

Industrial Relations (Amendment) Bill

Bill No. 41/2014.

Read the first time on 3 November 2014.

A BILL

intituled

An Act to amend the Industrial Relations Act (Chapter 136 of the 2004 Revised Edition) and to make related amendments to the Retirement and Re-employment Act (Chapter 274A of the 2012 Revised Edition) and the Trade Unions Act (Chapter 333 of the 2004 Revised Edition).

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

Short title and commencement

1. This Act may be cited as the Industrial Relations (Amendment) Act 2014 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

5 Amendment of section 2

2. Section 2 of the Industrial Relations Act (referred to in this Act as the principal Act) is amended —

(a) by inserting, immediately after the definition of “employer”, the following definition:

10 ““executive employee”, in relation to an employer, means an employee who is employed in a managerial or an executive position by the employer;”; and

15 (b) by inserting, immediately after the definition of “inspecting officer”, the following definition:

““non-executive employee”, in relation to an employer, means an employee other than an executive employee;”.

Amendment of section 6

20 3. Section 6 of the principal Act is amended —

(a) by deleting the words “10 persons” in subsection (2) and substituting the words “not more than 15 persons”;

(b) by inserting, immediately before the words “7 of the members” in subsection (4)(a), the words “at least”;

25 (c) by deleting the words “and 3” in subsection (4)(a) and substituting the words “and at least 3”;

(d) by inserting, immediately after the words “less than the” in subsection (5), the word “maximum”; and

30 (e) by deleting the words “to fill the vacancies unfilled or remaining unfilled” in subsection (5).

Amendment of section 8

4. Section 8(1) of the principal Act is amended by deleting the words “one year” and substituting the words “2 years”.

Amendment of section 10

5. Section 10 of the principal Act is amended by deleting the words “shall, as soon as is reasonably practicable,” and substituting the word “may”.

Amendment of section 17

6. Section 17 of the principal Act is amended by deleting subsection (3) and substituting the following subsection:

“(3) No trade union of employees the majority of whose membership consists of non-executive employees may seek recognition or serve a notice under section 18 in respect of any executive employee who —

(a) is employed in a senior management position or performs or exercises any function, duty or power of a person employed in a senior management position, including the control and supervision of major business operations, accountability for operational performance, formulation of business policies, plans and strategies and provision of leadership to other employees;

(b) performs or exercises any function, duty or power which includes decision-making, or the power to substantially influence decision-making, on any industrial matter including the employment, termination of employment, promotion, transfer, reward or discipline of other employees;

(c) performs any function or duty which includes representing the employer in any negotiation relating to any industrial matter;

(d) has access to confidential information relating to the budget and finances of the employer, any industrial

relations matter or the salaries and personal records of other employees; or

- (e) performs or exercises any other function, duty or power which may give rise to a real or potential conflict of interest if the executive employee is represented by the trade union.”.

Deletion and substitution of heading to Part IV

7. Part IV of the principal Act is amended by deleting the Part heading and substituting the following Part heading:

“LIMITED REPRESENTATION OF EXECUTIVE EMPLOYEES”.

Amendment of section 30

8. Section 30 of the principal Act is amended by deleting subsection (1) and substituting the following subsection:

“(1) In this Part, unless the context otherwise requires, “recognised trade union” means a trade union the majority of whose membership consists of non-executive employees and which has been accorded recognition by an employer under section 17 in respect of any non-executive employees.”.

Amendment of section 30A

9. Section 30A of the principal Act is amended —

- (a) by deleting the full-stop at the end of paragraph (d) of subsection (1) and substituting a semi-colon, and by inserting immediately thereafter the following paragraph:

“(e) to negotiate with the employer with a view to resolving any re-employment dispute as defined in section 8A(4) of the Retirement and Re-employment Act (Cap. 274A).”;

- (b) by deleting the words “decision making” wherever they appear in subsection (2)(b) and substituting in each case the word “decision-making”; and

- (c) by deleting the words “industrial matters” in subsection (2)(b) and (c) and substituting in each case the words “industrial matter”.

Amendment of section 30B

10. Section 30B of the principal Act is amended by inserting, immediately after the word “employer” in paragraph (a), the words “or any re-employment dispute as defined in section 8A(4) of the Retirement and Re-employment Act (Cap. 274A)”. 5

Amendment of section 30F

11. Section 30F of the principal Act is amended by deleting the words “Part IV” in the definition of “executive employee” and substituting the words “this Act”. 10

Amendment of section 30I

12. Section 30I(1) of the principal Act is amended —

(a) by deleting the words “decision making” wherever they appear in paragraph (b) and substituting in each case the word “decision-making”; and 15

(b) by deleting the words “industrial matters” in paragraphs (b) and (c) and substituting in each case the words “industrial matter”. 20

Amendment of section 79

13. Section 79 of the principal Act is amended by deleting subsection (2) and substituting the following subsection:

“(2) It shall not be an offence for an employer to require, as a condition of the appointment or promotion of a person to a position of an executive employee as described in section 17(3), that the person shall not be or continue to be an officer or a member of a particular trade union unless that trade union is a trade union whose constitution and rules restrict its membership to executive employees.”. 25 30

Miscellaneous amendments

14. The principal Act is amended by deleting the words “Minister for Finance” in the following provisions and substituting in each case the words “Minister charged with the responsibility for human resource management in the Civil Service”:

Sections 6(4)(a), 7(2), 16(a) and 30(2).

Saving and transitional provisions

15.—(1) Sections 9(a) and 10 do not apply to or in relation to any inquiry, process or proceeding involving any re-employment dispute in relation to an executive employee who attains the specified age (as defined in the Retirement and Re-employment Act (Cap. 274A) or other higher retirement age that is stipulated in an employment contract, as the case may be), before the date of commencement of the Industrial Relations (Amendment) Act 2014, and sections 30A(1) and 30B(a) of the principal Act shall continue to apply to and in relation to such inquiry, process or proceeding as if this Industrial Relations (Amendment) Act 2014 had not been enacted.

(2) 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 saving or transitional nature consequent on the enactment of that provision as the Minister may consider necessary or expedient.

Related amendments to Retirement and Re-employment Act

16.—(1) Section 8D(5) of the Retirement and Re-employment Act (Cap. 274A) is amended by deleting the word “and” at the end of paragraph (a), and by inserting immediately thereafter the following paragraph:

“(aa) being an employee that is represented by a trade union under Part IV of the Industrial Relations Act, may be represented by an officer of the trade union; and”.

(2) Subsection (1) does not apply to any claim lodged with the Commissioner for Labour under section 8C(1) of the Retirement and Re-employment Act in force immediately before the date of commencement of this Industrial Relations (Amendment) Act 2014,

and section 8D(5) of the Retirement and Re-employment Act in force immediately before that date shall continue to apply to such a claim as if this Industrial Relations (Amendment) Act 2014 had not been enacted.

Related amendments to Trade Unions Act

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17.—(1) Section 2 of the Trade Unions Act (Cap. 333) is amended —

(a) by inserting, immediately after the definition of “executive”, the following definition:

““executive employee”, in relation to an employer, means an employee who is employed in a managerial or an executive position by the employer;”; and

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(b) by inserting, immediately after the definition of “lock-out”, the following definition:

““non-executive employee”, in relation to an employer, means an employee other than an executive employee;”.

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(2) Section 27 of the Trade Unions Act is amended —

(a) by deleting the words “employees in non-managerial or non-executive positions” in subsections (2), (6) and (16) and substituting in each case the words “non-executive employees”;

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(b) by deleting the words “employed in managerial or executive positions and” in subsections (2), (6) and (16) and substituting in each case the words “who are executive employees that are”;

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(c) by deleting the words “employed in a managerial or an executive position and who is” in subsection (5) and substituting the words “an executive employee that is”;

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(d) by deleting the words “of its members employed in non-managerial or non-executive positions” in subsection (7) and substituting the words “member of a

registered trade union that is recognised by the employer in the manner prescribed under Part III of the Industrial Relations Act (Cap. 136) as a registered trade union representing that member”; and

- 5 (e) by deleting the words “affecting those members” in subsection (7) and substituting the words “affecting the member”.

(3) Section 39 of the Trade Unions Act is amended by deleting subsection (2) and substituting the following subsection:

- 10 “(2) Notwithstanding subsection (1), where the majority of the membership of a registered trade union consists of non-executive employees, no rule of the trade union shall confer on any member who is an executive employee that is represented by the trade union under section 30A of the Industrial Relations Act
15 (Cap. 136), the right to vote in any secret ballot taken for the purpose of obtaining the consent of its members to commence, organise, participate or otherwise act in furtherance of any strike or any form of industrial action under section 27(1).”.

EXPLANATORY STATEMENT

This Bill seeks to amend the Industrial Relations Act (Cap. 136) for the following main purposes:

- (a) to allow trade unions of employees the majority of whose membership consists of non-executive employees (called rank and file trade unions) to represent executive employees for collective bargaining except executive employees with specific responsibilities; and
- (b) to extend the areas where rank and file trade unions can represent executive employees on an individual basis to include re-employment disputes.

The Bill also makes related amendments to the Retirement and Re-employment Act (Cap. 274A) and the Trade Unions Act (Cap. 333).

Clause 1 relates to the short title and commencement.

Clause 2 amends section 2 to insert new definitions for the terms “executive employee” and “non-executive employee”.

Clause 3 amends section 6(2) to change the number of persons which the Minister may appoint to the employer panel and the employee panel to a maximum of 15 persons. Amendments are also made to section 6(4)(a) to ensure a minimum number of the employer panel members nominated by the Minister for Manpower and the Minister charged with the responsibility for human resource management in the Civil Service. As not all maximum 15 persons may be appointed to the employer panel and employee panel, a consequential amendment has been made to section 6(5).

Clause 4 amends section 8(1) to extend the period of appointment of a panel member to 2 years.

Clause 5 makes a technical amendment to section 10.

Clause 6 amends section 17 to allow rank and file trade unions to be able to represent executive employees for collective bargaining except executive employees as described in section 17(3) (called executive employees with specific responsibilities).

Clause 7 makes a consequential amendment to the heading to Part IV to reflect the use of the new defined term “executive employee” in the Act.

Clause 8 amends the definition of “recognised trade union” in section 30(1) to include any rank and file trade union which has been accorded recognition by an employer under section 17 in respect of non-executive employees.

Clause 9 amends section 30A(1) to extend the areas where rank and file trade unions can represent executive employees on an individual basis to include re-employment disputes as defined in section 8A(4) of the Retirement and Re-employment Act. The clause also makes editorial amendments to section 30A(2).

Clause 10 amends section 30B(a) to allow an invitation to negotiate to be served by a recognised trade union on an employer or by an employer on a recognised trade union, as the case may be, in relation to any re-employment dispute as defined in section 8A(4) of the Retirement and Re-employment Act.

Clause 11 makes a consequential amendment to section 30F to reflect the use of the new defined term “executive employee” in the Act.

Clause 12 makes editorial amendments to section 30I(1).

Clause 13 amends section 79(2) so that it is not an offence to allow employers to require as a condition of the appointment or promotion of a person to a position of an executive employee with specific responsibilities that the person will not be an officer or a member of a rank and file trade union. This amendment is to avoid losing management effectiveness and placing such a person in a conflict of interests between being an executive employee with specific responsibilities on

one hand and being an officer or a member of a rank and file trade union on the other hand.

Clause 14 amends the references to “Minister for Finance” in sections 6(4)(a), 7(2), 16(a) and 30(2) to “Minister charged with the responsibility for human resource management in the Civil Service”.

Clause 15 sets out the saving and transitional provisions.

Clause 16 makes a related amendment to section 8D(5) of the Retirement and Re-employment Act to extend the areas where rank and file trade unions can represent executive employees on an individual basis to include re-employment disputes. The clause also provides for a saving and transitional provision.

Clause 17 makes related amendments —

- (a) to section 2 of the Trade Unions Act to insert new definitions for the terms “executive employee” and “non-executive employee”; and
- (b) to sections 27 and 39(2) of the Trade Unions Act as a result of the new definitions for the terms “executive employee” and “non-executive employee” and the amendments to section 17 of the Industrial Relations Act to allow rank and file trade unions to be able to represent executive employees for collective bargaining except executive employees with specific responsibilities.

EXPENDITURE OF PUBLIC MONEY

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