an employee for any extended childcare leave, under the amended section 12B (to be amended by clause 11) —

- (i) by reason of a mistake of fact;
 - (ii) in reliance on any false or misleading statement or document made or furnished by the employee; or
 - (iii) taken by the employee in any relevant period which is in excess of the extended childcare leave to which the employee is entitled under that section for that relevant period;
- (g) to empower the Government, where it has reimbursed an employer for extended childcare leave under the new section 12CA (to be inserted by clause 12) for the whole or any part of the payment to the employee, to recover the payment or part thereof from the employee as a civil debt;
- (h) to provide for the Government, if satisfied that an employer in section 11(3)(a) has been unable to recover from his employee the whole or any part of the payment successfully despite making all reasonable efforts to do so, to reimburse the employer under the new section 12CA (to be inserted by clause 12) for the payment or part thereof not recovered by the employer;
- (i) to require an employer who recovers from his employee any amount for which he has been reimbursed by the Government under the new section 12AD, 12CA, 12G, 12J or 12K (to be inserted by clauses 10, 12 and 14), as the case may be, to refund the Government the amount recovered within one month from the later of the date the amount is recovered from the employee or the date the amount is reimbursed by the Government, failing which —
- (i) the employer will be guilty of an offence; and
 - (ii) the Government may recover the amount from the employer as a civil debt; and
- (j) to empower the employer to recover from an employee any amount paid by the employer to the employee for extended childcare leave under the amended section 12B (to be amended by clause 11) for which the Government has refused under the new section 12CA(3) or (4) (to be inserted by clause 12) to reimburse the employer.

Clause 8 amends section 12(2) to apply Part XIII of the Employment Act (Cap. 91) to the various provisions stipulated in section 12(2) and to extend the application of Parts XIII, XV and XVI of the Employment Act, and such other provisions of that Act as the Minister for Manpower may by order specify, to —

- (a) any employer or employee to whom the new or amended section 12AA, 12B, 12D, 12E, 12H or 12K (to be amended or inserted by clauses 10, 11 and 14, as the case may be) applies; and

- (b) any offence or proceedings under the amended sections 12B, 12D and 17 (to be amended by clauses 11, 13 and 17) and under the new sections 12AA, 12E and 12H (to be inserted by clauses 10 and 14).

Clause 9 amends section 12A to provide that the section applies to a female employee or self-employed woman who applies to adopt a child before 1st May 2013, and amends the section heading accordingly.

Clause 10 inserts new sections 12AA to 12AD.

The new section 12AA —

- (a) provides for a female employee, who satisfies the requirements in the section and the new section 12AC, to be entitled to paid adoption leave, which must be consumed within a period of 12 months commencing on the date of the birth of the child, of —
- (i) a period of 4 weeks commencing not earlier than the date the application to adopt is made (in the case of an application to adopt a child who is a citizen of Singapore) or not earlier than the date on which the dependant's pass in respect of the child (who is not a citizen of Singapore) is issued; or
 - (ii) one or more periods not exceeding 24 days in the aggregate, as agreed to by the female employee and her employer, commencing not earlier than the date the application to adopt is made (in the case of an application to adopt a child who is a citizen of Singapore) or not earlier than the date on which the dependant's pass in respect of the child (who is not a citizen of Singapore) is issued;
- (b) provides for the maximum amount that a female employee is entitled to receive from her employer for adoption leave;
- (c) provides that a female employee who fails to take the adoption leave within the period of 12 months commencing on the date of the birth of the child will thereupon cease to be entitled to that leave and will not be entitled to any payment in lieu thereof;
- (d) provides that if 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 adoption leave, she will cease to be entitled to that leave upon termination of her employment and will not be entitled to any payment in lieu thereof;

- (e) makes it an offence for an employer —
 - (i) under subsection (8), to fail, without reasonable cause, to grant adoption leave to a female employee who is entitled to and requests for such leave; or
 - (ii) under subsection (9), to fail to pay a female employee her salary during such leave;
- (f) provides that an employer who is convicted or found guilty of an offence under subsection (8) or (9) and who is a repeat offender (as defined in subsection (12)) is liable to a higher penalty; and
- (g) provides that where an employer has been convicted of an offence under subsection (9), the court may order the employer to make restitution of any moneys paid out to the employer by the Government under the new section 12AD which have not been paid to a female employee in accordance with the new section 12AA.

The new section 12AB —

- (a) provides for a self-employed woman to be entitled to claim from the Government her lost income due to her ceasing to be actively engaged in her trade, business, profession or vocation on adoption leave, provided the requirements in the section and the new section 12AC are satisfied —
 - (i) during one or more periods not exceeding 24 days in the aggregate, commencing not earlier than the date the application to adopt is made (in the case of an application to adopt a child who is a citizen of Singapore) or not earlier than the date on which the dependant's pass in respect of the child (who is not a citizen of Singapore) is issued; and
 - (ii) the period or periods not exceeding 24 days in the aggregate in which she has lost income must be within a period of 12 months commencing on the date of the birth of the child; and
- (b) provides for the maximum amount that a self-employed woman is entitled to receive from the Government for adoption leave.

The new section 12AC prescribes the eligibility criteria for adoption leave.

The new section 12AD —

- (a) provides for the Government to reimburse an employer who grants a female employee adoption leave and pays her salary during that period, and the maximum amount of such reimbursement;
- (b) empowers the Government, where it has reimbursed an employer for any payment made to a female employee for adoption leave, to recover that

payment from the employee as a civil debt, in the circumstances stipulated in the new section 12AD(3); and

- (c) empowers the Government to recover, as a civil debt, from a self-employed woman any payment made by the Government to the woman for adoption leave, in the circumstances stipulated in the new section 12AD(4).

Clause 11 amends section 12B —

- (a) to provide for an employee to be entitled to paid extended childcare leave of 2 days in any relevant period, if he —
 - (i) has served his employer for a period of not less than 3 months; and
 - (ii) has a child who is of or above the age of 7 years but below the age of 13 years, and who is, or who becomes a qualifying child, at any time during any calendar year;
- (b) to provide for a self-employed person to be entitled to claim from the Government his lost income due to his ceasing to be actively engaged in his trade, business, profession or vocation for extended childcare purposes for one or more periods not exceeding 2 days during that calendar year, provided the requirements in the section are satisfied;
- (c) to provide for the maximum amount that an employee is entitled to receive from his employer for extended childcare leave;
- (d) to provide for the maximum amount that a self-employed person is entitled to receive from the Government for extended childcare leave;
- (e) to make it an offence for an employer —
 - (i) under subsection (13), to fail, without reasonable cause, to grant extended childcare leave to an employee who is entitled to and requests for such leave; and
 - (ii) under subsection (14), to fail to pay an employee his salary during extended childcare leave;
- (f) to provide that an employer who is convicted or found guilty of an offence under subsection (12), (13) or (14) and who is a repeat offender (as defined in subsection (14C)) will be liable to a higher penalty;
- (g) to provide that where an employer has been convicted of an offence under subsection (14), the court may order the employer to make restitution of any moneys paid out to the employer by the Government under section 12C or the new section 12CA, as the case may be, which have not been paid to an employee in accordance with the amended section 12B;

- (h) to remove the requirement in relation to a “qualifying child” in subsection (21), that —
 - (i) where he is not an adopted child, his parents (as identified in the registration of his birth) are lawfully married to each other, or were lawfully married to each other when or at any time after he was conceived; or
 - (ii) where he is an adopted child, his adoptive parent was married, widowed or divorced when the adoptive parent adopted him; and
- (i) to amend the section heading to include extended childcare leave.

Clause 12 inserts a new section 12CA to provide for the Government to reimburse an employer who grants an employee extended childcare leave and pays his salary during such period, and the maximum amount of such reimbursement. The Government may refuse to reimburse an employer in the circumstances specified in subsections (3) and (4).

Clause 13 amends section 12D —

- (a) to amend the penalty in subsection (7); and
- (b) to remove the requirement in relation to a “qualifying child” in subsection (10), that —
 - (i) where he is not an adopted child, his parents (as identified in the registration of his birth) are lawfully married to each other, or were lawfully married to each other when or at any time after he was conceived; or
 - (ii) where he is an adopted child, his adoptive parent was married, widowed or divorced when the adoptive parent adopted him.

Clause 14 inserts new sections 12E to 12L.

The new section 12E provides —

- (a) for a male employee who is a natural father of a child and who satisfies the requirements in the new section 12F(1), to be entitled to shared parental leave —
 - (i) of a period of one week, which must be consumed within 12 months commencing on the date of the birth of the child; or
 - (ii) of one or more periods, not exceeding 6 days in the aggregate, as agreed to by the male employee and his employer, which must be consumed within 12 months commencing on the date of the birth of the child;
- (b) that an employer must grant an employee his entitlement to shared parental leave in accordance with the Act and pay the employee who is

entitled to such leave his gross rate of pay for every day of such leave that is taken by the employee; and

- (c) for a self-employed man who is the natural father of a child and who satisfies the requirements in the new section 12F(1), to claim from the Government his lost income due to his ceasing to be actively engaged in his trade, business, profession or vocation on shared parental leave, for one or more periods not exceeding 6 days in the aggregate, and which must be consumed within 12 months commencing on the date of the birth of the child.

The new section 12E also provides —

- (a) that the male employee or self-employed man is only entitled to shared parental leave provided an election is made in accordance with the section, and where an election is made, the mother's entitlement to absent herself from work and to receive payment under section 9 will be reduced by the period as prescribed in subsection (5) of the new section 12E;
- (b) the circumstances in which the male employee or self-employed man's entitlement to shared parental leave may be returned to the mother or forfeited; and
- (c) that the natural father's entitlement to shared parental leave, where it is consumed in accordance with subsection (1)(b), is based on his work week which, in any event, must not exceed 6 days.

In addition, the new section 12E —

- (a) makes it an offence for an employer —
 - (i) under subsection (10), to fail, without reasonable cause, to grant shared parental leave to a male employee who is entitled to and requests for such leave;
 - (ii) under subsection (11), to fail to pay a male employee his salary during such leave;
- (b) provides that an employer who is convicted or found guilty of an offence under subsection (10) or (11) and who is a repeat offender (as defined in subsection (14)) is liable to a higher penalty; and
- (c) provides that where an employer has been convicted of an offence under subsection (11), the court may order the employer to make restitution of any moneys paid out to the employer by the Government under section 12G which have not been paid to a male employee in accordance with the section and the new section 12F.

The new section 12F prescribes the eligibility criteria for shared parental leave, the maximum amount of payment that a male employee is entitled to receive from

his employer during the period of shared parental leave and the maximum amount that a self-employed person is entitled to receive from the Government during the period of shared parental leave.

The new section 12G provides for the Government to reimburse an employer who grants a male employee shared parental leave and the maximum amount of such reimbursement.

The new section 12H provides —

- (a) for a male employee who is the natural or adoptive father of a child and who satisfies the requirements of the new section 12I(1) or (2), as the case may be, to be entitled to paternity leave —
 - (i) of a period of one week which must be consumed within 16 weeks commencing on the date of the birth of the child; or
 - (ii) one or more periods not exceeding 6 days in the aggregate, as agreed to by the male employee and his employer, which must be consumed within 12 months commencing on the date of the birth of the child;
- (b) that an employer must grant an employee his entitlement to paternity leave in accordance with the Act and pay the employee who is entitled to such leave his gross rate of pay for every day of such leave that is taken by the employee;
- (c) for a self-employed man who is the natural or adoptive father of a child and who satisfies the requirements in the new section 12I(1) or (2), as the case may be, to claim from the Government his lost income due to his ceasing to be actively engaged in his trade, business, profession or vocation on paternity leave, for one or more periods not exceeding 6 days in the aggregate, and which must be consumed within 12 months commencing on the date of the birth of the child; and
- (d) that a male employee or self-employed man who is the adoptive father of a child and who is entitled to paternity leave will only be entitled to take that leave commencing not earlier than —
 - (i) the date an application is made by the adoptive father to adopt the child, where the child is a citizen of Singapore; or
 - (ii) the date the dependant's pass in respect of the child is issued, where the child is not a citizen of Singapore.

The new section 12H also provides —

- (a) that where the employment of a male employee is terminated (whether by resignation or dismissal, upon the completion of his contract of service, or for any other reason) before he has exercised, wholly or partly, his

entitlement to absent himself from work on paternity leave, he will forfeit his entitlement (or balance thereof) upon the termination of his employment; and

- (b) that the natural or adoptive father's entitlement to paternity leave, where it is consumed in accordance with subsection (1)(b), is based on the father's work week which, in any event, must not exceed 6 days.

In addition, the new section 12H —

- (a) makes it an offence for an employer —
 - (i) under subsection (7), to fail, without reasonable cause, to grant paternity leave to a male employee who is entitled to and requests for such leave; and
 - (ii) under subsection (8), to fail to pay a male employee his salary during such leave;
- (b) provides that an employer who is convicted or found guilty of an offence under subsection (7) or (8) and who is a repeat offender (as defined in subsection (11)) is liable to a higher penalty; and
- (c) provides that where an employer has been convicted of an offence under subsection (8), the court may order the employer to make restitution of any moneys paid out to the employer by the Government under section 12J which have not been paid to a male employee in accordance with the new sections 12H and 12I.

The new section 12I prescribes the eligibility criteria for paternity leave, the maximum amount of payment that a male employee is entitled to receive from his employer during the period of paternity leave and the maximum amount that a self-employed man is entitled to receive from the Government during the period of paternity leave.

The new section 12J —

- (a) provides for the Government to reimburse an employer who grants a male employee paternity leave and the maximum amount of such reimbursement;
- (b) empowers the Government, where it has reimbursed an employer for any payment made to a male employee for paternity leave, to recover that payment from the employee as a civil debt, in the circumstances stipulated in the new section 12J(3); and
- (c) empowers the Government to recover, as a civil debt, from a self-employed man any payment made by the Government to the man for paternity leave, in the circumstances stipulated in the new section 12J(4).

The new section 12K enables the shared parental leave and paternity leave benefits under the new sections 12E and 12H to be extended to a male employee if —

- (a) in relation to a male employee who is the natural father of the child under the new section 12E or 12H, either of the following applies to the male employee:
 - (i) the child is born between 1st January 2013 and 30th April 2013 (both dates inclusive), and the estimated delivery date (as certified by a medical practitioner) for the mother's confinement is before 1st May 2013; or
 - (ii) the child is born before 1st January 2013, but the estimated delivery date (as certified by a medical practitioner) for the mother's confinement is between 1st January 2013 and 30th April 2013 (both dates inclusive);
- (b) in relation to a male employee who is the adoptive father of the child under the new section 12H, either of the following applies to the male employee:
 - (i) in the case of a child who is a citizen of Singapore, the application to adopt the child is made between 1st January 2013 and 30th April 2013 (both dates inclusive); or
 - (ii) in the case of a child who is not a citizen of Singapore, the dependant's pass in respect of the child is issued between 1st January 2013 and 30th April 2013 (both dates inclusive); and
- (c) he otherwise satisfies the eligibility requirements set out in the new section 12F(1) or 12I(1) or (2) (other than the requirements in section 12F(1)(a) or 12I(1)(a) or (2)(a), as the case may be).

In relation to a male employee, the new section 12K does not require the employer of such male employee to grant the male employee shared parental leave or paternity leave, as the case may be. However, if the employer does so voluntarily, he will be reimbursed by the Government.

The new section 12K also provides for a self-employed man to be entitled to claim from the Government his lost income due to his ceasing to be actively engaged in his trade, business, profession or vocation when he is on shared parental leave or paternity leave in accordance with the new sections 12E and 12H, if —

- (a) in relation to a self-employed man who is the natural father of the child under the new section 12E or 12H, either of the following applies to the self-employed man:
 - (i) the child is born between 1st January 2013 and 30th April 2013 (both dates inclusive), and the estimated delivery date (as certified

- by a medical practitioner) for the mother's confinement is before 1st May 2013; or
- (ii) the child is born before 1st January 2013, but the estimated delivery date (as certified by a medical practitioner) for the mother's confinement is between 1st January 2013 and 30th April 2013 (both dates inclusive);
- (b) in relation to a self-employed man who is the adoptive father of the child under the new section 12H, either of the following applies to the self-employed man:
- (i) in the case of a child who is a citizen of Singapore, the application to adopt the child is made between 1st January 2013 and 30th April 2013 (both dates inclusive); or
- (ii) in the case of a child who is not a citizen of Singapore, the dependant's pass in respect of the child is issued between 1st January 2013 and 30th April 2013 (both dates inclusive); and
- (c) he otherwise satisfies the eligibility requirements set out in the new section 12F(1) or 12I(1) or (2) (other than the requirements in section 12F(1)(a) or 12I(1)(a) or (2)(a), as the case may be).

The new section 12L provides that —

- (a) for the avoidance of doubt, the payment for any benefit period referred to in the new sections 12AA, 12AB, 12E and 12H will be paid for every day of the benefit period, including holidays; and
- (b) nothing in the new section 12L will be construed to require an employer to pay an employee an extra day's salary for a holiday which falls within any of the benefit period referred to in subsection (1) of the new section 12L.

Clause 15 amends section 13(b) to delete the reference to self-employed women.

Clause 16 amends section 14(1) to provide for any question or dispute arising from or in connection with the entitlement of a self-employed woman to any payment under the new section 12AB (to be inserted by clause 10), the entitlement of a female employee to any payment under the new section 9(5A) or (5C) (to be inserted by clause 4), the entitlement of a self-employed man to any payment under the new section 12E, 12H or 12K (to be inserted by clause 14), or the entitlement of an employer to reimbursement from the Government under the new section 12AD, 12CA, 12G, 12J or 12K (to be inserted by clauses 10, 12 and 14) to be referred to the Minister for decision.

Clause 17 amends section 17 to provide that an employer who —

- (a) under subsection (1)(a), fails, without reasonable cause, to grant maternity leave in accordance with sections 9 and 9A, to a female employee who is entitled to and requests for such leave;
- (b) under subsection (1)(b), fails to pay his female employee in accordance with sections 9 and 9A;
- (c) under subsection (1)(c), fails to pay his female employee in accordance with any provision of sections 77 to 80, 84(1) and 84A(1) of the Employment Act as made applicable by section 12;
- (d) under subsection (1)(d), acts in contravention of section 81 of the Employment Act as made applicable by section 12; or
- (e) under subsection (1)(e), acts in contravention of section 82 of the Employment Act as made applicable by section 12,

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

The amended section 17 further provides that an employer who is convicted or found guilty of an offence under subsection (1)(a), (b), (c), (d) or (e) and who is a repeat offender (as defined in subsection (1AA)) is liable to a higher penalty.

Clause 18 amends section 19 to provide the Commissioner for Labour with the discretion to compound any offence under the new or amended sections 12AA, 12B, 12D, 12E and 12H (to be amended or inserted by clauses 10, 11 and 14, as the case may be) by collecting from the person reasonably suspected of having committed the offence a sum not exceeding \$1,000.

Clause 19 amends section 20 to empower the Minister to make regulations in relation to the introduction of maternity benefits under the new section 9(5A) (to be inserted by clause 4), the entitlement to adoption leave under the new sections 12AA and 12AB (to be inserted by clause 10), extended childcare leave under the amended section 12B (to be inserted by clause 11), shared parental leave under the new section 12E (to be inserted by clause 14) and paternity leave under the new section 12H (to be inserted by clause 14).

Clause 20 repeals section 21 and replaces the section with new sections 21 and 22.

The new section 21 empowers the Minister to exempt, by order published in the *Gazette*, any class of persons from complying with any provisions of the Act (including any regulations made thereunder), subject to such terms or conditions as may be specified in the order.

The new section 22 empowers the Minister, on the application of any person, to exempt that person from complying with any requirement of the Act (including any

regulations made thereunder). Such exemption need not be published in the *Gazette*. The Minister may designate a Second Minister, Minister of State or Senior Minister of State for his Ministry, or a Parliamentary Secretary or Senior Parliamentary Secretary to his Ministry, to exercise the power to exempt under the section in place of the Minister.

Clause 21 makes certain related amendments to the Employment Act (Cap. 91).

Clause 21(a) deletes subsection (2) of section 76 of the Employment Act which has become obsolete and inserts the amended subsections (2) and (2A) to provide that a female employee who delivers a child on or after 1st May 2013, or who delivers a child 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, will 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. For 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, the amended subsection (2) will continue to apply in that the female employee will 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.

Clause 21(b) amends section 84(1) of the Employment Act to provide that a notice of dismissal given without sufficient cause by an employer to a female employee will not deprive her of the maternity benefits to which she would otherwise be entitled, if —

- (a) in the case of a notice given on or after 1st May 2013, the notice 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
- (b) in the case of a notice 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, the notice 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.

Clause 21(c) amends section 84A(1) of the Employment Act to provide that a 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 will not deprive her of the maternity benefits which she would otherwise be entitled, if —

- (a) in the case of a notice given on or after 1st May 2013, the notice 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
- (b) in the case of a notice 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, the notice 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.

Clause 21(d) repeals section 85 of the Employment Act, which has become obsolete.

Clause 21(e) repeals and re-enacts section 87 of the Employment Act to provide that an employer who —

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

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

Clause 21(e) also —

- (a) inserts a subsection (2) in section 87 of the Employment Act to provide that an employer who is guilty of an offence under section 82 of the Employment Act will 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
- (b) provides that an employer who is convicted or found guilty of an offence under section 87(1)(a), (b) or (c) or section 82 and who is a repeat offender (as defined in the new section 87(4)) is liable to a higher penalty.

Clause 21(f) amends section 87A of the Employment Act to provide that an employer who —

- (a) under subsection (7), contravenes subsection (5) will be guilty of an offence and will be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both; or

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

The amended section 87A of the Employment Act further provides that an employer who is convicted or found guilty of an offence under subsection (7) or (7A) and who is a repeat offender (as defined in subsection (7C)) is liable to a higher penalty.

EXPENDITURE OF PUBLIC MONEY

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