

Employment Act (Cap 91)

PART I

PRELIMINARY

Short title

1. This Act may be cited as the Employment Act.

Interpretation

2.

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(1) In this Act, unless the context otherwise requires —

"approved medical institution" means a hospital, clinic, healthcare establishment or other medical institution which the Minister, by notification in the *Gazette*, declares as an approved medical institution;

"basic rate of pay" means the total amount of money (including wage adjustments and increments) to which an employee is entitled under his contract of service either for working for a period of time, that is, for one hour, one day, one week, one month or for such other period as may be stated or implied in his contract of service, or for each completed piece or task of work but does not include —

(a) additional payments by way of overtime payments;

(b) additional payments by way of bonus payments or annual wage supplements;

(c) any sum paid to the employee to reimburse him for special expenses incurred by him in the course of his employment;

(d) productivity incentive payments; and

(e) any allowance however described;

"collective agreement" means an agreement as defined under the Industrial Relations Act; Cap. 136.

"confinement" means the delivery of a child;

"constructional contractor" means any person, firm, corporation or company who or which is established for the purpose of undertaking, either exclusively or in addition to or in conjunction with any other business, any type of constructional work, and who or which is carrying out the constructional work for or on behalf of some other person under a contract entered into by him or them with such other person, and includes his or their heirs, executors, administrators, assigns and successors;

"constructional work" means any building and civil engineering work and includes repair, maintenance, alteration and demolition work;

"contract of service" means any agreement, whether in writing or oral, express or implied, whereby one person agrees to employ another as an employee and that other agrees to serve his employer as an employee and includes an apprenticeship contract or agreement;

"contractor" means any person who contracts with a principal to supply labour or to carry out the whole or any part of any work undertaken by the principal in the course of or for the purposes of the principal's trade or business;

"day" means a period of 24 hours beginning at midnight;

"dependant" means any of the following members of an employee's family, namely, wife, husband, father, mother, child and any adopted or illegitimate child living with or dependent on him;

"dismiss" means the termination of the contract of service of an employee by his employer, with or without notice and whether on the grounds of misconduct or otherwise;

"domestic worker" means any house, stable or garden servant or motor car driver, employed in or in connection with the domestic services of any private premises;

"employee" means a person who has entered into or works under a contract of service with an employer and includes a workman, and any officer or employee of the Government included in a category, class or description of such officers or employees declared by the President to be employees for the purposes of this Act or any provision thereof, but does not include —

(a) any seaman;

(b) any domestic worker;

(c) subject to subsection (2), any person employed in a managerial or an executive position; and

(d) any person belonging to any other class of persons whom the Minister may, from time to time by notification in the *Gazette*, declare not to be employees for the purposes of this Act;

"employer" means any person who employs another person under a contract of service and includes —

(a) the Government in respect of such categories, classes or descriptions of officers or employees of the Government as from time to time are declared by the President to be employees for the purposes of this Act;

(b) any statutory authority;

(c) the duly authorised agent or manager of the employer; and

(d) the person who owns or is carrying on or for the time being responsible for the management of the profession, business, trade or work in which the employee is engaged;

"gross rate of pay" means the total amount of money including allowances to which an employee is entitled under his contract of service either for working for a period of time, that is, for one hour, one day, one week, one month or for such other period as may be stated or implied in his contract of service, or for each completed piece or task of work but does not include —

(a) additional payments by way of overtime payments;

(b) additional payments by way of bonus payments or annual wage supplements;

(c) any sum paid to the employee to reimburse him for special expenses incurred by him in the course of his employment;

(d) productivity incentive payments; and

(e) travelling, food or housing allowances;

"hours of work" means the time during which an employee is at the disposal of the employer and is not free to dispose of his own time and movements exclusive of any intervals allowed for rest and meals;

"industrial undertaking" means public and private undertakings and any branch thereof and includes particularly —

(a) mines, quarries and other works for the extraction of minerals from the earth;

(b) undertakings in which articles are manufactured, assembled, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed, including undertakings engaged in shipbuilding, or in the generation, transformation or transmission of electricity or motive power of any kind;
(c) undertakings engaged in constructional work; and
(d) undertakings engaged in the transport of passengers or goods by road, rail, sea, inland waterway or air, including the handling of goods at docks, quays, wharves, warehouses or airports;

"inspecting officer" means any person appointed as an inspecting officer under section 3 (2);

"machinery" includes all oil engines, gas engines, steam engines and any other machines in which mechanical movement, either linear or rotated or both, takes place, steam boilers, gas cylinders, air receivers, steam receivers, steam containers, cast iron underfired vulcanizers, refrigerating plants, pressure receivers, all appliances for the transmission of power by ropes, belts, chains, driving straps or bands or gearing, electrical generators and electrical motors;

"medical officer" means —

(a) a dentist registered under the Dental Registration Act (Cap. 76), or a medical practitioner, employed by the Government or by an approved medical institution; or

(b) any other medical practitioner whom the Minister, by notification in the *Gazette*, declares as a medical officer;

"medical practitioner" means a medical practitioner registered under the Medical Registration Act;

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"overtime" means the number of hours worked in any one day or in any one week in excess of the limits specified in Part IV;

"place of employment" means any place provided by the employer where work is carried on, for or on behalf of an employer, by an employee;

"principal" means any person who, in the course of or for the purposes of his trade or business, contracts with a contractor for the supply of labour or for the execution by the contractor of the whole or any part of any work undertaken by the principal;

"productivity incentive payment" means a variable payment, whether made annually or otherwise, to an employee as a reward for —

(a) an improvement to the employee's performance; or

(b) an increase in the employee's productivity or contribution to the employer's business, trade or undertaking,

but does not include any payment which forms part of the employee's regular remuneration;

"quarters" means any building provided or intended to be provided for a workman to live in either temporarily or permanently and includes any room or building used or intended to be used whether communally or privately for the purposes of cooking, eating, washing or bathing and any latrines and urinals;

"salary" means all remuneration including allowances payable to an employee in respect of work done under his contract of service, but does not include —

(a) the value of any house accommodation, supply of electricity, water, medical attendance, or other amenity, or of any service excluded by general or special order of the Minister published in the *Gazette*;

(b) any contribution paid by the employer on his own account to any pension fund or provident fund;

(c) any travelling allowance or the value of any travelling concession;

(d) any sum paid to the employee to reimburse him for special expenses incurred by him in the course of his employment;

(e) any gratuity payable on discharge or retirement; and

(f) any retrenchment benefit payable on retrenchment;

"subcontractor" means any person who contracts with a contractor for the supply of labour or for the execution by the subcontractor of the whole or any part of any work undertaken by the contractor for his principal, and includes any person who contracts with a subcontractor to supply labour or to carry out the whole or any part of any work undertaken by the subcontractor for a contractor;

"subcontractor for labour" means any person who contracts with a contractor or subcontractor to supply the labour required for the execution of the whole or any part of any work a contractor or subcontractor has contracted to carry out for a principal or contractor, as the case may be;

"wages" means salary;

"week" means a continuous period of 7 days;

"workman" means—

(a) any person, skilled or unskilled, who has entered into a contract of service with an employer in pursuance of which he is engaged in manual labour, including any artisan or apprentice, but excluding any seaman or domestic worker;

(b) any person, other than clerical staff, employed in the operation or maintenance of mechanically propelled vehicles used for the transport of passengers for hire or for commercial purposes;

(c) any person employed partly for manual labour and partly for the purpose of supervising in person any workman in and throughout the performance of his work: Provided that when any person is employed by any one employer partly as a workman and partly in some other capacity or capacities, that person shall be deemed to be a workman unless it can be established that the time during which that workman has been required to work as a workman in any one salary period as defined in Part III has on no occasion amounted to or exceeded one-half of the total time during which that person has been required to work in such salary period;

(d) any person specified in the First Schedule;

(e) any person whom the Minister may, by notification in the *Gazette*, declare to be a workman for the purposes of this Act;

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(2) Any person employed in a managerial or an executive position who is in receipt of a salary not exceeding \$2,500 a month (excluding overtime payments, bonus payments, annual wage supplements, productivity incentive payments and any allowance however described), or such other amount as may be prescribed by the Minister, shall be regarded as an employee for the purposes of —

(a) sections 20, 20A, 21, 22, 23 (read with section 10 or 11, as the case may be), 24, 25 and 34 and Parts XII to XVI (read with the Second and Third Schedules); and
(b) such other provisions of this Act as the Minister may, by regulations, specify, and those provisions shall apply in relation to that person subject to such modification as may be prescribed.

Appointment of officers

3. —(1) The Minister may appoint an officer to be styled the Commissioner for Labour (referred to in this Act as the Commissioner) and also one or more officers to be styled Deputy Commissioner for Labour, Principal Assistant Commissioner for Labour or Assistant Commissioner for Labour, who, subject to such limitations as may be prescribed, may perform all duties imposed and exercise all powers conferred on the Commissioner by this Act, and every duty so performed and power so exercised shall be deemed to have been duly performed and exercised for the purposes of this Act.

(2) The Minister may appoint such number of inspecting officers and other officers as he may consider necessary or expedient for the purposes of this Act.

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Rules and orders

4. The Minister may from time to time make rules and orders for the conduct of the duties of officers under this Act.

Minister may restrict application

5. The Minister may, by notification in the *Gazette*, declare that this Act or any Part or provisions thereof shall not apply to any premises or class of premises specified in the notification.

Existing law not affected

6. Nothing in this Act shall operate to relieve any employer of any duty or liability imposed upon him by the provisions of any other written law for the time being in force or to limit any powers given to any public officer by any other written law.

7. *Repealed by Act 32/2008, wef 01/01/2009.*

PART II

CONTRACTS OF SERVICE

Illegal terms of contract of service

8. Every term of a contract of service which provides a condition of service which is less favourable to an employee than any of the conditions of service prescribed by this Act shall be illegal, null and void to the extent that it is so less favourable.

Termination of contract

9. —(1) A contract of service for a specified piece of work or for a specified period of time shall, unless otherwise terminated in accordance with the provisions of this Part,

terminate when the work specified in the contract is completed or the period of time for which the contract was made has expired.

(2) A contract of service for an unspecified period of time shall be deemed to run until terminated by either party in accordance with the provisions of this Part.

Notice of termination of contract

10. —(1) Either party to a contract of service may at any time give to the other party notice of his intention to terminate the contract of service.

(2) The length of such notice shall be the same for both employer and employee and shall be determined by any provision made for the notice in the terms of the contract of service, or, in the absence of such provision, shall be in accordance with subsection (3).

(3) The notice to terminate the service of a person who is employed under a contract of service shall be not less than —

(a) one day's notice if he has been so employed for less than 26 weeks;

(b) one week's notice if he has been so employed for 26 weeks or more but less than 2 years;

(c) 2 week's notice if he has been so employed for 2 years or more but less than 5 years; and

(d) 4 weeks' notice if he has been so employed for 5 years or more.

(4) This section shall not be taken to prevent either party from waiving his right to notice on any occasion.

(5) Such notice shall be written and may be given at any time, and the day on which the notice is given shall be included in the period of the notice.

Termination of contract without notice

11. —(1) Either party to a contract of service may terminate the contract of service without notice or, if notice has already been given in accordance with section 10, without waiting for the expiry of that notice, by paying to the other party a sum equal to the amount of salary at the gross rate of pay which would have accrued to the employee during the period of the notice and in the case of a monthly-rated employee where the period of the notice is less than a month, the amount payable for any one day shall be the gross rate of pay for one day's work.

(2) Either party to a contract of service may terminate the contract of service without notice in the event of any wilful breach by the other party of a condition of the contract of service.

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Contractual age

12. —(1) Notwithstanding anything in any other written law, a person below the age of 18 years shall, subject to the provisions of this Act, be competent to enter into a contract of service.

(2) No contract of service as an employee shall be enforceable against a person below the age of 18 years and no damages or indemnity shall be recoverable from that person in respect of the contract of service unless it is for his benefit.

When contract deemed to be broken by employer and employee

13. —(1) An employer shall be deemed to have broken his contract of service with the employee if he fails to pay salary in accordance with Part III.

(2) An employee shall be deemed to have broken his contract of service with the employer if he has been continuously absent from work for more than two days —

(a) without prior leave from his employer or without reasonable excuse; or

(b) without informing or attempting to inform his employer of the excuse for such absence.

Misconduct of employee

14. —(1) An employer may after due inquiry dismiss without notice an employee employed by him on the grounds of misconduct inconsistent with the fulfilment of the express or implied conditions of his service except that instead of dismissing an employee an employer may —

(a) instantly down-grade the employee; or

(b) instantly suspend him from work without payment of salary for a period not exceeding one week.

(2) Notwithstanding subsection (1), where an employee considers that he has been dismissed without just cause or excuse by his employer, he may, within one month of the dismissal, make representations in writing to the Minister to be reinstated in his former employment.

(3) The Minister may, before making a decision on any such representations, by writing under his hand request the Commissioner to inquire into the dismissal and report whether in his opinion the dismissal is without just cause or excuse.

(4) If, after considering the report made by the Commissioner under subsection (3), the Minister is satisfied that the employee has been dismissed without just cause or excuse, he may, notwithstanding any rule of law or agreement to the contrary —

(a) direct the employer to reinstate the employee in his former employment and to pay the employee an amount that is equivalent to the wages that the employee would have earned had he not been dismissed by the employer; or

(b) direct the employer to pay such amount of wages as compensation as may be determined by the Minister,

and the employer shall comply with the direction of the Minister.

(5) The decision of the Minister on any representation made under this section shall be final and conclusive and shall not be challenged in any court.

(6) Any direction of the Minister under subsection (4) shall operate as a bar to any action for damages by the employee in any court in respect of the wrongful dismissal.

(7) An employer who fails to comply with the direction of the Minister under subsection (4) shall be guilty of an offence and 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.

(7A) Where any amount to be paid by an employer under subsection (4) is not paid in accordance with the direction of the Minister and the employer has been convicted of an offence under subsection (7), the amount or so much thereof as remains unpaid shall be recoverable by the court as if it were a fine and the amount so recoverable shall be paid to the employee entitled to payment under the direction of the Minister.

(8) For the purpose of an inquiry under subsection (1), the employer may suspend the employee from work for a period not exceeding one week but shall pay him not less than half his salary for such period.

(9) If the inquiry does not disclose any misconduct on the part of the employee, the employer shall forthwith restore to the employee the full amount of the salary so withheld.

Termination by employee threatened by danger

15. An employee may terminate his contract of service with his employer without notice where he or his dependant is immediately threatened by danger to the person by violence or disease such as the employee did not by his contract of service undertake to run.

Liability on breach of contract

16. Subject to anything in the contract of service to the contrary, the party who breaks the contract of service shall be liable to pay to the other party a sum equal to the amount he would have been liable to pay under section 11 had he terminated the contract of service without notice or with insufficient notice.

Contract of service not to restrict rights of employees to join, participate in or organise trade unions

17. Subject to any other written law for the time being in force, nothing in any contract of service shall in any way restrict the right of any employee who is a party to such contract

—
(a) to join a registered trade union;

(b) to participate in the activities of a registered trade union, whether as an officer of the trade union or otherwise; or

(c) to associate with any other persons for the purpose of organising a trade union in accordance with the provisions of the Trade Unions Act.

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Change of employer

18. —(1) If by or under any written law a contract of employment between any body corporate and an employee is modified and some other body corporate is substituted as the employer, the employee's period of employment at the time when the modification takes effect shall count as a period of employment with such other body corporate and the change of employer shall not break the continuity of the period of employment.

(2) If on the death of an employer the employee is taken into the employment of the personal representatives or trustees of the deceased, the employee's period of employment at the time of the death shall count as a period of employment with the employer's personal representatives or trustees, and the death of the employer shall not break the continuity of the period of employment.

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(3) If there is a change in the partners, personal representatives or trustees who employ any person, the employee's period of employment at the time of the change shall count as a period of employment with the partners, personal representatives or trustees after the change, and the change shall not break the continuity of the period of employment.

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Transfer of employment

18A. —(1) If an undertaking (whether or not it is an undertaking established by or under any written law) or part thereof is transferred from one person to another —

(a) such transfer shall not operate to terminate the contract of service of any person employed by the transferor in the undertaking or part transferred but such contract of service shall have effect after the transfer as if originally made between the person so employed and the transferee; and

(b) the period of employment of an employee in the undertaking or part transferred at the time of transfer shall count as a period of employment with the transferee, and the transfer shall not break the continuity of the period of employment.

(2) Without prejudice to subsection (1), on completion of a transfer referred to in that subsection —

(a) all the transferor's rights, powers, duties and liabilities under or in connection with any such contract of service shall be transferred by virtue of this section to the transferee;

(b) any act or omission done before the transfer by the transferor in respect of that contract of service shall be deemed to have been done by the transferee; and

(c) any act or omission done before the transfer by an employee employed in the undertaking or part transferred in relation to the transferor shall be deemed to have been done in relation to the transferee.

(3) On the completion of a transfer referred to in subsection (1), it is hereby declared for the avoidance of doubt that the terms and conditions of service of an employee whose contract of service is preserved under that subsection shall be the same as those enjoyed by him immediately prior to the transfer.

(4) Subsections (1) and (2) shall not transfer or otherwise effect the liability of any person to be prosecuted for, convicted of and sentenced for any offence.

(5) As soon as it is reasonable and before a transfer under subsection (1) takes place, to enable consultations to take place between the transferor and the affected employees and between the transferor and a trade union of affected employees (if any), the transferor shall notify the affected employees and the trade union of affected employees (if any) of —

(a) the fact that the transfer is to take place, the approximate date on which it is to take place and the reasons for it;

(b) the implications of the transfer and the measures that the transferor envisages he will, in connection with the transfer, take in relation to the affected employees or, if he envisages that no measures will be so taken, that fact; and

(c) the measures that the transferee envisages he will, in connection with the transfer, take in relation to such of those employees as, by virtue of subsection (1), become employees of the transferee after the transfer or, if he envisages that no measures will be so taken, that fact.

(6) As soon as it is reasonable, the transferee shall give the transferor such information so as to enable the transferor to perform the duty imposed on him by virtue of subsection (5)

(c).

(7) Where the Commissioner considers that there has been an inordinate delay —

(a) by the transferor in notifying the affected employees or a trade union of affected employees of the matters set out in subsection (5); or

(b) by the transferee in notifying the transferor of the information set out in subsection (6),
the Commissioner may, by notice in writing, direct the transferor to comply with subsection (5) or the transferee to comply with subsection (6), as the case may be, within such time as may be specified in the notice.

(8) Where, immediately before a transfer referred to in subsection (1), a trade union is recognised by the transferor for the purposes of the Industrial Relations Act in respect of any employee who in consequence of the transfer becomes the employee of the transferee, the trade union shall, after the transfer —

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(a) be deemed to be recognised by the transferee for the purposes of the Industrial Relations Act if, after the transfer, the majority of employees employed by the transferee are members of the trade union; or

(b) in any other case, be deemed to be recognised by the transferee only for the purpose of representing the employee on any dispute arising —

(i) from any collective agreement that was entered into between the transferor and the trade union while the collective agreement remains in force; or

(ii) from the transfer of the employee's employment from the transferor to the transferee under this section.

(9) A dispute or disagreement between the transferor and an employee or the transferee and an employee arising from a transfer under subsection (1), whether before or after the transfer, may be referred by a party to the dispute or disagreement to the Commissioner under section 115 and shall be deemed to be a dispute to which that section applies.

(10) Where a dispute or disagreement has been referred to the Commissioner pursuant to subsection (9), the Commissioner shall, in addition to the powers conferred under section 115, have the powers —

(a) to delay or prohibit the transfer of employment of the employee to the transferee from the transferor to the transferee under subsection (1); and

(b) to order that the transfer of employment of the employee to the transferee from the transferor to the transferee under subsection (1) be subject to such terms as the Commissioner considers just.

(11) The Minister may make such regulations as he considers necessary or expedient to give effect to the provisions of this section and, in particular, may make regulations —

(a) to provide for the form and manner of consultations between the transferor and the affected employees and between the transferor and a trade union of affected employees under subsection (5);

(b) for the type of information that must be communicated by the transferor to the affected employees and to a trade union of affected employees under subsection (5), or by the transferee to the transferor under subsection (6); and

(c) to provide for a mechanism for conciliation of disputes arising out of or relating to a transfer referred to in subsection (1) between any employer and employee.

(12) Nothing in this section shall prevent a transferee of an undertaking referred to in subsection (1) and an employee whose contract of service is preserved under that subsection or a trade union representing such an employee from negotiating for and agreeing to terms of service different from those contained in the contract of service that is preserved under that subsection.

(13) In this section —

"affected employee" means any employee of the transferor who may be affected by a transfer under subsection (1) or may be affected by the measures taken in connection with such a transfer;

"trade union" means a trade union which has been —

(a) registered under any written law for the time being in force relating to the registration of trade unions; and

(b) accorded recognition by the employer pursuant to section 16 (1) of the Industrial Relations Act;

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"transfer" includes the disposition of a business as a going concern and a transfer effected by sale, amalgamation, merger, reconstruction or operation of law;

"undertaking" includes any trade or business.

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Offence

19. Any employer who enters into a contract of service or collective agreement contrary to the provisions of this Part shall be guilty of an offence.

PART III

PAYMENT OF SALARY

Fixation of salary period

20. —(1) An employer may fix periods, which for the purpose of this Act shall be called salary periods, in respect of which salary earned shall be payable.

(2) No salary period shall exceed one month.

(3) In the absence of a salary period so fixed the salary period shall be deemed to be one month.

Computation of salary for incomplete month's work

20A. —(1) If a monthly-rated employee has not completed a whole month of service because —

(a) he commenced employment after the first day of the month;

(b) his employment was terminated before the end of the month;

(c) he took leave of absence without pay for one or more days of the month; or

(d) he took leave of absence to perform his national service under the Enlistment Act,

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the salary due to him for that month shall be calculated in accordance with the following formula:

<u>Monthly gross rate of pay</u>	x	Number of days the employee actually worked in that month.
Number of days on which the employee is required to work in that month		

(2) In calculating the number of days actually worked by an employee in a month under subsection (1), any day on which an employee is required to work for 5 hours or less under his contract of service shall be regarded as half a day.

Time of payment

21. —(1) Salary earned by an employee under a contract of service, other than additional payments for overtime work, shall be paid before the expiry of the 7th day after the last day of the salary period in respect of which the salary is payable.

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(2) Additional payments for overtime work shall be paid not later than 14 days after the last day of the salary period during which the overtime work was performed.

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(3) The total salary due to an employee on completion of his contract of service shall be paid to him on completion of the contract.

Payment on dismissal

22. Subject to the provisions of this Act, the total salary and any sum due to an employee who has been dismissed shall be paid on the day of dismissal or, if this is not possible, within 3 days thereafter, not being a rest day or public or other holiday.

Payment on termination by employee

23. —(1) Subject to the provisions of this Act, the total salary due to an employee who terminates his contract of service with his employer under section 11 or after giving due notice to the employer as required under section 10 shall be paid to him on the day on which the contract of service is terminated.

(2) Subject to the provisions of this Act, the total salary due to an employee who terminates his contract of service without giving prior notice to his employer as required under section 10, or, if notice has already been given under that section, but the employee terminates his contract of service without waiting for the expiry of the notice, shall be paid to him before the expiry of the 7th day after the day on which he terminates his contract of service.

(3) The employer may, subject to any order made by a court or the Commissioner to the contrary, deduct from the salary due to the employee such sum as the employee is liable to pay in lieu of prior notice under section 11 (1).

Income tax clearance

24. —(1) Notwithstanding sections 22 and 23, no payment of salary or any other sum due to an employee on termination of service shall be made to the employee by the employer without the permission of the Comptroller of Income Tax under section 68 (7) of the Income Tax Act.

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(2) The employer shall forthwith give notice of the termination of service to the Comptroller of Income Tax and the payment of the salary or other sum due to the employee shall not be delayed more than 30 days after such notice has been given to and received by the Comptroller of Income Tax.

Payment to be made during working hours

25. —(1) Payment of salary shall be made on a working day and during working hours at the place of work or at any other place agreed to between the employer and the employee.

(2) Subsection (1) shall not apply where the salary is paid into an account with a bank in Singapore, being an account in the name of the employee or an account in the name of the employee jointly with one or more other persons.

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No unauthorised deductions to be made

26. No deductions other than deductions authorised under the provisions of this Act shall be made by an employer from the salary of an employee unless they are required to be made by order of a court or other authority competent to make such order.

Authorised deductions

27. —(1) The following deductions may be made from the salary of an employee:

- (a) deductions for absence from work;
- (b) deductions for damage to or loss of goods expressly entrusted to an employee for custody or for loss of money for which an employee is required to account, where the damage or loss is directly attributable to his neglect or default;
- (c) deductions for the actual cost of meals supplied by the employer at the request of the employee;
- (d) deductions for house accommodation supplied by the employer;
- (e) deductions for such amenities and services supplied by the employer as the Commissioner may authorise;
- (f) deductions for recovery of advances or loans or for adjustment of over-payments of salary;
- (g) deductions for income tax payable by the employee;
- (h) deductions of contributions payable by an employer on behalf of an employee under and in accordance with the provisions of the Central Provident Fund Act;

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- (i) deductions made at the request of the employee for the purpose of a superannuation scheme or provident fund or any other scheme which is lawfully established for the benefit of the employee and is approved by the Commissioner;
 - (j) deductions made with the written consent of the employee and paid by the employer to any cooperative society registered under any written law for the time being in force in respect of subscriptions, entrance fees, instalments of loans, interest and other dues payable by the employee to such society; and
 - (k) any other deductions which may be approved from time to time by the Minister.
- (2) For the purposes of subsection (1) (e), “services” does not include the supply of tools and raw materials required for the purposes of employment.

Deductions for absence

28. —(1) Deductions may be made under section 27 (1) (a) only on account of the absence of an employee from the place where, by the terms of his employment, he is required to work, the absence being for the whole or any part of the period during which he is so required to work.

(2) The amount of any deduction referred to in subsection (1) shall in no case bear to the salary payable at the gross rate of pay to the employee in respect of the salary period for which the deduction is made a larger proportion than the period for which he was absent bears to the total period, within such salary period, during which he was required to work

by the terms of his employment, and in the case of a monthly-rated employee the amount of deduction in respect of any one day shall be the gross rate of pay for one day's work.

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(3) If any employee absents himself from work otherwise than as provided by this Act or by his contract of service, the employer may, subject to any order which may be made by a court or by the Commissioner on complaint of either party, deduct from any salary due to the employee the cost of food supplied to him during his absence.

Deductions for damages or loss

29. —(1) A deduction under section 27 (1) (b) shall not exceed the amount of the damages or loss caused to the employer by the neglect or default of the employee and except with the permission of the Commissioner shall in no case exceed one-quarter of one month's wages and shall not be made until the employee has been given an opportunity of showing cause against the deduction.

(2) All such deductions and all realisations thereof shall be recorded in a register to be kept by the employer in such form as may be prescribed.

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Deductions for accommodation, amenity and service.

30. A deduction under section 27 (1) (d) or (e) shall not be made from the salary of an employee unless the house accommodation, amenity or service has been accepted by him, as a term of employment or otherwise, and the deduction shall not exceed an amount equivalent to the value of the house accommodation, amenity or service supplied and, in the case of a deduction under section 27 (1) (e), shall be subject to such conditions as the Commissioner may impose.

Recovery of advances and loans.

31. —(1) The recovery of an advance of money made to an employee before the commencement of a contract of service shall begin from the first payment of salary in respect of a completed salary period, but no recovery shall be made of any such advance made for travelling expenses.

(2) Advances may be recovered in instalments by deductions from salary spread over not more than 12 months.

(3) No instalment under subsection (2) shall exceed one-quarter of the salary due for the salary period in respect of which the deduction is made.

(4) Loans may be recovered in instalments by deductions from salary.

(5) No instalment under subsection (4) shall exceed one-quarter of the salary due for the salary period in respect of which the deduction is made.

Deductions not to exceed 50% of salary.

32. —(1) The total amount of all deductions made from the salary of an employee by an employer in any one salary period, other than deductions under section 27 (1) (a), (f), (g) or (j), shall not exceed 50% of the salary payable to the employee in respect of that period.

(2) Subsection (1) shall not apply to deductions made from the last salary due to an employee on termination of his contract of service or on completion of his contract of service.

Priority of salary to other debts.

33. —(1) This section shall apply —

(a) to workmen who are in receipt of a salary not exceeding \$4,500 a month (excluding overtime payments, bonus payments, annual wage supplements, productivity incentive payments and any allowance however described) or such other amount as may be prescribed by the Minister; and

(b) to employees (other than workmen) who are in receipt of a salary not exceeding \$2,000 a month (excluding overtime payments, bonus payments, annual wage supplements, productivity incentive payments and any allowance however described) or such other amount as may be prescribed by the Minister.

(2) When, on the application of a person holding a mortgage, charge or lien or of a person who has obtained a judgment or decree, the property of an employer is sold, or any money due to the employer is garnished, the court ordering the sale or garnishment shall not distribute the proceeds of the sale or the money to the person entitled thereto unless the court has ascertained and paid the salary due to all the employees employed by that employer and to all employees engaged by a contractor or subcontractor and working for that employer.

(3) This section shall only apply —

(a) to property on which those employees were or are working;

(b) where the property sold was or is the produce of the work of those employees;

(c) where the property sold is movable property used or being used by those employees in the course of their work; or

(d) to money due to the employer in respect of work done by those employees.

(4) The amount payable to each such employee under subsection (2) shall not exceed 5 months' salary.

(5) For the purpose of ascertaining the amount due to any employee under subsection (2), the court may refer the matter to the Commissioner with a request that he holds an inquiry into the matter and forward his findings in respect thereof to the court, and the Commissioner shall comply with any such request.

(6) For the purposes of any inquiry under subsection (5), the Commissioner shall have all the powers conferred upon him by section 115.

(7) For the purposes of this section, "employees" shall be deemed to include subcontractors for labour and "salary" shall be deemed to include money due to a subcontractor for labour.

Offence.

34. Any employer failing to pay salary in accordance with the provisions of this Part shall be guilty of an offence.

PART IV**REST DAYS, HOURS OF WORK AND OTHER CONDITIONS OF SERVICE**

Application of this Part to certain workmen and other employees

35. The provisions of this Part shall apply —

(a) to workmen who are in receipt of a salary not exceeding \$4,500 a month (excluding overtime payments, bonus payments, annual wage supplements, productivity incentive payments and any allowance however described) or such other amount as may be prescribed by the Minister; and

(b) to employees (other than workmen) who are in receipt of a salary not exceeding \$2,000 a month (excluding overtime payments, bonus payments, annual wage supplements, productivity incentive payments and any allowance however described) or such other amount as may be prescribed by the Minister.

Rest day.

36. —(1) Every employee shall be allowed in each week a rest day without pay of one whole day which shall be Sunday or such other day as may be determined from time to time by the employer.

(2) The employer may substitute any continuous period of 30 hours as a rest day for an employee engaged in shift work.

(3) Where in any week a continuous period of 30 hours commencing at any time before 6 p.m. on a Sunday is substituted as a rest day for an employee engaged in shift work, such rest day shall be deemed to have been granted within the week notwithstanding that the period of 30 hours ends after the week.

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(4) Where the rest day of an employee is determined by his employer, the employer shall prepare or cause to be prepared a roster before the commencement of the month in which the rest days fall informing the employee of the days appointed to be his rest days therein.

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Work on rest day.

37. —(1) Subject to section 38(2) or 40(2A), no employee shall be compelled to work on a rest day unless he is engaged in work which by reason of its nature requires to be carried on continuously by a succession of shifts.

(1A) In the event of any dispute the Commissioner shall have power to decide whether or not an employee is engaged in work which by reason of its nature requires to be carried on continuously by a succession of shifts.

(2) Any employee who at his own request works for an employer on a rest day shall be paid for that day —

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(a) if the period of work does not exceed half his normal hours of work, a sum at the basic rate of pay for half a day's work;

(b) if the period of work is more than half but does not exceed his normal hours of work, a sum at the basic rate of pay for one day's work; or

(c) if the period of work exceeds his normal hours of work for one day —

(i) a sum at the basic rate of pay for one day's work; and

(ii) a sum at the rate of not less than one and a half times his hourly basic rate of pay for each hour or part thereof that the period of work exceeds his normal hours of work for one day.

(3) An employee who at the request of his employer works on a rest day shall be paid for that day —

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- (a) if the period of work does not exceed half his normal hours of work, a sum at the basic rate of pay for one day's work;
- (b) if the period of work is more than half but does not exceed his normal hours of work a sum at the basic rate of pay for two days' work; or
- (c) if the period of work exceeds his normal hours of work for one day —
 - (i) a sum at the basic rate of pay for two days' work; and
 - (ii) a sum at the rate of not less than one and a half times his hourly basic rate of pay for each hour or part thereof that the period of work exceeds his normal hours of work for one day.

(3A) In this section —

- (a) "normal hours of work" means the number of hours of work (not exceeding the limits applicable to an employee under section 38 or 40, as the case may be) that is agreed between an employer and an employee to be the usual hours of work per day; or in the absence of any such agreement, shall be deemed to be 8 hours a day; and
- (b) an employee's "hourly basic rate of pay" is to be calculated in the same manner as for the purpose of calculating payment due to an employee under section 38 for working overtime.

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(4) Subsection (3) shall not apply to any employee who is employed by the Government or a statutory body in any of the essential services as defined under Part III of the Criminal Law (Temporary Provisions) Act, but any such employee who at the request of his employer works on a rest day or part thereof shall be given a day or part of a day off, as the case may be, in substitution for such a rest day or part thereof.

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Hours of work.

38. —(1) Except as hereinafter provided, an employee shall not be required under his contract of service to work —

- (a) more than 6 consecutive hours without a period of leisure;
- (b) more than 8 hours in one day or more than 44 hours in one week:

Provided that —

- (i) an employee who is engaged in work which must be carried on continuously may be required to work for 8 consecutive hours inclusive of a period or periods of not less than 45 minutes in the aggregate during which he shall have the opportunity to have a meal;
- (ii) where, by agreement under the contract of service between the employee and the employer, the number of hours of work on one or more days of the week is less than 8, the limit of 8 hours may be exceeded on the remaining days of the week, but so that no employee shall be required to work for more than 9 hours in one day or 44 hours in one week;
- (iii) where, by agreement under the contract of service between the employee and the employer, the number of days on which the employee is required to work in a week is not more than 5 days, the limit of 8 hours in one day may be exceeded but so that no employee shall be required to work more than 9 hours in one day or 44 hours in one week; and

(iv) where, by agreement under the contract of service between the employee and the employer, the number of hours of work in every alternate week is less than 44, the limit of 44 hours in one week may be exceeded in the other week, but so that no employee shall be required to work for more than 48 hours in one week or for more than 88 hours in any continuous period of 2 weeks.

(2) An employee may be required by his employer to exceed the limit of hours prescribed in subsection (1) and to work on a rest day, in the case of —

- (a) accident, actual or threatened;
- (b) work, the performance of which is essential to the life of the community;
- (c) work essential for defence or security;
- (d) urgent work to be done to machinery or plant;
- (e) an interruption of work which it was impossible to foresee; or
- (f) work to be performed by employees in any industrial undertaking essential to the economy of Singapore or any of the essential services as defined under Part III of the Criminal Law (Temporary Provisions) Act.

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(3) In the event of any dispute the Commissioner shall have power to decide whether or not the employer is justified in calling upon the employee to work in the circumstances specified in subsection 2 (f).

(4) If an employee at the request of the employer works —

- (a) more than 8 hours in one day except as provided in paragraphs (ii) and (iii) of the proviso to subsection (1), or more than 9 hours in one day in any case specified in those paragraphs; or
 - (b) more than 44 hours in one week except as provided in paragraph (iv) of the proviso to subsection (1), or more than 48 hours in any one week or more than 88 hours in any continuous period of 2 weeks in any case specified in that paragraph,
- he shall be paid for such extra work at the rate of not less than one and a half times his hourly basic rate of pay irrespective of the basis on which his rate of pay is fixed.

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(5) An employee shall not be permitted to work overtime for more than 72 hours a month.

(6) For the purpose of calculating the payment due for overtime to an employee, the employee's hourly basic rate of pay shall be taken to be —

- (a) in the case of a person employed on a monthly rate of pay, 12 times his monthly basic rate of pay divided by 52 times 44 hours; and
- (b) in the case of a person employed on piece rates, the total weekly pay at the basic rate of pay received divided by the total number of hours worked in the week.

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(7) The Minister may make regulations for the purpose of calculating the payment due for overtime to an employee employed on piece rates.

(8) Except in the circumstances described in subsection (2) (a), (b), (c), (d) and (e), no employee shall under any circumstances work for more than 12 hours in any one day.

(9) This section shall not apply to employees engaged in the fire services or in work which by its nature involves long hours of inactive or stand-by employment.

21/84.

Task work.

39. Nothing in this Part shall prevent any employer from agreeing with any employee that the salary of the employee shall be paid at an agreed rate in accordance with the task, that is, the specific amount of work required to be performed, and not by the day or by the piece.

Shift workers, etc.

40. —(1) Notwithstanding section 38 (1), an employee who is engaged under his contract of service in regular shift work or who has otherwise consented in writing to work in accordance with the hours of work specified in this section may be required to work more than 6 consecutive hours, more than 8 hours in any one day or more than 44 hours in any one week but the average number of hours worked over any continuous period of 3 weeks shall not exceed 44 hours per week.

(2) No consent given by an employee under this section shall be valid unless this section and section 38 have been explained to the employee and the employee has been informed of the times at which the hours of work begin and end, the number of working days in each week and the weekly rest day.

(2A) An employee to whom this section applies may be required by his employer to exceed the limit of hours prescribed in subsection (1) and to work on a rest day, in the case of —

- (a) accident, actual or threatened;
- (b) work, the performance of which is essential to the life of the community;
- (c) work essential for defence or security;
- (d) urgent work to be done to machinery or plant; or
- (e) an interruption of work which it was impossible to foresee.

(3) Except in the circumstances described in subsection (2A)(a), (b), (c), (d) and (e), no employee to whom this section applies shall under any circumstances work for more than 12 hours in any one day.

(4) Section 38 (4) shall not apply to any employee to whom this section applies, but any such employee who at the request of his employer works more than an average of 44 hours per week over any continuous period of 3 weeks shall be paid for such extra work in accordance with section 38 (4).

21/84.

Interpretation of “week” for purposes of sections 36, 38 and 40.

41. For the purposes of sections 36, 38 and 40, “week” shall mean a continuous period of 7 days commencing at midnight on Sunday.

21/84.

Power to exempt.

41A. —(1) The Commissioner may, after considering the operational needs of the employer and the health and safety of the employee or class of employees, by order in writing exempt an employee or any class of employees from sections 38 (1), (5) and (8) and 40 (3) subject to such conditions as the Commissioner thinks fit.

(2) The Commissioner may, after considering the operational needs of an employer and the interests of an employee or a class of employees, by order in writing, direct that the entitlement to be paid for extra work under section 37(2) or (3), 38(4), 40(4) or 88(4)

shall not apply to that employee or class of employees, subject to such conditions as the Commissioner thinks fit.

(3) Where the Commissioner —

(a) exempts an employee or any class of employees from section 38 (1), (5) or (8) or 40 (3); or

(b) directs that the entitlement to be paid for extra work under section 37 (2) or (3), 38(4), 40(4) or 88(4) shall not apply to an employee or any class of employees, the employer shall display the order or a copy thereof conspicuously in the place where the employee or class of employees are employed.

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42. *Repealed by Act 32/2008, wef 01/01/2009.*

Annual leave.

43. —(1) An employee who has served an employer for a period of not less than 3 months shall be entitled to paid annual leave of 7 days in respect of the first 12 months of continuous service with the same employer and an additional one day's annual leave for every subsequent 12 months of continuous service with the same employer subject to a maximum of 14 days of such leave which shall be in addition to the rest days, holidays and sick leave to which the employee is entitled under sections 36, 88 and 89, respectively.

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(2) An employee who has served an employer for a period of not less than 3 months but who has not completed 12 months of continuous service in any year shall be entitled to annual leave in proportion to the number of completed months of service in that year.

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(3) In calculating the proportionate annual leave under subsection (2), any fraction of a day which is less than one-half of a day shall be disregarded and where the fraction of the day is one-half or more it shall be regarded as one day.

(4) Where an employee is granted leave of absence without pay by the employer at the request of the employee, the period of the leave shall be disregarded for the purpose of computing continuous service under this section.

(5) An employee shall forfeit his entitlement to annual leave if he absents himself from work without the permission of the employer or without reasonable excuse for more than 20% of the working days in the months or year, as the case may be, in which his entitlement to such leave accrues.

(6) The employer shall grant and the employee shall take such leave not later than 12 months after the end of every 12 months continuous service and any employee who fails to take that leave by the end of such period shall thereupon cease to be entitled thereto.

(7) The employer shall pay the employee his gross rate of pay for every day of such leave and if an employee has been dismissed otherwise than for misconduct before he has taken that leave, the employer shall pay the employee his gross rate of pay in respect of every day of that leave.

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(8) The Minister may, by notification in the *Gazette*, fix the periods when and prescribe the manner in which annual leave shall be granted to employees in different types of employment or in different classes of industries.

44. *Repealed by Act 32/2008, wef 01/01/2009.*

Payment of retrenchment benefit.

45. No employee who has been in continuous service with an employer for less than 3 years shall be entitled to any retrenchment benefit on his dismissal on the ground of redundancy or by reason of any reorganisation of the employer's profession, business, trade or work.

Retirement benefit.

46. No employee who has been in continuous service with an employer for less than 5 years shall be entitled to any retirement benefit other than the sums payable under the Central Provident Fund Act on the cessation of his service with the employer.

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Priority of retirement benefits, etc.

47. —(1) Where a collective agreement or an award contains a provision for the payment of a gratuity or other sum of money to an employee on his retirement or on the termination of his services under such circumstances as may be provided for in the collective agreement or award, the gratuity or other sum of money which is due and owing to the employee shall be included among —

(a) the debts which, under section 328 of the Companies Act, are to be paid in priority to all other unsecured debts in the winding up of a company and that gratuity or sum of money shall rank after the preferred debts referred to in that section;

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(b) the debts which, under section 90 of the Bankruptcy Act, are to be paid in priority to all other debts in the distribution of the property of a bankrupt or of a person dying insolvent.

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(2) Where a collective agreement or an award contains a provision for the payment of a gratuity or other sum of money to an employee on his retirement and no provision is made for the payment of a gratuity or other sum of money on the termination of the employee's services by reason of his employer ceasing to carry on business for whatever reason, or by reason of the employer transferring the whole or part of his undertaking or property, as the case may be, every such collective agreement or award shall, notwithstanding anything contained in any written law or rule of law or collective agreement or award to the contrary, be deemed to contain a provision that in the event of the employer ceasing to carry on business for whatever reason or transferring the whole or part of his undertaking or property, as the case may be, an employee who ceases to be employed by the employer by reason of the happening of such a contingency shall be paid such sum of money as he would have been entitled to receive under the terms of the collective agreement or award if he had retired from the service of the employer on the day the employer ceases to carry on business or transfers the whole or part of his undertaking or property, as the case may be.

(3) Subsection (2) shall not apply where an employer has set up a fund under a scheme for the payment of pensions, gratuities, provident fund or other superannuation benefits to his employees on their retirement from the service of the employer whereby under such scheme the benefits of the employees shall be safeguarded in the event of the bankruptcy of an employer or, if the employer is a company, on the winding up of the company or in the event of the employer ceasing to carry on business for any other reason or transferring the whole or part of his undertaking or property, as the case may be.

(4) Any sum of money payable under subsection (2) shall, for the purposes of subsection (1), be deemed to be a payment to an employee on his retirement and shall be included among the debts referred to in subsection (1) (a) or (b).

(5) For the purposes of this section —

"award" means an award made by the Industrial Arbitration Court under the provisions of the Industrial Relations Act;

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"collective agreement" means a collective agreement, a memorandum of which has been certified by the Industrial Arbitration Court in accordance with the provisions of the Industrial Relations Act.

15/95.

Payment of annual wage supplement or other variable payment.

48. —(1) Where a contract of service or collective agreement made before 26th August 1988 provides for the payment by the employer of any annual wage supplement, annual bonus or annual wage increase, such payments shall continue to be payable by the employer until the employer and his employees or a trade union representing his employees have negotiated and agreed to vary such payments.

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(2) An employer and his employees or a trade union representing his employees may negotiate for and agree to a variable payment based on the trading results or productivity or on any other criteria agreed upon by the parties concerned.

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(3) Where an employer has not paid any annual wage supplement prior to 26th August 1988, any contract of service or collective agreement made on or after that date between the employer and his employees or a trade union representing his employees shall not contain a provision for the payment of an annual wage supplement exceeding the equivalent of one month's wages of the employees.

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(4) Any person who, or any trade union of employees which, requests (whether orally or in writing) or invites negotiations for the payment by an employer of an annual wage supplement which is in excess of the amount specified in subsection (3) and any employer who pays an annual wage supplement exceeding the amount specified in subsection (3) shall be guilty of an offence.

(5) Notwithstanding that an annual wage supplement may be payable under subsection (1) or (3), an employer may, in the event of exceptionally poor business results for any year, invite the employees or a trade union representing his employees to negotiate for a lower quantum of annual wage supplement or for no annual wage supplement to be paid for that year.

21/88.

Power of Minister to make recommendations for wage adjustments.

49. The Minister may, from time to time, make recommendations for wage adjustment and upon the publication of such recommendations in the *Gazette* the employer and his employees or a trade union representing his employees may negotiate based on such recommendations.

21/88.

Interpretation for purposes of sections 48 and 49.

50. —(1) Where a notice is served under section 17 of the Industrial Relations Act by an employer or a trade union representing his employees in respect of any matter referred to in sections 48 and 49 and no agreement is reached between the parties, either party may, notwithstanding the provisions of the Industrial Relations Act, refer the matter to the Industrial Arbitration Court established under the Industrial Relations Act for arbitration.

(2) For the purposes of sections 48 and 49 —

"annual wage supplement" means a single annual payment to employees that is supplemental to the total amount of annual wages earned by them, whether expressed as a percentage thereof or otherwise;

"variable payment" means such payment, however expressed and whether paid annually or otherwise, which serves as an incentive to all employees to increase their productivity or as a reward for their contribution;

"wages" means the basic wages payable to an employee in respect of work done under his contract of service but does not include any commission, overtime allowance or other allowances payable to an employee.

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51. (*Repealed by Act 36/95*).

Power to suspend application of Part IV.

52. The Minister may, by notification in the *Gazette*, suspend the application of any of the provisions of this Part to any classes of employees when the public interest so requires it.

Offence.

53. —(1) Any employer who employs any person as an employee contrary to the provisions of this Part or fails to pay any salary in accordance with the provisions of this Part shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000, and for a second or subsequent offence to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding one year or to both.

(2) *Deleted by Act 32/2008, wef 01/01/2009*

(3) Notwithstanding subsection (1) —

(a) an employer and his employees or a trade union representing his employees may negotiate for and agree to terms of service relating to leave more favourable than those contained in sections 43 and 89; and

(b) it shall not be an offence for an employer to grant to his employees terms of service relating to leave more favourable than those contained in sections 43 and 89.

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PART V

TRUCK SYSTEM

Agreements to pay salary otherwise than in legal tender illegal.

54. The salary of a workman shall be payable in legal tender and not otherwise and if in any contract of service the whole or any part of the salary is made payable in any other manner the contract of service shall be illegal, null and void.

Agreements as to place and manner, etc., of spending salary illegal.

55. No contract of service shall contain any terms as to the place at which, or the manner in which, or the person with whom, any salary paid to the workman is to be expended and every contract of service containing such terms shall be illegal, null and void.

Salary to be paid entirely in legal tender.

56. Except where otherwise expressly permitted by the provisions of this Act, the entire amount of the salary earned by, or payable to, any workman in respect of any work done by him shall be actually paid to him in legal tender, and every payment of, or on account of, any such salary made in any other form shall be illegal, null and void.

Recovery of salary not paid in legal tender.

57. Every workman shall be entitled to recover in any court or before the Commissioner, acting under section 115, so much of his salary exclusive of sums lawfully deducted in accordance with the provisions of this Act as has not been actually paid to him in legal tender.

Interest on advances forbidden.

58. No employer shall make any deduction by way of discount, interest or any similar charge on account of any advance of salary made to any workman.

Remuneration other than salary.

59. Nothing in this Part shall render illegal a contract of service with a workman for giving to him food, quarters or other allowances or privileges in addition to money salary as a remuneration for his services, but no employer shall give to a workman any noxious drugs or intoxicating liquor by way of remuneration.

Shops and canteens.

60. —(1) Nothing in this Part shall prevent the employer from establishing or permitting to be established a shop or a canteen for the sale of foodstuffs, provisions, meals or refreshments; but no workman shall be compelled by any contract of service to purchase any goods at that shop or canteen, and no noxious drugs or intoxicating liquor shall be sold at any such shop or canteen.

(2) No employer shall establish or keep or permit to be established or kept, a shop or canteen on any place of employment for the sale of foodstuffs, provisions, meals or refreshments to his workmen otherwise than in accordance with subsection (1).

Offence.

61. Any employer who enters into any contract of service or gives any remuneration for service contrary to the provisions of this Part or declared by this Part to be illegal or receives any payment from any workman contrary to the provisions of this Part or contravenes section 60 (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000, and for a second or subsequent offence to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding one year or to both.

Proceedings may be taken against actual offender.

62. *Repealed by Act 32/2008, wef 01/01/2009.*

Payment of salary through bank.

63. —(1) Nothing in section 54 or 56 shall operate so as to render unlawful or invalid any payment of salary by the employer to the workman in any of the following ways:

(a) payment into an account at a bank in Singapore, being an account in the name of the workman or an account in the name of the workman jointly with one or more other persons;

(b) payment by cheque made payable to or to the order of the workman.

(2) Where the salary or part thereof has been paid in any of the ways set out in subsection (1), section 57 shall not operate to give a right of recovery of so much of the salary as has been so paid.

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Limitations on application of Part V.

64. Nothing in this Part shall be held to apply to any body of persons working on an agreement of co-operation.

PART VI

CONTRACTORS AND CONTRACTING

Liability of principals, contractors and subcontractors for salary of workman.

65. —(1) Where a principal, in the course of or for the purposes of or in pursuance of or in furtherance of the interests of his trade or business, contracts with a contractor for the supply of labour or for the execution by or under the contractor of the whole or any part of any work undertaken by the principal, and any salary is due to any workman by the contractor or any subcontractor under the contractor for labour supplied or for work done in the course of the execution of such work, the principal and the contractor and any such subcontractor (not being the employer) shall be jointly and severally liable with the employer to pay the workman as if the workman had been immediately employed by him, and where salary is claimed from the principal, this Act, with the exception of section 33 relating to priority of salary, shall apply as if reference to the principal were substituted for reference to the employer, except that salary claimed shall be calculated with reference to the salary of the workman under the employer by whom he is immediately employed.

(1A) No principal, contractor or subcontractor, not being the employer, shall be jointly and severally liable to any workman under subsection (1) for more than the salary earned in one month for work done by the employer.

(1B) In the case of a contract for constructional work, the principal shall not be liable for the payment of salary under subsection unless he is also a constructional contractor.

(1C) The workman shall institute proceedings for the recovery of his salary within 60 days or such longer period as the Commissioner may in his discretion allow from the date on which the salary became due for payment in accordance with the provisions for the payment of salary contained in Part III.

(2) A claim for salary under this section shall be made in the manner prescribed by Part XV.

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(3) Nothing in this section shall prevent any principal or contractor or subcontractor, not being the employer, who as the result of a claim made under this section has paid any salary to a workman from instituting civil proceedings for the recovery of the amount of salary so paid from the employer of that workman.

(4) Nothing in this section shall be construed to prevent a workman from recovering salary under this Act from his employer instead of the principal or contractor or subcontractor.

(5) The reference to principal in this section shall include the Government or a statutory body or authority acting in the course of or in the discharge of its functions.

21/84.

Registration of contractors and subcontractors.

66.—(1) The Minister may, by notification in the *Gazette*, require all contractors and subcontractors to be registered with the Commissioner and thereafter no person shall act as a contractor or a subcontractor unless he is so registered.

(2) Every application for such registration shall be in the prescribed form.

(3) Every person so registered under this section as a contractor or subcontractor shall be deemed to be the employer of the workmen employed by him.

(4) Every contractor or subcontractor who has been so registered and who changes the name under which he carries on business shall within 7 days of the change of name apply in writing to the Commissioner for re-registration and cancellation of the previous registration.

(5) The Commissioner may in his discretion effect the registration of any person under this section and may in his discretion cancel any such registration.

(6) The Minister may make regulations to prescribe the requirements and conditions for registration of a contractor or subcontractor under this section.

(7) Any person who contravenes this section shall be guilty of an offence.

PART VIA

PART-TIME EMPLOYEES

Part-time employees.

66A.—(1) In this Part, “part-time employee” means an employee who is required under his contract of service with an employer to work for less than 35 hours a week.

(2) Notwithstanding subsection (1), the Minister may, by notification in the *Gazette*, declare that any employee or class of employees are not to be regarded as part-time employees for the purposes of this Part.

36/95.

Minister may exclude or modify Act in relation to part-time employees.

66B. The Minister may by regulations exclude or modify any or all of the provisions of this Act in their application to any part-time employee or class of part-time employees.

PART VII

DOMESTIC WORKERS

Minister may apply Act to domestic workers.

67. The Minister may, from time to time by notification in the *Gazette*, apply all or any of the provisions of this Act with such modification as may be set out in the notification to all domestic workers or to any group, class or number of domestic workers and may make regulations to provide generally for the engagement and working conditions of domestic workers.

PART VIII

EMPLOYMENT OF CHILDREN AND YOUNG PERSONS

Interpretation of this Part

67A. In this Part —

"child" means a person who has not completed his 15th year of age;

"young person" means a person who has completed his 15th year of age but who has not completed his 16th year of age.

Restriction on employment of children.

68. —(1) No person shall employ a child in an industrial or a non-industrial undertaking except as provided for in subsections (2) and (3).

36/95.

(2) A child may be employed in an industrial undertaking in which only members of the same family are employed.

36/95.

(3) A child who is 13 years of age or above may be employed in light work suited to his capacity in a non-industrial undertaking.

36/95.

(4) For the purposes of subsection (3), the certificate of a medical officer shall be conclusive upon the question of whether any work is suited to the capacity of any particular child.

36/95.

Restriction on employment of young persons.

69. No young person shall be employed in any industrial undertaking which the Minister

by notification in the *Gazette* declares to be an industrial undertaking in which no young person shall be employed.

36/95.

Conditions of employment.

70. The Minister may by regulations made under this Act prescribe the conditions upon which a child or young person may be employed in any industrial or non-industrial undertaking.

Minimum rates of salary may be prescribed.

71. —(1) If it is shown to the satisfaction of the Minister, upon the application of the Commissioner and after such inquiry as the Minister may think fit to direct, that the salaries of children or young persons, or both, employed in any industry or for any particular work or in any area are insufficient, having regard to the nature of the work and the conditions of employment, it shall be lawful for the Minister to prescribe, by order to be published in the *Gazette*, minimum rates of salary to be paid to children or young persons or both in that industry, type of employment or area.

(2) Any person contravening any such order 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, and for a second or subsequent offence to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 2 years or to both.

Approved employment.

72. —(1) Sections 68 and 69 shall not apply —

(a) to the employment of children and young persons —

(i) in work approved and supervised by the Ministry of Education or the Institute of Technical Education, Singapore; and

(ii) carried on in any technical, vocational or industrial training school or institute; and

(b) to the employment of young persons under any apprenticeship programme approved and supervised by the Institute of Technical Education, Singapore.

36/95.

(2) For the purposes of this section, the Institute of Technical Education, Singapore means the Institute of Technical Education, Singapore established under the Institute of Technical Education Act.

36/95.

Cap. 141A.

Regulations regulating employment.

73. The Minister may make regulations for regulating the employment of children in any occupation and no child or young person shall be employed as a workman under any circumstances or under any conditions which may be prohibited by the Minister from time to time by regulations made under this Act.

Offence.

74. Any person who employs a child or young person in contravention of the provisions of this Part or any of the regulations made thereunder and any parent or guardian who knowingly or negligently suffers or permits such employment 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 2 years or to both except in the case where a child or young person suffers serious injury or death resulting from any breach of the provisions of this Part or any regulations made thereunder the offender shall be punished with a fine of \$5,000 and shall also be liable to imprisonment for a term not exceeding 2 years.

Power of Juvenile Court in respect of children or young persons requiring care or protection.

75. A child or young person in respect of whom any of the offences mentioned in this Part has been committed may be brought before a Juvenile Court and the Court, if satisfied that the child or young person requires care or protection, may exercise with respect to that child or young person all or any of the powers conferred by section 48 of the Children and Young Persons Act.

Cap. 38.

PART IX

**MATERNITY PROTECTION AND BENEFITS AND CHILDCARE
LEAVE FOR PARENT**

Length of benefit period.

76. —(1) Subject to this section, every female employee shall be entitled to absent herself from work —

(a) during —

(i) the period of 4 weeks immediately before her confinement; and

(ii) the period of 8 weeks immediately after her confinement;

(b) during a period of 12 weeks, as agreed to by her and her employer, commencing —

(i) not earlier than 28 days immediately preceding the day of her confinement; and

(ii) not later than the day of her confinement; or

(c) during —

(i) a period of 8 weeks, as agreed to by her and her employer, commencing —

(A) not earlier than 28 days immediately preceding the day of her confinement; and

(B) not later than the day of her confinement; and

(ii) one or more further periods, not exceeding 24 days in the aggregate, as agreed to by her and her employer, which shall be within the period of 12 months commencing on the day of her confinement.

(1A) Subject to this section, every female employee shall be entitled to receive payment from her employer at her gross rate of pay for any of the following periods (referred to in this Part as the benefit period):

(a) where subsection (1) (a) applies, the period of 4 weeks referred to in subsection (1)

(a) (i) and the first 4 weeks of the period referred to in subsection (1) (a) (ii);

(b) where subsection (1) (b) applies, the first 8 weeks of the period referred to in subsection (1) (b); or

(c) where subsection (1) (c) applies, the period of 8 weeks referred to in subsection (1) (c)

(i).

(2) A female employee who delivers a child before 31st October 2008, and whose estimated delivery date for her confinement in respect of that child (as certified by a medical practitioner) is before 31st October 2008, shall not be entitled to any pay during the benefit period if she has served her employer for less than 180 days immediately preceding the day of her confinement.

(2A) A female employee who delivers a child on or after 31st October 2008, or who delivers a child before 31st October 2008 but whose estimated delivery date for her confinement in respect of that child (as certified by a medical practitioner) is on or after 31st October 2008, 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.

(3) Where a female employee has worked in her employment for any day during the benefit period before her confinement, she shall be entitled to receive in addition to her gross rate of pay for that day an amount that is equivalent to a day's pay at the gross rate of pay or to absent herself from work on another day at the end of the benefit period.

36/95.

(4) Subject to any collective agreement or award to the contrary, a female employee shall not be entitled to any payment under subsection (1A) for any confinement if, at the time of the confinement —

(a) she has 2 or more living children; and

(b) those children were born during more than one previous confinement.

(5) Subsection (4) shall not apply to such class or classes of employees as the Minister may, from time to time by notification in the *Gazette*, specify.

(6) Where 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 absent herself from work during a period referred to in subsection (1) (c) (ii), she shall forfeit that entitlement (or the balance thereof) upon the termination of her employment.

21/84.

36/95.

Payments to include holidays.

77. —(1) The payment referred to in section 76 shall be paid for every day of the benefit period, including holidays.

(2) Nothing in this section shall be construed to require an employer to pay to a female employee an extra day's salary for a holiday which falls within the benefit period.

21/84.

When payment is to be made.

78. —(1) In the case of a female employee who is a daily-rated employee, the payment referred to in section 76 shall be paid in two instalments, the first for the period up to and including the day of confinement, to be paid within 7 days from the date of confinement, and the second, for the period after confinement, to be paid within 7 days from the end of that period.

(2) In the case of any other female employee, the payment shall be paid at such time as the salary earned by the employee under her contract of service is due to be paid to her.

Payment of benefit on death of female employee before confinement.

79. —(1) If a female employee, after giving notice to her employer under section 80 (1), abstains from work in expectation of her confinement and dies from any cause before her confinement, the employer shall pay to the person nominated by her under section 80 (4) or, if there is no such person, to her personal representative a sum of money at the rate prescribed under section 76 from the date immediately following the last day on which she worked to the day immediately preceding the day of her death and except in the circumstances mentioned in this subsection no employer shall be liable to pay any sum in respect of a period exceeding 30 days.

(2) If a female employee dies from any cause on or after the day of her confinement and before any payment to which she is entitled has been paid to her, the employer shall pay to the person nominated by her under section 80 (4) or, if there is no such person, to her personal representative any sum of money to which she was on the date of her death entitled in respect of the period up to the day of confinement and in respect of the period after confinement up to the day preceding the day of her death.

21/84.

Notice of confinement.

80. —(1) A female employee shall at least one week before absenting herself from work in accordance with section 76 give notice to her employer specifying the date on which she intends to commence absenting herself from work.

(2) A female employee who has been confined shall as soon as practicable inform her employer of the date on which she was confined.

(3) Any female employee who omits to give notice as required under subsection (1) or fails to inform her employer as required under subsection (2) shall be entitled to only half the amount of any payment to which she is entitled to under this Part unless she was prevented by any sufficient cause from giving such notice.

(4) A female employee may at any time in writing nominate some other person to whom any payment to which she is entitled under this Part may be paid on her behalf; and any such payment made to the person so nominated shall for the purpose of this Act be deemed to be payment to the female employee who nominated such person.

21/84.

Dismissal during absence prohibited.

81. Without prejudice to sections 84 and 84A, when a female employee absents herself from work in accordance with the provisions of this Part it shall not be lawful for her employer to give her notice of dismissal during her absence or on such a day that the notice will expire during her absence.

Employment after confinement.

82. Any employer who knowingly employs a female employee at any time during the period of 4 weeks immediately following her confinement shall be guilty of an offence.

Forfeiture of payment.

83. If a female employee works for any other employer after she has absented herself from work under the provisions of this Part, she shall forfeit her claim to any payment to which she is entitled under this Part and shall be liable to dismissal.

Right to benefit unaffected by notice of dismissal given without sufficient cause

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

(a) if given before 31st October 2008, 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; or

(b) if given on or after 31st October 2008, 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.

(1A) In any case where there are 2 or more estimated delivery dates (each certified by a medical practitioner) for the confinement of a female employee, the estimated delivery date that is relevant for the purposes of subsection (1) shall be the estimated delivery date —

(a) which is certified by a medical practitioner before the notice of dismissal is given by her employer; and

(b) the date of such certification of which is closest to the date the notice of dismissal is given.

(2) If any question arises as to whether any notice of dismissal given under subsection (1) was or was not given for sufficient cause, it shall be referred to the Minister within two months from the date of the employee's confinement.

36/95.

(3) Where the Minister is satisfied that the employee has been dismissed without sufficient cause, he may, notwithstanding any rule of law or agreement to the contrary —

36/95.

(a) direct the employer to reinstate the employee in her former employment and pay the employee an amount equal to the wages that the employee would have earned had she not been dismissed by the employer; or

(b) direct the employer to pay such amount of wages as compensation as the Minister may consider just and equitable having regard to all the circumstances of the case, and the employer shall comply with the direction of the Minister.

(4) The decision of the Minister under subsection (3) shall be final and conclusive and shall not be challenged in any court.

36/95.

(5) Any direction of the Minister under subsection (3) shall operate as a bar to any action for damages by the employee in any court in respect of the dismissal without sufficient cause under subsection (1).

36/95.

(6) An employer who fails to comply with the direction of the Minister under subsection (3) shall be guilty of an offence and 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.

36/95.

(7) Where any amount to be paid by an employer under subsection (3) is not paid in accordance with the direction of the Minister and the employer has been convicted of an offence under subsection (6), the amount or so much thereof as remains unpaid shall be recoverable by the court as if it were a fine and the amount so recoverable shall be paid to the employee entitled to payment under the direction of the Minister.

36/95.

Right to benefit unaffected by notice of dismissal given on ground of redundancy or by reason of reorganisation of employer's profession, business, trade or work

84A.—(1) Without prejudice to sections 81 and 84, no notice of dismissal given to a female employee by her employer on or after 31st October 2008 on the ground of redundancy or by reason of any reorganisation of her employer's profession, business, trade or work —

(a) within a period of 3 months preceding the estimated delivery date for her confinement (as certified by a medical practitioner); or

(b) 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.

(2) In any case where there are 2 or more estimated delivery dates (each certified by a medical practitioner) for the confinement of a female employee, the estimated delivery date that is relevant for the purposes of subsection (1) shall be the estimated delivery date —

(a) which is certified by a medical practitioner before the notice of dismissal is given by her employer; and

(b) the date of such certification of which is closest to the date the notice of dismissal is given.

(3) The payment referred to in subsection (1) shall be in addition to any retrenchment benefit or other payment to which the female employee is entitled under the terms of her contract of service or under any other written law.

Claim from one employer only.

85.—(1) Subject to subsection (2), nothing in this Part shall be deemed to entitle any female employee to claim any payment under this Part from more than one employer in respect of the same confinement.

(2) Subsection (1) shall not apply to any female employee in respect of any confinement of hers which occurs, or the estimated delivery date (as certified by a medical practitioner) of which is, on or after 31st October 2008.

(3)

Contracting out.

86. Any contract of service whereby a female employee relinquishes any right to maternity benefit under this Part shall be null and void in so far as it purports to deprive her of that right or to remove or reduce the liability of any employer to make any payment under this Part.

Offence.

87. Any employer who fails to pay his female employee in accordance with the

provisions of this Part (other than section 87A) or who acts in contravention of section 81 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.

21/84.

Childcare leave for parent

87A. —(1) Subject to subsection (2), where any employee —

(a) has served an employer for a period of not less than 3 months; and
(b) has any child below the age of 7 years at any time during any relevant period,
he shall be entitled to childcare leave of 2 days for that relevant period.

(2) An employee —

(a) shall not be entitled to more than 14 days of childcare leave in respect of any child;
and

(b) shall —

(i) take his first entitlement of childcare leave of 2 days for a relevant period in that relevant period or the next succeeding relevant period; and

(ii) thereafter, take his next and each subsequent entitlement of childcare leave of 2 days for a relevant period in the next succeeding relevant period and in each subsequent succeeding relevant period, respectively.

(3) The childcare leave shall be in addition to the rest days, holidays, annual leave and sick leave to which an employee is entitled under sections 36, 88, 43 and 89, respectively.

(4) An employer shall grant, and an employee who is entitled to childcare leave shall take, the entitlement of childcare leave of 2 days 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 —

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

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

(5) An employer shall pay an employee who is entitled to childcare leave his gross rate of pay for every day of such leave that is taken by the employee.

(6) If the employment of an employee who is entitled to childcare leave is terminated (whether by resignation or dismissal, upon the completion of his contract of service, or for any other reason) before he has taken the entitlement of childcare leave of 2 days for a relevant period, the employee —

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

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

(7) Any employer who contravenes subsection (5) shall be guilty of an offence and shall be liable on conviction —

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

(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.

(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 —

(a) to a fine not exceeding \$5,000; and

(b) for a subsequent offence, to a fine not exceeding \$10,000.

(8) In this section —

"child" , in relation to an employee, includes any adopted child and step-child of the employee;

"relevant period" , in relation to an employee, means —

- (a) any period of 12 months as is agreed to by the employee and his employer; or
- (b) where there is no such agreement, a calendar year.

PART X

HOLIDAY AND SICK LEAVE ENTITLEMENTS

Holidays

88. —(1) Every employee shall be entitled to a paid holiday at his gross rate of pay on such of the days specified in the Schedule to the Holidays Act (Cap. 126) as fall during the time that he is employed, subject to the following:

- (a) by agreement between the employer and the employee any other day or days may be substituted for any one or more of the days specified in that Schedule;
- (b) if any of the days specified in that Schedule falls on a rest day, the working day next following that rest day shall be a paid holiday; and
- (c) if any of the days specified in that Schedule falls on a day when the employee is not required to work under his contract of service, the employer may either pay the employee for that holiday at his gross rate of pay or give the employee a day off in substitution for that holiday.

(2) Notwithstanding subsection (1), no employee shall be entitled to holiday pay for any holiday which falls on a day when the employee is on leave of absence without pay granted by the employer at the request of the employee.

(3) An employee who absents himself from work on the working day immediately preceding or immediately succeeding a holiday or any day substituted therefor under subsection (1) without the prior consent of his employer or without reasonable excuse shall not be entitled to any holiday pay for that holiday.

(4) Notwithstanding subsection (1), any employee may be required by his employer to work on any holiday to which he would otherwise be entitled under that subsection and, in such event, he shall be paid an extra day's salary at the basic rate of pay for one day's work in addition to the gross rate of pay for that day and to a travelling allowance, if payable to him under the terms of his agreement with his employer, for one day.

(5) No employee shall, by reason of subsection (4), receive double any housing allowance or food allowance.

(6) Subsection (4) shall not apply to an employee who is employed by the Government or a statutory body in any of the essential services as defined under Part III of the Criminal Law (Temporary Provisions) Act (Cap. 67), but —

- (a) any such employee may, notwithstanding subsection (1), be required by his employer to work on a holiday or part thereof to which he would otherwise be entitled under that subsection; and

- (b) in any such case, he shall be given a day or part of a day off, as the case may be, in substitution for the holiday or part thereof.

(7) For the purposes of this section if any such holiday falls on a half working day, the gross or basic rate of pay payable shall be that of a full working day.

Sick leave

89.—(1) Any employee who has served an employer for a period of not less than 6 months shall, after examination at the expense of the employer by a medical practitioner appointed by the employer or a medical officer, be entitled to such paid sick leave, as may be certified by the medical practitioner or medical officer, not exceeding in the aggregate —

(a) if no hospitalisation is necessary, 14 days in each year; or

(b) if hospitalisation is necessary, the lesser of the following:

(i) 60 days in each year;

(ii) the aggregate of 14 days plus the number of days on which he is hospitalised.

(2) Any employee who has served an employer for a period of at least 3 months but less than 6 months shall, after examination at the expense of the employer by a medical practitioner appointed by the employer or a medical officer, be entitled to such paid sick leave, as may be certified by the medical practitioner or medical officer, not exceeding in the aggregate —

(a) where the employee has served the employer for a period of at least 3 months but less than 4 months —

(i) if no hospitalisation is necessary, 5 days in each year; or

(ii) if hospitalisation is necessary, the lesser of the following:

(A) 15 days in each year;

(B) the aggregate of 5 days plus the number of days on which he is hospitalised;

(b) where the employee has served the employer for a period of at least 4 months but less than 5 months —

(i) if no hospitalisation is necessary, 8 days in each year; or

(ii) if hospitalisation is necessary, the lesser of the following:

(A) 30 days in each year;

(B) the aggregate of 8 days plus the number of days on which he is hospitalised; or

(c) where the employee has served the employer for a period of at least 5 months but less than 6 months —

(i) if no hospitalisation is necessary, 11 days in each year; or

(ii) if hospitalisation is necessary, the lesser of the following:

(A) 45 days in each year;

(B) the aggregate of 11 days plus the number of days on which he is hospitalised.

(3) If an employee is certified by a medical practitioner appointed by the employer or a medical officer to be ill enough to need to be hospitalised but is not hospitalised for any reason whatsoever, the employee shall be deemed to be hospitalised for the purposes of this section.

(4) An employee who absents himself on sick leave —

(a) which is not certified by a medical practitioner appointed by the employer or a medical officer; or

(b) which is certified by a medical officer, but without informing or attempting to inform his employer of such sick leave within 48 hours of the commencement thereof,

shall be deemed to have absented himself from work without the permission of his employer and without reasonable excuse for the days on which he is so absent from work.

(5) The employer shall pay the employee for every day of such sick leave —

(a) where no hospitalisation is necessary, at the gross rate of pay excluding any allowance payable in respect of shift work; and

(b) where hospitalisation is necessary, at the gross rate of pay.

(6) Notwithstanding subsection (5), no employee shall be entitled to paid sick leave on a rest day or on a holiday to which he is entitled under section 36 or 88 or on any day of paid annual leave or on a day when he is not required to work under his contract of service or on a day when he is on leave of absence without pay granted by the employer at his request.

(7) No employee shall be entitled to paid sick leave for the period during which he is receiving or is entitled to receive compensation for temporary incapacity under paragraph 4 of the Third Schedule to the Work Injury Compensation Act (Cap. 354).

(8) For the purposes of subsections (1) and (2), an employer shall be deemed to fulfil the obligation imposed by those subsections to bear the fees of any medical examination of his employees if —

(a) the Commissioner, after considering the merits of any healthcare scheme that the employer provides to his employees and such other matters as the Commissioner may consider relevant, by order in writing directs that the employer fulfils that obligation for so long as he provides such a healthcare scheme for his employees; or

(b) the employer complies with such other requirement as the Minister may, by regulations, prescribe.

(9) An order made under subsection (8)(a) —

(a) may be subject to such terms or conditions as the Commissioner may determine, which the Commissioner may from time to time add to, vary or revoke;

(b) need not be published in the *Gazette*; and

(c) may be revoked by the Commissioner in writing at any time.

PART XI

Deleted by Act 32/2008, wef 01/01/2009.

PART XII

REGISTERS, RETURNS AND OTHER DOCUMENTARY REQUIREMENTS

Register of employees.

95. —(1) Every employer shall prepare and keep a register showing the name, address, the basic rate of pay and allowances, the amount earned, and the amount of deductions made from the earnings of each employee employed by him and such other particulars as may be prescribed from time to time.

(2) For the purposes of this Part —

"employee" includes any person who works in any capacity whatsoever, whether under a contract of service or otherwise, with or without salary and whether in or outside the premises where the profession, business, trade or work of the employer is carried on; and "employer" includes a sole-proprietorship or partnership or a corporation and any person who is defined to be an employer under any written law in force in Singapore.

21/84.

36/95.

Record of workmen.

96. Every employer of workmen shall keep at the place of employment so that it shall be readily accessible to the workmen there employed, a check-roll pay slip, working board, or other form of record on which, in respect of each salary period, in a form intelligible to the workmen, shall be shown —

(a) the basic rate of pay and allowances, whether by day, hour, piece task or otherwise of each workman;

(b) the amount earned, including overtime earnings by each workman; and

(c) the amount of any deductions made from the earnings of each workman.

36/95.

Returns.

97. —(1) The Commissioner may, by notification in the *Gazette*, require any employer or class of employers to forward to the Commissioner at such time or times as may be specified in the notification a return in such form or forms as may be approved by the Commissioner giving the particulars and information prescribed therein, and any such employer shall furnish particulars and information so prescribed.

(2) No person shall be bound to furnish any particulars or information other than such as are accessible to him in the course of or derivable from any profession, business, trade or work in the conduct or supervision of which he is engaged.

Commissioner may call for further returns.

98. —(1) The Commissioner may give notice in writing to any employer when and as often as he thinks necessary requiring the employer to furnish within a reasonable time stated in the notice fuller or further returns respecting any matter as to which a return is required under this Act or the Employment of Foreign Manpower Act.

Cap. 91A.

(2) Such requisition may specify —

(a) the form in which and the time within which the particulars and information are to be furnished;

(b) the particulars and information to be furnished; and

(c) the place or manner at or in which the particulars and information are to be delivered.

Power to call for returns, books, etc.

99. For the purpose of obtaining full information in respect of any employer's employees, the Commissioner may give notice in writing to such person requiring him, within the time stated in the notice, to complete and deliver to the Commissioner any return specified in the notice and in addition or alternatively requiring him to attend personally before the Commissioner or any inspecting officer specified in the notice and to produce

for examination any books, documents, accounts and returns which the Commissioner may consider necessary.

21/84.

100. *Repealed by Act 32/2008, wef 01/01/2009.*

Offence.

101. —(1) Any employer who —

(a) wilfully refuses or without lawful excuse (the proof of which shall lie on him) neglects to furnish the particulars or information required within the time allowed for furnishing the particulars and information, or to furnish the particulars and information in the form specified or prescribed, or to authenticate the particulars and information at the place or in the manner specified or prescribed for the delivery thereof;

(b) wilfully furnishes or causes to be furnished any false particulars or information in respect of any matter specified in the notice requiring particulars or information to be furnished; or

(c) refuses to answer, or wilfully gives a false answer to, any question necessary for obtaining any information or particulars required to be furnished under this Act, 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, and in the case of a continuing offence to a further fine not exceeding \$500 for every day during which the offence continues, and in respect of false particulars, information and answers, the offence shall be deemed to continue until true particulars, information or answers have been furnished or given.

(2) A certificate under the hand of the Commissioner stating that such returns have not been furnished or are incorrect shall be sufficient prima facie evidence of the truth of the facts stated in the certificate.

21/84.

Returns not to be published or disclosed.

102. —(1) No return of particulars or information and no part of a return furnished, and no answer to any question put, for the purposes of this Act shall, without the previous consent in writing of the person having the control, management or superintendence of the profession, business, trade or work in relation to which the return or answer was furnished or given, be published nor, except for the purposes of a prosecution under this Act, shall any person not engaged in connection with the collection or preparation of statistics under this Act be permitted to see any such individual return or any such part of an individual return.

(2) Every person engaged in connection with the collection, preparation or publication of statistics under this Act shall be required to make a declaration in the prescribed form that he will not disclose or, except for the purposes of this Act, make use of the contents of any such part of an individual return, or any such answer; and any person who knowingly acts in contravention of any declaration which he has so made 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 one year or to both.

(3) In any report, summary of statistics, or other publication prepared under this Act with reference to any trade or industry, the particulars comprised in any return shall not be disclosed in any manner whatever, or arranged in any way which would enable any

person to identify any particulars so published as being particulars relating to any individual person or business.

(4) If any person, having possession of any information which to his knowledge has been disclosed in contravention of this section, publishes or communicates to any other person any such information, he 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 one year or to both.

PART XIII

INSPECTION AND ENQUIRY

Powers of Commissioner and inspecting officers

103.—(1) The Commissioner or any inspecting officer shall, for the purposes of this Act, have power to do all or any of the following:

(a) to enter and search, by day or by night, any premises or part thereof when he has reasonable cause to believe that evidence of the commission of an offence under this Act can be found therein;

(b) to examine orally any person reasonably believed to be acquainted with the facts and circumstances relevant to the carrying out of the provisions of this Act, and to reduce into writing the answer given or statement made by that person;

(c) to require any person whom the Commissioner or inspecting officer has reason to believe has any document, including documents of identity or documents containing information relevant to the carrying out of the provisions of this Act, to produce any such document and to answer such questions relating thereto as he may think proper to ask;

(d) to examine notices and all documents which are required to be kept under the provisions of this Act or any regulations made thereunder and any document required to be produced under paragraph (c);

(e) to make copies of or retain any notice or document referred to in paragraph (d);

(f) to retain for purposes of analysis samples of materials and substances used or handled by employees, except that the employer or his representative shall be notified of any such samples of materials or substances taken or removed for this purpose;

(g) to take such photographs or video recording, as the Commissioner or inspecting officer thinks necessary, of the premises and persons reasonably believed to be acquainted with the facts and circumstances relevant to the carrying out of the provisions of this Act;

(h) to require any person to produce any article which is relevant to any investigation under this Act and, if necessary, to take into custody any such article.

(2) The person referred to in subsection (1)(b) shall be bound to state truly the facts and circumstances with which he is acquainted.

(3) A statement made by the person referred to in subsection (1)(b) shall be read over to him and shall, after correction, if necessary, be signed by him.

(4) The Commissioner or the inspecting officer shall, if required to do so, show his credentials.

Notice to employer by Commissioner or inspecting officer of inspection or visit.

104. On entering any place of employment under section 103, the Commissioner or the inspecting officer shall notify the employer or his representative of his presence unless he considers that such a notification may be prejudicial to the efficient performance of his duties.

21/84.

36/95.

105. *Repealed by Act 32/2008, wef 01/01/2009.*

21/84.

36/95.

Inspecting officer not to reveal secrets.

106. No person shall otherwise than in the performance of his duties reveal any manufacturing or commercial secrets which may at any time come to his knowledge in the course of his duty as an inspecting officer.

Offence

107. Any person who —

(a) without reasonable excuse, neglects or refuses to produce any document or article as required under section 103;

(b) makes to the Commissioner or an inspecting officer exercising the powers under section 103 a statement either orally or in writing which is false in a material particular;
or

(c) otherwise hinders or obstructs the Commissioner or an inspecting officer in the exercise of the powers under section 103,

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.

PART XIV

GENERAL

Calculation of gross and basic rates of pay of employee employed on monthly rate or piece rates.

107A. —(1) The gross rate of pay per day of an employee employed on a monthly rate or on piece rates shall be calculated in accordance with the second column of the Third Schedule.

(2) The basic rate of pay per day of an employee employed on a monthly rate or on piece rates shall be calculated in accordance with the third column of the Third Schedule.

36/95.

Wrongful detention of employee.

108. Any employer who without reasonable excuse, the proof of which shall lie on him, refuses to allow an employee whose contract of service has been determined in any of the ways hereinbefore provided to leave his service 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, and the whole or any portion of any fine recoverable under this section may be adjudged by the court to be paid to the employee.

21/84.

Employee not answerable for debt, default or miscarriage of another.

109. No employee shall be bound, by virtue of any contract of service under this Act, to answer for the debt, default or miscarriage of any other person.

Obstruction of employee by employer.

110. Any employer or other person who in any way obstructs any employee in appearing before the Commissioner in pursuance of this Act 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.

21/84.

Punishment for obstruction

111. Any person who wilfully obstructs or impedes any entry, inspection, inquiry or investigation made under this Act for which no penalty is expressly provided shall be guilty of an offence.

Penalties.

112. Any person who is guilty of any breach or any offence under this Act for which no penalty is otherwise provided 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, and for a subsequent offence under the same section to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding one year or to both.

21/84.

Penalty for fraudulently inducing employee to emigrate.

113. Any person who by force, intoxication or ill-treatment, intimidation or fraud, or by means of false representations, induces or attempts to induce any person to enter into a contract of service to work beyond the limits of Singapore 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 2 years or to both.

Offence by body corporate.

113A. Where an offence under this Act or any regulations made thereunder is committed by a body corporate, and it is proved to have been committed with the consent or connivance of, or to be attributable to any act or default on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

36/95.

Power to compound offences.

114. The Commissioner may in his discretion compound any such offence under this Act or any regulations made thereunder as may be prescribed as being an offence which may be compounded by accepting from the person reasonably suspected of committing that offence a sum not exceeding \$1,000.

PART XV

CLAIMS, COMPLAINTS AND INVESTIGATIONS INTO OFFENCES

Commissioner's power to inquire into complaints.

115. —(1) Subject to this section, the Commissioner may inquire into and decide any dispute between an employee and his employer or any person liable under the provisions of this Act to pay any salary due to the employee where the dispute arises out of any term in the contract of service between the employee and his employer or out of any of the provisions of this Act, and in pursuance of that decision may make an order in the prescribed form for the payment by either party of such sum of money as he considers just without limitation of the amount thereof.

(2) The Commissioner shall not inquire into any dispute in respect of matters arising earlier than one year from the date of lodging a claim under section 119 or the termination of the contract of service of or by the person claiming under that section: Provided that the person claiming in respect of matters arising out of or as the result of a termination of a contract of service has lodged a claim under section 119 within 6 months of the termination of the contract of service.

(3) The powers of the Commissioner under subsection (1) shall include the power to hear and decide, in accordance with the procedure laid down in this Part, any claim by a subcontractor for labour against a contractor or subcontractor for any sum which the subcontractor for labour claims to be due to him in respect of any labour provided by him under his contract with the contractor or subcontractor and to make such consequential orders as may be necessary to give effect to his decision.

(4) In this section, "employer" includes the transferor and the transferee of an undertaking or part thereof referred to in section 18A.

36/95.

Prohibiting order by Commissioner to third party.

116. —(1) Whenever the Commissioner has made an order under section 115 against any employer or any person liable for the payment of any sum of money to any workman or subcontractor for labour and after inquiry finds that there exists between that employer or person liable and some other person a contract in the course of the execution of which the workman or subcontractor for labour performed the work in respect of which the order has been made, the Commissioner may summon that other person and may make an order prohibiting him from paying to the employer or person liable and requiring him to pay to the Commissioner any money (not exceeding the amount found due to the workman or subcontractor for labour) admitted by him to be owing to the employer or person liable in respect of the contract.

(2) Where that other person admits to the Commissioner in writing that money is owing by him under the contract to the employer or person liable, he need not be summoned before the Commissioner and the Commissioner may make such order in his absence.

(3) Where that other person is liable as a principal under section 65 to pay any salary due by the employer or person liable and where the money admitted by him to be owing to the employer or person liable is not sufficient to pay the whole of the salary, nothing in

this subsection shall relieve him of his liability for the balance of the salary up to the amount for which he is liable under that section.

(4) Any person so summoned shall be legally bound to attend at the time and place mentioned in the summons and to answer truthfully all questions relating to the contract which the Commissioner may put to him.

(5) The payment of any money in pursuance of an order under subsection (1) shall be a discharge and payment up to the amount so paid of money due to the employer or person liable under the contract.

Right of appeal.

117. Where any person interested is dissatisfied with the decision or order of the Commissioner, he may, within 14 days after the decision or order, file a memorandum of appeal therefrom in the High Court; for the purposes of any such appeal, the decision or order of the Commissioner shall be deemed to be a decision of a District Court.

Fees and enforcement of orders.

118. —(1) No fees other than a registration fee in accordance with the rates specified in the Second Schedule shall be charged by the Commissioner in respect of processes issued by him under this Part and all orders made by the Commissioner shall, notwithstanding that they may in respect of the amount or value be in excess of the ordinary jurisdiction of the court, be enforced by a District Court in the same manner as a judgment of that Court and all necessary processes may be served by the Court on behalf of the Commissioner.

(2) No sale of immovable property shall for the purposes of the enforcement be ordered except by the High Court.

Procedure for making and hearing claims.

119. —(1) The mode of procedure for the making and hearing of claims shall be as follows:

(a) the person claiming shall lodge a memorandum at the office of the Commissioner, specifying shortly the subject-matter of the claim and the remedy sought to be obtained, or he may make his claim in person to the Commissioner who shall forthwith reduce it or cause it to be reduced in writing;

(b) upon receipt of the memorandum or verbal claim and of the registration fee payable by the person in accordance with the rates specified in the Second Schedule, the Commissioner shall summon in writing the party against whom the claim is made, giving reasonable notice to him of the nature of the claim and the time and place at which the claim will be inquired into, and he shall also notify or summon all persons whose interests may appear to him likely to be affected by the proceedings;

(c) the Commissioner may also summon such witnesses as either party may wish to call;

(d) if the party against whom a claim is made wishes to make a counterclaim against the party claiming he shall notify the Commissioner and the other party in writing of the nature and amount of the counterclaim not less than 3 days before the date of the inquiry;

(e) at any time between the issuing of summons and the hearing of the claim, the Commissioner may hold or cause to be held a preliminary inquiry at which the party

claiming and the party against whom the claim is made shall be present after having been notified in writing of the inquiry;

(f) at the preliminary inquiry the parties may amend or withdraw the whole claim or portion thereof, make a counterclaim or reach a settlement in respect of the claim;

(g) if a settlement is effected at a preliminary inquiry in respect of a claim or portion thereof, the Commissioner shall make an order recording the terms of the settlement and that order shall have effect as if it were an order made under paragraph (h);

(h) at the time and place appointed the parties shall attend and state their case before the Commissioner and may call evidence, and the Commissioner, having heard on oath or affirmation the statements and evidence and any other evidence which he may consider necessary, shall give his decision and make such order in the prescribed form as may be necessary for giving effect to the decision;

(i) if any person interested has been duly summoned by the Commissioner to attend at the inquiry and makes default in so doing, the Commissioner may hear the claim and make his decision in the absence of that person notwithstanding that the interest of that person may be prejudicially affected by his decision;

(j) the Commissioner shall keep a case book, in which he shall enter notes of the evidence taken and the decisions arrived at in each case heard before him and shall authenticate them by attaching his signature thereto, and the record in the case book shall be sufficient evidence of the giving of any decision, or of the making of any order, and of the terms thereof; and any person interested in a dispute, decision or order, shall be entitled to a copy of the record upon payment of the prescribed fee.

(2) In hearing claims or conducting proceedings under this Part, the Commissioner —
(a) shall not be bound to act in a formal manner or in accordance with the Evidence Act but may inform himself on any matters in such manner as he thinks just; and

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(b) shall act according to equity, good conscience and the merits of the case without regard to technicalities.

Representation before Commissioner.

120. In proceedings before the Commissioner, a party —

(a) being an employee may be represented by an officer of the trade union of which the employee is a member; and

(b) being an employer may be represented by one of his employees, but shall not be represented by an advocate or solicitor or paid agent.

Joining of claims.

121. —(1) In proceedings under this Part where it appears to the Commissioner that there are more employees or subcontractors for labour than one having a common claim or similar claims against the same employer or person liable, it shall not be necessary for each of them to make a separate claim under this Part, but the Commissioner may, if he thinks fit, permit one or more of them to lodge a memorandum or make a claim and to attend and act on behalf of and generally to represent the others, and the Commissioner may proceed to adjudicate on the several or joint claim of each and every such employee or subcontractor for labour.

(2) Where the Commissioner is of the opinion that the interest of the employer or person liable are or are likely to be prejudiced by the non-attendance of any employee or subcontractor for labour, the Commissioner shall require the personal attendance of the employee or subcontractor for labour.

Jurisdiction of courts not affected.

122. Nothing in this Part shall limit or affect the jurisdiction of any court.

123. *Repealed by Act 32/2008, wef 01/01/2009.*

Investigations of complaints and offences.

124. —(1) Whenever the Minister, the Parliamentary Secretary to the Minister, the Permanent Secretary to the Ministry of Manpower, the Commissioner or an inspecting officer has reasonable grounds for believing that an offence under this Act has been committed, or wishes to inquire into any matter for which provision is made by this Act or any dispute as to such matter or the death of an employee, or any matter connected with hospital and medical facilities, quarters, sanitation, inspections or the keeping of registers and other documents or whenever any person complains to the Minister, the Parliamentary Secretary to the Minister, the Permanent Secretary to the Ministry of Manpower, the Commissioner or an inspecting officer of any breach of any provision of this Act, the Minister, the Parliamentary Secretary to the Minister, the Permanent Secretary to the Ministry of Manpower, the Commissioner or an inspecting officer, as the case may be, may summon any other person who he has reason to believe can give information regarding the subject-matter of the inquiry or complaint, and the person so summoned shall be legally bound to attend at the time and place specified in the summons to furnish information or documents, produce any article or give statements, and to answer truthfully all questions which the Minister, the Parliamentary Secretary to the Minister, the Permanent Secretary to the Ministry of Manpower, the Commissioner or an inspecting officer, as the case may be, may put to him.

(2) Any person who in any way wilfully obstructs the service of or obedience to such summons, and any person summoned who neglects to attend as required in such summons shall be guilty of an offence.

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(3) The Commissioner or inspecting officer shall have the power to report any failure by such person to attend as required by a summons under subsection (2) to a Magistrate, who may thereupon issue a warrant to secure the attendance of that person as required by the summons.

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Procedure after inquiry.

125. —(1) If upon inquiry under section 124 it appears that an offence has been committed or that the complaint is well founded, the Commissioner may institute such proceedings, civil or criminal, as he may consider necessary under the circumstances and where the proceedings arise from a complaint made by an employee or subcontractor for labour he shall institute the proceedings for and in the name of the employee or subcontractor for labour.

(2) In the event of there being more employees or subcontractors for labour than one making a similar complaint, the Commissioner may, if he institutes civil proceedings for and in the name of those employees or subcontractors for labour, consolidate the complaint of all those employees or subcontractors for labour into one cause of action and he shall only be required to sue out one summons for and in the name of all those employees or subcontractors for labour in respect of such causes of action.

(3) Any court which would have jurisdiction to hear and determine separate suits based on such causes of action shall be competent to hear and determine such consolidated suit, notwithstanding that the subject matter of the consolidated subject-matter suit is in excess of the ordinary jurisdiction of that court.

(4) Judgment may be given without any amendment for such one or more of the plaintiffs as may be found to be entitled to relief for such relief as he or they may be entitled to.

Costs of proceedings.

126. No court fees shall be chargeable in the first instance on any proceedings commenced by an employee or a subcontractor for labour or by the Commissioner on his behalf against his employer or person liable under this Act but, in case a conviction is had or judgment given against his employer or person liable, the court fees shall be paid by the employer or person liable together with the general costs of the proceedings.

PART XVI

PROCEDURE AND REGULATIONS

Officers to be public servants.

127. For the purposes of this Act and of the Penal Code, the Commissioner and all other officers appointed or acting under this Act shall be deemed to be public servants within the meaning of the Penal Code.

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Place of employment deemed to be public place.

128. For the purposes of section 18 of the Miscellaneous Offences (Public Order and Nuisance) Act, every place of employment shall be deemed to be a public place.

Cap. 184.

Jurisdiction of Magistrates' and District Courts.

129. —(1) Subject to any special provision to the contrary in this Act, all convictions and penalties for offences under this Act may be had and recovered before a Magistrate's Court or a District Court on complaint by any person aggrieved or by the Commissioner or any person authorised by him in that behalf.

(2) A Magistrate's Court or a District Court may, notwithstanding anything in the Criminal Procedure Code, impose the full punishment prescribed by this Act, excepting that a Magistrate's Court shall not impose a sentence of imprisonment exceeding one year.

Cap. 68.

Right to hearing.

130. The Commissioner and any officer authorised by him in writing shall have the right to appear and be heard before a Magistrate's Court or a District Court in any proceedings

under this Act and shall also have the right to be heard before those Courts in any prosecution under Chapter XVI of the Penal Code instituted by him in accordance with section 125.

Cap. 224.

Onus of proof.

131. In all proceedings under Part XV, the onus of proving that he is not the employer or the person whose duty it is under this Act or under any regulations made thereunder to do or abstain from doing anything shall be on the person who alleges that he is not the employer or other person, as the case may be.

Civil proceedings not barred.

132. Nothing in this Act shall operate to prevent any employer or employee from enforcing his respective civil rights and remedies for any breach or non-performance of a contract of service by any suit in court in any case in which proceedings are not instituted, or, if instituted, are not proceeded with to judgment under this Act.

Power to deal with evidence taken down by another officer.

133. Where the Commissioner or any officer performing the duties or exercising the powers conferred on the Commissioner has, for the purpose of inquiring into any matter under this Act, taken down any evidence or made any memorandum and is prevented by death, transfer or other cause from concluding the inquiry, any successor to the Commissioner or other officer may deal with the evidence or memorandum as if he had taken it down or made it and proceed with the inquiry from the stage at which his predecessor left it.

Application of fines.

134. When under this Act any court imposes a fine or enforces the payment of any sum secured by a recognizance or bond, the court may, if it thinks fit, direct that the whole or any part of the fine or sum when recovered be paid to the party complaining, or where the offence was committed by an employer in respect of a liability to pay money to an employee, that employee.

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Imprisonment to be in discharge of fine, compensation, etc.

135. Subject to any special provision to the contrary in this Act, from and after the determination of any imprisonment suffered under this Act for non-payment of the amount of any fine, compensation or damages, with the costs assessed and directed to be paid by any order of court, the amount so ordered shall be deemed to be liquidated and discharged, and the order shall be annulled.

Recovery of money as fines.

136. In the event of any employer being subjected to any fine or penalty under the provisions of this Act, the fine or penalty may, in addition to any other means of recovery, be recovered by distress and sale of the place of employment, or of any property belonging to him and in such place of employment.

Service of requisitions and summons

137. —(1) Any requisition issued under section 98 or 99 or any summons issued under section 116, 119 or 124 may be served on any person —

(a) by delivering it to the person or to some adult member of his family at his last known place of residence;

(b) by leaving it at or sending it by registered post to his usual or last known place of residence or business in an envelope addressed to the person; or

(c) where the person is a body of persons or a body corporate —

(i) by delivering it to the director, manager, secretary or other like officer of the body of persons or body corporate at its registered office or principal place of business; or

(ii) by sending it by registered post addressed to the body of persons or body corporate at its registered office or principal place of business.

- (2) Any requisition or summons sent by registered post to any person in accordance with subsection (1) shall be deemed to be duly served on the person at the time when the requisition or summons, as the case may be, would in the ordinary course of post be delivered and, in proving service of the requisition or summons, it shall be sufficient to prove that the envelope containing the requisition or summons, as the case may be, was properly addressed, stamped and posted by registered post.

Power to make reciprocal provisions with Malaysia for the service, execution and enforcement of summonses, warrants and orders.

138. If the Minister is satisfied that arrangements have been or will be made under any legislation in force in Malaysia for the service, execution or enforcement in Malaysia of summonses, warrants or orders issued or made under this Act, he may, by regulations made under this Act —

(a) prescribe the procedure for sending such summonses, warrants and orders to Malaysia for service, execution or enforcement and specify the conditions under which any such summons shall be deemed to have been served; and

(b) make reciprocal provisions for the service, execution or enforcement in Singapore of summonses, warrants or orders issued or made in Malaysia under any corresponding or similar legislation in force there.

Power to make regulations.

139. —(1) The Minister may, in addition to the powers expressly conferred by any other provisions of this Act, make regulations for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of subsection (1), such regulations may —

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(a) prescribe the circumstances and conditions under which females may be employed as workmen;

(b) require registers and records to be maintained and prescribe the form and contents thereof and the manner in which they shall be displayed;

- (c) regulate the method of collecting statistics either in connection with or independently of any other public department, the staff to be employed in connection therewith, the duties to be performed and the publications, if any, to be issued;
 - (d) prescribe the forms in which, the times and places at and the manner in which particulars or information shall be furnished, and the manner in which the same shall be authenticated, and any other thing which under this Act is required to be prescribed;
 - (e) exempt from the obligation to furnish particulars or information under this Act, either wholly or to the prescribed extent, and either unconditionally or subject to the prescribed conditions, any employer or class of employers;
 - (f) prescribe the form of register to be kept under section 29 and the forms of orders to be made under sections 115 and 119;
 - (g) prescribe the fees payable for copies of notes of evidence and decisions recorded under section 119 (1) (j);
 - (h) prescribe penalties for any contravention or failure to comply with any of the provisions of the regulations made under this section; except that no such penalty shall exceed \$5,000 in the case of a first offence or \$10,000 in the case of a second or subsequent offence under the same regulation within one year.
- (3) All regulations made under this Act shall be published in the *Gazette* and shall be presented to Parliament as soon as possible after publication.

Power to amend First and Second Schedules.

140. The Minister may, from time to time by notification in the *Gazette*, add to or amend the First or Second Schedule.

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FIRST SCHEDULE

Section 2

WORKMEN

- (1) Cleaners.
- (2) Construction workers.
- (3) Labourers.
- (4) Machine operators and assemblers.
- (5) Metal and machinery workers.
- (6) Train, bus, lorry and van drivers.
- (7) Train and bus inspectors.
- (8) All workmen employed on piece rates in the premises of the employer.

SECOND SCHEDULE

Sections 118 and 119

REGISTRATION FEE

S 475/90

The registration fee payable by any person making a claim with the Commissioner for Labour shall be as follows:

- | | |
|--|------|
| (a) where the claim is made by an employee . . . | \$3 |
| (b) where the claim is made by an employer . . . | \$20 |

THIRD SCHEDULE

Section 107A

CALCULATION OF GROSS AND BASIC RATES OF PAY OF AN EMPLOYEE EMPLOYED ON A MONTHLY RATE OR ON PIECE RATES

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<i>First column</i>	<i>Second column</i>	<i>Third column</i>
<i>Item</i>	<i>Calculation of gross rate of pay</i>	<i>Calculation of basic rate of pay</i>
1. Where an employee is employed on piece rates.	The gross rate of pay for one day is to be calculated by dividing the total salary including allowances but excluding — (a) additional payments by way of overtime payments; (b) additional payments by way of bonus payments or annual wage supplements; (c) any sum paid to the employee to reimburse him for special expenses incurred by him in the course of his employment; (d) productivity incentive	The basic rate of pay for one day is to be calculated by dividing the total salary including wage adjustments and increments but excluding — (a) additional payments by way of overtime payments; (b) additional payments by way of bonus payments or annual wage supplements; (c) any sum paid to the employee to reimburse him for special expenses incurred by him in the course of his employment; (d) productivity incentive

payments; and
 (e) travelling, food and housing allowances,
 earned by the employee during the period of 14 days immediately preceding the date of termination, day of absence or period of absence, holiday, day of leave or period of leave, or benefit period, as the case may be, by the number of days on which the employee actually worked during that period of 14 days.

payments; and
 (e) any allowances however described,
 earned by the employee during the period of 14 days immediately preceding the rest day or holiday, as the case may be, by the number of days on which the employee actually worked during that period of 14 days.

2. Where an employee is employed on a monthly rate of pay and the number of days on which the employee is required to work in a week is the same in every week under his contract of service.

The gross rate of pay for one day is to be calculated according to the following formula:

$\frac{12 \times \text{monthly gross rate of pay}}{52 \times \text{number of days on which the employee is required to work in a week}}$

The basic rate of pay for one day is to be calculated according to the following formula:

$\frac{12 \times \text{monthly basic rate of pay}}{52 \times \text{number of days on which the employee is required to work in a week}}$

3. Where an employee is employed on a monthly rate of pay and is required under his contract of service to work on a certain number of days in one week and on a different number of days in the following week in every period of 2 consecutive weeks.

The gross rate of pay for one day is to be calculated according to the following formula:

$\frac{12 \times \text{monthly gross rate of pay}}{52 \times \text{average number of days on which the employee is required to work in a week over any period of 2 consecutive weeks}}$

The basic rate of pay for one day is to be calculated according to the following formula:

$\frac{12 \times \text{monthly basic rate of pay}}{52 \times \text{average number of days on which the employee is required to work in a week over any period of 2 consecutive weeks}}$

4. Where an employee is employed on a monthly rate of pay and is required under his contract of service to work on different number of days in different weeks.

The basic rate of pay for one day is to be calculated according to the following formula or such other formula as may be approved by the Commissioner:

$\frac{12 \times \text{monthly gross rate of pay}}{\dots}$

The gross rate of pay for one day is to be calculated according to the following formula or such other formula as may be approved by the Commissioner:

$\frac{12 \times \text{monthly basic rate of pay}}{\dots}$

pay
52 x average number of
working days in a week.

pay
52 x average number of
working days in a week.

5. In this Schedule —

"average number of working days in a week" means —

(a) for the purposes of calculating, under section 11 (1), the salary that is payable in lieu of notice of termination —

(i) the average number of days on which the employee was required, under his contract of service, to work in a week over the period of 3 weeks immediately preceding the termination of the contract; or

(ii) where the employee was in employment for less than 3 weeks, the average number of days on which the employee would have been required to work in a week over the first 3 weeks of his employment, if the contract of service had not been terminated;

(b) for the purposes of calculating, under section 28 (2), the salary that may be deducted for absence from work —

(i) the average number of days on which the employee was required, under his contract of service, to work in a week over the period of 3 weeks immediately preceding the day of absence or period of absence, as the case may be; or

(ii) where the employee was in employment for less than 3 weeks, the average number of days on which the employee was required to work under his contract of service in a week over the period of 3 weeks immediately following the day of absence or period of absence, as the case may be;

(c) in any other case —

(i) the average number of days on which the employee was required, under his contract of service, to work in a week over the period of 3 weeks immediately preceding the rest day, holiday, day of leave or period of leave, as the case may be; or

(ii) where the employee was in employment for less than 3 weeks, the average number of days on which the employee was required to work under his contract of service in a week over the period of 3 weeks immediately following the rest day, holiday, day of leave or period of leave, as the case may be;

"week" means a continuous period of 7 days commencing at midnight on Sunday.

6. Paragraphs (a) and (b) of the definition of "average number of working days in a week" in item 5 are not applicable in the third column.

7. In calculating the number of working days in a week or the average number of working days in a week, any day on which an employee is required to work for 5 hours or less under his contract of service shall be regarded as half a day.

LEGISLATION HISTORY

1. Act 17 of 1968 — Employment Act 1968

Date of First Reading : 15.5.68 (Bill No. 21/68 published on 18.5.68)

Dates of Second and Third Readings : 10.7.68 to 12.7.68, 15.7.68 and 31.7.86

Date of commencement : 15.8.68

2. Act 19 of 1971 — Employment (Amendment) Act 1971

Date of First Reading : 19.10.71 (Bill No. 11/71 published on 22.10.71)

Date of Second and Third Readings : 2.12.71

Date of commencement : 3.12.71

3. Act 28 of 1972 — Employment (Amendment) Act 1972

Date of First Reading : 17.10.72 (Bill No. 28/72 published on 19.10.72)

Date of Second and Third Readings : 3.11.72

Date of commencement : 1.7.72

4. Act 41 of 1973 — Employment (Amendment) Act 1973

Date of First Reading : 11.7.73 (Bill No. 20/73 published on 13.7.73)

Date of Second and Third Readings : 25.7.73

Date of commencement : 1.9.73

5. Act 46 of 1975 — Employment (Amendment) Act 1975

Date of First Reading : 19.8.75 (Bill No. 43/75 published on 22.8.75)

Date of Second and Third Readings : 20.11.75

Dates of commencement : 26.12.75 (section 2) 2.1.76 (except section 2)

6. Act 33 of 1980 — Employment (Amendment) Act 1980

Date of First Reading : 31.10.80 (Bill No. 21/80 published on 7.11.80)

Date of Second and Third Readings : 28.11.80

Date of commencement : 1.7.80

7. Act 21 of 1984 — Employment (Amendment) Act 1984

Date of First Reading : 29.6.84 (Bill No. 22/84 published on 9.7.84)
Date of Second and Third Readings : 26.7.84
Date of commencement : 7.1.85

8. Act 21 of 1988 — Employment (Amendment) Act 1988

Date of First Reading : 29.7.88 (Bill No. 18/88 published on 1.8.88)
Date of Second and Third Readings : 11.8.88
Date of commencement : 26.8.88

9. Act 15 of 1995 — Bankruptcy Act 1995 (Consequential amendments made by)

Date of First Reading : 25.7.94 (Bill No. 16/94 published on
29.7.94)
Date of Second Reading : 25.8.94
Referred to Select Committee : Parl 1 of 1995 presented to Parliament on
7.3.95
Date of Third Reading : 23.3.95
Date of commencement : 15.7.95

10. Act 36 of 1995 — Employment (Amendment) Act 1995

Date of First Reading : 27.9.95 (Bill No. 35/95 published on
28.9.95)
Date of Second and Third Readings : 1.11.95
Date of commencement : 1.3.96