

Employment (Amendment) Bill

Bill No. 23/2015.

Read the first time on 13 July 2015.

A BILL

i n t i t u l e d

An Act to amend the Employment Act (Chapter 91 of the 2009 Revised Edition) and to make consequential and related amendments to certain other written laws.

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

Short title and commencement

1. This Act may be cited as the Employment (Amendment) Act 2015 and comes into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

Amendment of section 2

2. Section 2(1) of the Employment Act is amended —

(a) by inserting, immediately after the definition of “approved medical institution”, the following definition:

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

(b) by inserting, immediately after the definition of “basic rate of pay”, the following definition:

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

(c) by inserting, immediately after the definition of “medical practitioner”, the following definition:

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

Amendment of section 3

3. Section 3(2) of the Employment Act is amended by inserting, immediately after the words “number of”, the words “authorised officers,”.

Amendment of section 13

4. Section 13 of the Employment Act is amended by deleting subsection (2) and substituting the following subsection:

“(2) An employee is deemed to have broken the employee’s contract of service with the employer if the employee is absent

from work for more than 2 days continuously without prior leave from the employer and —

- (a) the employee has no reasonable excuse for the absence;
or
- (b) the employee does not inform and does not attempt to
inform the employer of the excuse for the absence.”.

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Amendment of section 76

5. Section 76 of the Employment Act is amended —

- (a) by inserting, immediately after the words “Subject to this section” in subsection (1A), the words “and section 77”;
- (b) by deleting the words “1st May 2013” in subsection (2A)(a) and substituting the words “1 May 2013 but before the date of commencement of section 5(c) of the Employment (Amendment) Act 2015”; and
- (c) by inserting, immediately after subsection (2A), the following subsection:

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

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

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

Amendment of section 77

6. Section 77 of the Employment Act is amended —

- (a) by inserting, immediately after the word “holidays” in subsection (1), the words “, but not any day during the benefit period on which the female employee takes no-pay leave”; and
- (b) by inserting, immediately after the word “holidays” in the section heading, the word “, etc.”.

Amendment of section 87A

7. Section 87A of the Employment Act is amended by inserting, immediately after subsection (5), the following subsection:

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

Amendment of section 88

8. Section 88 of the Employment Act is amended —

- (a) by deleting the words “such of the days specified in the Schedule to the Holidays Act (Cap. 126) as fall” in subsection (1) and substituting the words “a public holiday that falls”;
- (b) by deleting the words “of the days specified in that Schedule” in subsection (1)(a) and substituting the words “public holidays”;
- (c) by deleting the words “of the days specified in that Schedule” in subsection (1)(b) and (c) and substituting in each case the words “public holiday”;
- (d) by deleting the words “any holiday” in subsections (2), (4) and (4A) and substituting in each case the words “any public holiday”;
- (e) by deleting the words “a holiday” in subsections (3) and (6)(a) and substituting in each case the words “a public holiday”;

- (f) by deleting the words “the holiday” in subsection (6)(b) and substituting the words “the public holiday”; and
- (g) by deleting the words “any such holiday” in subsection (7) and substituting the words “any public holiday”.

Repeal and re-enactment of section 95 and new section 95A

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9. Section 95 of the Employment Act is repealed and the following sections substituted therefor:

“Employers’ obligation in relation to employee records

95.—(1) An employer must make, and keep for the period prescribed (called in this section the record retention period), employee records containing the prescribed particulars for —

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- (a) every employee the employer employs; and
- (b) every former employee of the employer.

(2) An employer must ensure that an employee record made and kept under subsection (1) is, during the record retention period prescribed for the employee record, readily accessible to the employee or former employee to which the employee record relates.

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(3) An employer is taken to have failed to comply with subsection (1) if the employer makes or keeps an employee record that is incomplete or inaccurate, whether or not the employer knew that the record is incomplete or inaccurate.

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(4) Different record retention periods may be prescribed for different classes of employees or former employees, and for different types of employee records.

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(5) In this section, “employee record”, for an employee or a former employee of an employer, means a record of information or particulars about the employment by the employer of the employee or former employee, as the case may be.

Employers' obligation to give record of key employment terms

95A.—(1) This section only applies to, and in relation to, every employee —

5 (a) who enters into a contract of service with the employer on or after the date of commencement of section 9 of the Employment (Amendment) Act 2015; and

 (b) who is employed under that contract for a period not shorter than the prescribed minimum period of service.

10 (2) An employer must give each employee of the employer a written record of the key employment terms of the employee not later than 14 days after the day that the employee starts employment with the employer, or within such other period as may be prescribed in substitution.

15 (3) The requirement to give a written record of key employment terms to an employee in subsection (2) is satisfied if —

 (a) an electronic record containing the key employment terms is provided in a manner that enables the information contained in the electronic record to be accessible and useable by the employee for subsequent reference; or

 (b) the key employment terms are published on an Internet website —

25 (i) which is authorised by the employer and readily accessible to the employee; and

 (ii) which address is disseminated by the employer to the employee.

30 (4) To avoid doubt, subsection (3) does not limit any other manner of giving to an employee a written record of the key employment terms of the employee.

 (5) An employer is taken to have failed to comply with subsection (2) if the written record given is incomplete or

inaccurate, whether or not the employer knew that the record is incomplete or inaccurate.

(6) The Minister may, by order published in the *Gazette* and subject to such conditions as are specified in the order, exempt from any provision in this section —

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

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

(7) In this section, “key employment term”, for an employee, means any type of term of employment contained in a contract of service between an employer and the employee that is prescribed to be a key employment term.”.

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Repeal of section 96 and new section 96

10. Section 96 of the Employment Act is repealed and the following section substituted therefor:

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“Employers’ obligation in relation to pay slips

96.—(1) Subject to subsection (2), an employer must give —

(a) to every employee of the employer a pay slip, within the time prescribed for giving pay slips, for all salary paid by the employer for the salary period or salary periods to which the pay slip relates; and

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(b) to every employee a pay slip for every sum paid by the employer under section 22 or 23.

(2) A pay slip given by an employer to an employee must be in the form prescribed (if prescribed) and must contain all the information prescribed.

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(3) The requirement to give a pay slip to an employee under this section is satisfied if an electronic record containing the prescribed information of a pay slip is provided in a manner that enables the information contained in the electronic record to be accessible and useable by the employee for subsequent reference.

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(4) An employer is taken to have failed to comply with subsection (1) if the pay slip given to an employee is incomplete or inaccurate, whether or not the employer knew that the pay slip is incomplete or inaccurate.

5 (5) The Minister may, by order published in the *Gazette* and subject to such conditions as are specified in the order, exempt from any provision in this section —

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

10 (b) all employers or any class of employers, in respect of any class of employees, specified in the order.”.

Amendment of section 103

11. Section 103(1) of the Employment Act is amended —

15 (a) by inserting, immediately after the words “under this Act” in paragraph (a), the words “or of a civil contravention”; and

(b) by inserting, immediately after the word “photographs” in paragraph (g), the words “, or audio”.

New section 106A

20 **12.** The Employment Act is amended by inserting, immediately after section 106, the following section:

“Disposal of documents, articles, etc.

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

25 (a) where the document, article or thing is produced in any criminal trial, be dealt with in accordance with section 364 of the Criminal Procedure Code (Cap. 68); and

30 (b) in any other case, be returned to the owner or reported to a Magistrate.

(2) Where the report of any document, article or thing is made to a Magistrate under subsection (1)(b), the Magistrate may order the document, article or thing —

(a) to be forfeited; or

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

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

New Part XVA

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13. The Employment Act is amended by inserting, immediately after section 126, the following Part:

“PART XVA

ADMINISTRATIVE PENALTIES

Civil contraventions

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

(a) a failure by an employer to comply with section 95(1), 95A(2) or 96(1);

(b) provision by an employer of inaccurate information or particulars to the Commissioner or an inspecting officer under this Act, inadvertently or without intent to mislead or defraud.

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Payment of administrative penalty

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

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(a) each occasion of an alleged failure by the employer to comply with section 95(1), 95A(2) or 96(1) with respect to any one employee or former employee; or

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- (b) each occasion of an alleged provision by the employer of inaccurate information or particulars to the Commissioner or an inspecting officer under this Act, inadvertently or without intent to mislead or defraud.

(2) A contravention notice must —

- (a) specify the amount of administrative penalty to be paid;
- (b) specify the date by which the administrative penalty must be paid; and
- (c) set out the brief details of the alleged contravention and such other particulars as may be prescribed.

(3) Different amounts of administrative penalty may be prescribed for different civil contraventions or different circumstances in which a civil contravention takes place.

(4) Any employer who is issued a contravention notice under subsection (1) must pay the administrative penalty specified in the contravention notice to the authorised officer within the time, in such mode of payment and at such place as is specified in that notice.

Appeal, etc.

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

- (a) within the prescribed period and in accordance with the prescribed procedure, request for an internal reconsideration of the contravention notice by another authorised officer (called in this section the reviewing authorised officer); or
- (b) within the prescribed period (and despite not requesting for an internal reconsideration), appeal to the High Court which may hear and determine the matter afresh.

(2) A reviewing authorised officer reconsidering a contravention notice issued to an employer must not be

subordinate to the initial authorised officer who issued the contravention notice.

(3) A reviewing authorised officer may, after reconsidering the issue of a contravention notice by the initial authorised officer —

(a) confirm the contravention notice issued by the initial authorised officer; or 5

(b) cancel the contravention notice.

(4) Any employer who is aggrieved by the reviewing authorised officer's decision under subsection (3)(a) may, within the prescribed period, appeal to the High Court which may hear and determine the matter afresh. 10

(5) The procedure governing any such appeal to the High Court is as provided in the Rules of Court.

(6) The enforcement of the payment of any administrative penalty required by a contravention notice to be paid under section 126B is stayed — 15

(a) if a request for internal reconsideration under subsection (1)(a) is made, until after the reconsideration is completed; or

(b) if an appeal under subsection (1)(b) or (4) is filed, until after the appeal is completed. 20

(7) In relation to a contravention notice issued to an employer under section 126B(1), where —

(a) an appeal to the High Court has been filed under subsection (1)(b) or (4) and the appeal is dismissed; 25

(b) the prescribed period for requesting an internal reconsideration under subsection (1)(a) has lapsed without such request made, and the prescribed period for filing an appeal to the High Court under subsection (1)(b) has lapsed and no appeal is filed; or 30

(c) the prescribed period for filing an appeal to the High Court under subsection (4) has lapsed and no appeal is filed,

the contravention notice may, by leave of a District Court, be enforced against the employer in the same manner as a judgment of the District Court, and where leave is so given, judgment may be entered in terms of that contravention notice.

(8) The initial authorised officer may, in any case in which the initial authorised officer thinks fit, waive, remit or refund in whole or in part any administrative penalty paid or required to be paid under section 126B.

Directions

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

(a) issue such directions to the employer as the authorised officer thinks appropriate to bring the civil contravention to an end; and

(b) where necessary, require the employer to take such action as is specified in the direction to remedy, mitigate or eliminate any effects of the civil contravention and to prevent the recurrence of the civil contravention.

(2) An employer who, without reasonable excuse, fails to comply with a direction given to the employer under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both.”.

Amendment of section 136

14. Section 136 of the Employment Act is amended by inserting, immediately after the words “any fine or penalty”, the words “(but not an administrative penalty under Part XVA)”.

Amendment of section 139

15. Section 139 of the Employment Act is amended —

(a) by deleting the words “registers and” in subsection (2)(b);

- (b) by deleting paragraph (h) of subsection (2) and substituting the following paragraph:

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

- (c) by inserting, immediately after subsection (2), the following subsection:

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

(a) \$5,000 in the case of a first conviction; and

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

Consequential and related amendments to Child Development Co-Savings Act

16. The Child Development Co-Savings Act (Cap. 38A, 2002 Ed.) is amended —

- (a) by deleting paragraphs (c) and (d) of section 9A(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 the date of commencement of section 16(a) of the Employment (Amendment) Act 2015, and whose estimated delivery date for her confinement in respect of that child (as certified by a medical

practitioner) is before that date, she has served the employer for at least 3 months immediately preceding the day of her confinement; and

- 5 (ii) whose confinement occurs on or after the date of commencement of section 16(a) of the Employment (Amendment) Act 2015, or whose confinement occurs before that date but whose estimated delivery date for her confinement in respect of that child (as certified by a medical practitioner) is on or after that date, she has served her employer for a period of at least 3 months preceding the day of her confinement; and

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

- 15 (i) whose confinement occurs before the date of commencement of section 16(a) of the Employment (Amendment) Act 2015, and whose estimated delivery date for her confinement in respect of that child (as certified by a medical practitioner) is before that date, 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; and

- 20 (ii) whose confinement occurs on or after the date of commencement of section 16(a) of the Employment (Amendment) Act 2015, or whose confinement occurs before that date but whose estimated delivery date for her confinement in respect of that child (as certified by a medical practitioner) is on or after that
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date, she has been carrying on her trade, business, profession or vocation for a continuous period of at least 3 months preceding the day of her confinement.”;

- (b) by deleting the words “at least 3 months immediately preceding” in section 12AC(c) and substituting the words “a period of at least 3 months preceding”; 5
- (c) by deleting the word “immediately” in section 12AC(d);
- (d) by deleting the words “at least 3 months immediately preceding” in section 12I(1)(d) and substituting the words “a period of at least 3 months preceding”; 10
- (e) by deleting the word “immediately” in section 12I(1)(e);
- (f) by deleting the words “at least 3 months immediately preceding” in section 12I(2)(d) and substituting the words “a period of at least 3 months preceding”; 15
- (g) by deleting the word “immediately” in section 12I(2)(e); and
- (h) by inserting, immediately after section 12L, the following section:

“No payment under this Part on certain days for employee on leave of absence without pay” 20

12M.—(1) No female employee is entitled to any payment under this Part for any day on which the female employee is entitled to be absent from work or receive payment under section 9(1), (1A), (1B), (1C), (1D), (1E) or (1F), if that day falls on a day the female employee takes leave of absence without pay granted by the employer at the female employee’s request. 25

(2) No employee is entitled to take —

- (a) paid adoption leave;
- (b) paid childcare leave or paid extended childcare leave; 30
- (c) paid shared parental leave; or

(d) paid paternity leave,

under this Part on a day the employee takes leave of absence without pay granted by the employer at the employee's request.”.

5 **Consequential amendment to Employment of Foreign Manpower Act**

17. Section 8(1) of the Employment of Foreign Manpower Act (Cap. 91A, 2009 Ed.) is amended by deleting the words “, in accordance with section 95 of the Employment Act (Cap. 91),”.

10 **Related amendment to Employment, Parental Leave and Other Measures Act 2013**

18. Section 2(14) of the Employment, Parental Leave and Other Measures Act 2013 (Act 26 of 2013) is amended by deleting paragraph (c).

15 **Savings and transitional provisions**

19.—(1) Section 12AC(c) and (d) of the Child Development Co-Savings Act (Cap. 38A) as in force immediately before the date of commencement of section 16(b) and (c) continues to apply in relation to any female employee or self-employed woman if —

20 (a) where the child to be adopted is a citizen of Singapore, the application to adopt is made before that date; and

(b) where the child to be adopted is not a citizen of Singapore, the dependant's pass in respect of the child is issued before that date,

25 as if section 16(b) and (c) had not been enacted.

(2) Section 12I(1)(d) and (e) of the Child Development Co-Savings Act as in force immediately before the date of commencement of section 16(d) and (e) continues to apply to any male employee or self-employed man who is the natural father of a child, where the mother's confinement occurs, and whose estimated delivery date (as certified by a medical practitioner) for that confinement is, before that date, as if section 16(d) and (e) had not been enacted.

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(3) Section 12I(2)(d) and (e) of the Child Development Co-Savings Act as in force immediately before the date of commencement of section 16(f) and (g) continues to apply in relation to any male employee or self-employed man who is the adoptive father of a child, if —

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(a) where the child to be adopted is a citizen of Singapore, the application to adopt is made before that date; and

(b) where the child to be adopted is not a citizen of Singapore, the dependant's pass in respect of the child is issued before that date,

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as if section 16(f) and (g) had not been enacted.

(4) For a period of 2 years after the date of commencement of any provision of this Act, the Minister may, by regulations, prescribe such additional provisions of a savings or transitional nature consequent on the enactment of that provision as the Minister may consider necessary or expedient.

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EXPLANATORY STATEMENT

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

- (a) to require employers to make and keep records of employees (in place of a register of employees and record of workmen), and give a written record of key employment terms and pay slips to employees;
- (b) to empower authorised officers to impose administrative penalties for civil contraventions by employers and provide for the enforcement of the payment of administrative penalties by the court;
- (c) to allow for disposal of exhibits that are seized during investigations;
- (d) to enhance the Minister's power to prescribe penalties for contraventions of regulations;
- (e) to make miscellaneous changes for the better administration of the Act.

The Bill also makes consequential and related amendments to the Child Development Co-Savings Act (Cap. 38A), a consequential amendment to the Employment of Foreign Manpower Act (Cap. 91A) and a related amendment to the Employment, Parental Leave and Other Measures Act 2013 (Act 26 of 2013).

Clause 1 relates to the short title and commencement.

Clause 2 amends section 2(1) to introduce the definitions of “authorised officer”, “civil contravention” and “no-pay leave”.

Clause 3 amends section 3(2) to provide for the appointment of authorised officers, referred to in the new Part XVA.

Clause 4 amends section 13 to clarify the circumstances in which an employee’s absence from work without prior leave from the employer results in the contract of service being deemed to be broken by the employee.

Clause 5 amends section 76.

Clause 5(a) amends section 76(1A) to provide that section 76(1A) is to be read subject to section 77.

Clause 5(b) amends section 76(2A)(a) to limit its application to cases where a female employee delivers a child on or after 1 May 2013 but before the commencement date of the amendment in clause 5(c), so as to ensure that section 76(2A) does not overlap with the new subsection (2B) introduced by clause 5(c).

Clause 5(c) introduces a new subsection (2B) to section 76 to provide that a female employee who delivers a child in the circumstances specified in that subsection is not entitled to any pay during the benefit period if she has not served her employer for a period of at least 3 months before (which need not be immediately preceding) the day of her confinement. The specified circumstances are that the delivery of the child or her estimated delivery date for her confinement in respect of the child is on or after the commencement date of the amendment.

Clause 6 amends section 77(1) to provide that the payment referred to in section 76 for the benefit period does not include any day during that period on which the female employee takes no-pay leave. A technical amendment is also made to the section heading.

Clause 7 amends section 87A to introduce a new subsection (5A) to provide that an employee is not entitled to take paid childcare leave on a day that the employee takes no-pay leave.

Clause 8 amends section 88(1) to extend its application to public holidays as defined in section 2 of the Interpretation Act (Cap. 1). Technical amendments are also made to various subsections of section 88.

Clause 9 repeals and re-enacts section 95 to impose a requirement on employers to make, and keep for the record retention period prescribed, employee records containing information about the employment by the employers of their employees and former employees. This requirement in the new section 95 replaces the requirement for employers to prepare and keep a register of employees under the

repealed section 95 as well as the requirement for employers to keep a record of workmen under the repealed section 96 (repealed by clause 10).

Under the new section 95, employers must also ensure that any employee record relating to an employee or a former employee is readily accessible to that employee or former employee during the record retention period prescribed for the employee record.

The requirement in the new section 95 extends to the making and keeping of complete and accurate employee records. Under the new section 95(3), an employer is taken to have failed to comply with section 95(1) if the employer makes or keeps an employee record that is incomplete or inaccurate. This is regardless of whether the employer knew that the record is incomplete or inaccurate.

The clause also introduces a new section 95A to impose a new requirement on employers to give to employees with whom they enter into contracts of service (for a period not shorter than the prescribed minimum period of service) on or after the commencement date of the clause a written record of the key employment terms of the employees, not later than 14 days after starting employment or within such other period prescribed by regulations in substitution.

Under the new section 95A, an employer may give the key employment terms to an employee in an electronic form provided that the requirements in the new section 95A(3)(a) are satisfied, or publish the key employment terms on an Internet website authorised by the employer and readily accessible to the employee, and which address is disseminated by the employer to the employee, as provided in section 95A(3)(b). This, however, does not preclude the giving to employees of a written record of the key employment terms in any other manner, as provided in section 95A(4), such as in an employee handbook given by the employer to the employee.

The requirement in the new section 95A extends to the giving of a complete and accurate written record. Under the new section 95A(5), an employer is taken to have failed to comply with section 95A(2) if the written record provided is incomplete or inaccurate. This is regardless of whether the employer knew that the record is incomplete or inaccurate.

The new section 95A further provides the Minister with a power of exemption in relation to any provision of that section.

Clause 10 repeals section 96 which required employers of workmen to keep certain records (such as pay, allowances, overtime earnings and deductions) relating to their workmen, and re-enacts a new section 96 to impose a new requirement on employers to give complete and accurate pay slips to their employees.

Under the new section 96, an employer must give to every employee a pay slip, within the time prescribed for giving pay slips, for all salary paid by the employer for the salary period or salary periods to which the pay slip relates. Further, an employer must give to every employee a pay slip for every sum paid by the employer under section 22 or 23.

A pay slip given by an employer to an employee must be in the form prescribed (if prescribed) and contain all the information prescribed, as provided in the new section 96(2). Further, it may be given in an electronic form provided that the requirements in the new section 96(3) are satisfied.

The requirement in the new section 96 extends to the giving of a complete and accurate pay slip. Under the new section 96(4), an employer is taken to have failed to comply with section 96(1) if the pay slip given to an employee is incomplete or inaccurate. This is regardless of whether the employer knew that the pay slip is incomplete or inaccurate.

The new section 96 further provides the Minister with a power of exemption in relation to any provision of that section.

Clause 11 amends section 103(1)(a) to extend the Commissioner for Labour (the Commissioner) and an inspecting officer's power of entry and search to cases where the Commissioner or inspecting officer has reasonable cause to believe that evidence of the commission of a civil contravention can be found in the premises.

The clause also amends section 103(1)(g) to expand the Commissioner and an inspecting officer's power to the taking of audio recording of the premises and persons reasonably believed to be acquainted with the facts and circumstances relevant to the carrying out of the provisions of the Act. This is in addition to the existing power to take photographs and video recording in section 103(1)(g).

Clause 12 introduces a new section 106A to provide for the disposal of documents, articles or things that the Commissioner or an inspecting officer takes possession of under Part XIII.

Clause 13 introduces a new Part XVA to provide a new regime on administrative penalties. The new Part XVA comprises new sections 126A to 126D.

Under the new section 126A, the following contraventions are declared to be civil contraventions for the purposes of the Act:

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

The new section 126B(1) empowers an authorised officer to issue a contravention notice to an employer for a civil contravention, requiring the employer to pay an administrative penalty of the prescribed amount.

The new section 126B(2) sets out the contents of a contravention notice.

Under the new section 126B(3), different amounts of administrative penalty may be prescribed for different civil contraventions or different circumstances in which a civil contravention takes place.

Under the new section 126B(4), an employer who is issued a contravention notice is required to pay the administrative penalty to the authorised officer within the time, in the mode of payment and at the place specified in the contravention notice.

The new section 126C(1) provides an employer who is issued a contravention notice by an authorised officer (the initial authorised officer) with an avenue to request for an internal reconsideration of the contravention notice by another authorised officer (the reviewing authorised officer), or to appeal to the High Court. The appeal is a hearing of the matter *de novo*.

The new section 126C(2) provides that the reviewing authorised officer who is to reconsider a contravention notice must not be subordinate to the initial authorised officer who issued the contravention notice.

Under the new section 126C(3), the reviewing authorised officer may, after reconsidering the issue of a contravention notice, confirm the contravention notice issued by the initial authorised officer or cancel the contravention notice. An employer who is aggrieved by the reviewing authorised officer's decision confirming the contravention notice may appeal to the High Court, as provided in the new section 126C(4). The appeal is a hearing of the matter *de novo*.

The new section 126C(6) provides for the stay of the enforcement of the payment of any administrative penalty until after the internal reconsideration is completed or until after the appeal under the new section 126C(1)(b) or (4) is completed, as the case may be.

The new section 126C(7) provides for the enforcement of the contravention notice in the same manner as a judgment of a District Court, with leave of the District Court.

The new section 126C(8) empowers the initial authorised officer to waive, remit or refund in whole or in part any administrative penalty paid or required to be paid under section 126B.

The new section 126D empowers an authorised officer to issue directions to an employer, in lieu of or in addition to giving the employer a contravention notice. The directions require the employer to bring the civil contravention to an end, and where necessary, require the employer to take the specified action to remedy, mitigate or eliminate any effects of the civil contravention and to prevent the recurrence of the civil contravention. Under the new section 126D, the failure, without reasonable excuse, to comply with a direction is an offence.

Clause 14 amends section 136 to exclude administrative penalties under the new Part XVA from the application of that section.

Clause 15 amends section 139.

Clause 15(a) amends section 139(2)(b) by deleting the words “registers and”, as a consequence of the repeal of the existing section 95.

Clause 15(b) deletes the existing section 139(2)(h) which is transferred to the new section 139(2A) and substitutes a new section 139(2)(h) to provide for regulations to prescribe the administrative penalties for civil contraventions.

Clause 15(c) introduces a new subsection (2A) to section 139 to extend the scope of the Minister’s power to prescribe penalties for contravention or failure to comply with regulations, to include any regulations made under the Act. Currently, the Minister’s power is confined to regulations made under section 139 and does not extend to regulations made under the other provisions of the Act.

Clause 16 makes consequential and related amendments to the Child Development Co-Savings Act.

Clause 16(a) amends section 9A(1), (1A), (1B) and (1C) to change the requirement for the minimum period of service or of carrying on a trade, business, profession or vocation (as the case may be), for a female employee or self-employed woman to be entitled to the relevant maternity benefits under section 9. A female employee or self-employed woman, whose confinement occurs on or after the date of commencement of clause 16(a) (the commencement date), or whose confinement occurs before the commencement date but whose estimated delivery date for her confinement is on or after the commencement date, is entitled to such maternity benefits if, as the case may be —

- (a) the female employee has served her employer for a period of at least 3 months before the day of her confinement, which need not be immediately preceding the day of her confinement; or
- (b) the self-employed woman has been carrying on her trade, business, profession or vocation for a continuous period of at least 3 months before the day of her confinement, which need not be immediately preceding the day of her confinement.

As with clause 16(a), clause 16(b) and (c) similarly amends section 12AC to change the requirement for the minimum period of service or of carrying on a trade, business, profession or vocation (as the case may be) for a female employee or a self-employed woman to be entitled to adoption benefits under section 12AA or 12AB. A female employee is entitled to adoption leave if she has served her employer for a period of at least 3 months before (which need not be immediately preceding) the date the application to adopt a child is made or the date the dependant’s pass in respect of the child is issued (as the case may be). A self-employed woman is entitled to payment from the Government under

section 12AB if she has been carrying on her trade, business, profession or vocation for a continuous period of at least 3 months before (which need not be immediately preceding) the date the application to adopt a child is made or the date the dependant's pass in respect of the child is issued (as the case may be).

Clause 16(*d*) and (*e*) amends section 12I(1)(*d*) and (*e*), respectively, to change the requirement for the minimum period of service or of carrying on a trade, business, profession or vocation (as the case may be), for a male employee or self-employed man, who is the natural father of a child, to be entitled to the relevant paternity benefits under section 12H. A male employee is entitled to paternity leave if he has served his employer for a period of at least 3 months before the date of birth of the child, which need not be immediately preceding the date of birth of the child. A self-employed man is entitled to payment from the Government under section 12H if he has been carrying on his trade, business, profession or vocation for a continuous period of at least 3 months before the date of the birth of the child, which need not be immediately preceding the date of birth of the child.

Clause 16(*d*) and (*e*), read together with clause 19(2), will only apply to a male employee or self-employed man who is the natural father of a child, where the mother's confinement occurs on or after the date of commencement of clause 16(*d*) and (*e*) (the commencement date), or whose confinement occurs before the commencement date but whose estimated delivery date for her confinement is on or after the commencement date.

Clause 16(*f*) and (*g*) amends section 12I(2)(*d*) and (*e*), respectively, to change the requirement for the minimum period of service or of carrying on a trade, business, profession or vocation (as the case may be), for a male employee or self-employed man, who is the adoptive father of a child, to be entitled to the relevant paternity benefits under section 12H. A male employee is entitled to paternity leave if he has served his employer for a period of at least 3 months before (which need not be immediately preceding) the date the application to adopt a child is made or the date the dependant's pass in respect of the child is issued (as the case may be). A self-employed man is entitled to payment from the Government under section 12H if he has been carrying on his trade, business, profession or vocation for a continuous period of at least 3 months before (which need not be immediately preceding) the date the application to adopt a child is made or the date the dependant's pass in respect of the child is issued (as the case may be).

Clause 16(*h*) introduces a new section 12M to set out an employee's family-related benefits (namely, paid maternity leave, paid adoption leave, paid childcare leave, paid extended childcare leave, paid shared parental leave or paid paternity leave) if he or she takes no-pay leave.

Clause 17 makes a consequential amendment to section 8 of the Employment of Foreign Manpower Act, arising from the repeal of the existing section 95 in clause 9.

Clause 18 makes a related amendment to the Employment, Parental Leave and Other Measures Act 2013 to delete section 2(14)(c) of that Act.

Clause 19 contains savings and transitional provisions relating to the amendments in clause 16. The Minister is further given power to make regulations of a saving and transitional nature.

EXPENDITURE OF PUBLIC MONEY

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