

ANNEX

Employment, Parental Leave and Other Measures Bill

Bill No. /2013.

Read the first time on .

A BILL

i n t i t u l e d

An Act to amend the Employment Act (Chapter 91 of the 2009 Revised Edition), the Child Development Co-Savings Act (Chapter 38A of the 2002 Revised Edition) and other written law to give employers greater flexibility in dealing with employment-related matters, to improve employment standards for employees and to refine the benefits for employees and self-employed persons in relation to maternity, adoption, childcare, extended childcare, shared parental and paternity leave.

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

Short title and commencement

1. This Act may be cited as the Employment, Parental Leave and Other Measures Act 2013 and shall come into operation on such date as the Minister charged with the responsibility for manpower may, by notification in the *Gazette*, appoint.

Amendment of Employment Act

2.—(1) Section 2 of the Employment Act (Cap. 91) is amended by deleting subsection (2) and substituting the following subsection:

“(2) Any person who is employed in a managerial or an executive position and is 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 in substitution by the Minister, shall be regarded as an employee for the purposes of this Act except the provisions in Part IV.”.

(2) Section 14 of the Employment Act is amended —

(a) by deleting the words “an employee” in subsection (2) and substituting the words “a relevant employee”;

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

“(2A) For the purposes of seeking reinstatement of employment under subsection (2) with an employer, a relevant employee means —

(a) an employee employed in a managerial or an executive position —

(i) who is dismissed with notice; or

(ii) who is dismissed without notice but receives payment of any salary in lieu of notice,

after having served that employer for at least 12 months in any position (whether or not a managerial or an executive position);

5 (b) an employee employed in a managerial or an executive position who is dismissed without notice and without salary in lieu of such notice; or

(c) an employee not employed in a managerial or an executive position.”; and

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

“Dismissal”.

(3) Section 18A of the Employment Act is amended by inserting, immediately after subsection (8), the following subsection:

15 “(8A) For the purposes of subsection (8)(b), any collective agreement that was entered into between the transferor and the trade union of affected employees and in force immediately before the transfer shall continue in force between the transferee and the trade union of affected employees for a period of 18 months after the date of the transfer or until the date of its expiry as specified in the collective agreement, whichever is the later.”.

20 (4) Section 26 of the Employment Act is repealed and the following section substituted therefor:

25 **“No unauthorised deductions to be made**

26. No deduction shall be made by an employer from the salary of an employee, unless the deduction is authorised by or under any provision of this Act or is required to be made —

30 (a) by order of a court or other authority competent to make such order;

(b) pursuant to a declaration made by the Comptroller of Income Tax under section 57 of the Income Tax Act (Cap. 134), the Comptroller of Property Tax under

5 section 38 of the Property Tax Act (Cap. 254) or the Comptroller of Goods and Services Tax under section 79 of the Goods and Services Tax Act (Cap. 117A) that the employer is an agent for recovery of income tax, property tax or goods and services tax (as the case may be) payable by the employee; or

(c) pursuant to a direction given by the Comptroller of Income Tax under section 91 of the Income Tax Act.”.

10 (5) Section 27(1) of the Employment Act is amended by deleting paragraph (g).

(6) Section 29(1) of the Employment Act is amended by inserting, immediately after the word “one-quarter”, the words “(or such other proportion prescribed in substitution by the Minister)”.

15 (7) Section 30 of the Employment Act is repealed and the following section substituted therefor:

“Deductions for accommodation, amenity and service

20 **30.—(1)** 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.

25 (2) Any deduction under section 27(1)(d) or (e) shall not exceed an amount equivalent to the value of the house accommodation, amenity or service supplied, and the total amount of all deductions under section 27(1)(d) and (e) made from the salary of the employee by his employer in any one salary period shall in no case exceed one-quarter (or such other proportion prescribed in substitution by the Minister) of the salary payable to the employee in respect of that period.

30 (3) In the case of a deduction under section 27(1)(e), the deduction shall be subject to such conditions as the Commissioner may impose.”.

(8) Section 31 of the Employment Act is amended by inserting, immediately after the word “one-quarter” in subsections (3) and (5),

the words “(or such other proportion prescribed in substitution by the Minister)”.

(9) Section 32 of the Employment Act is amended —

- (a) by deleting “, (g)” in subsection (1);
- 5 (b) by inserting, immediately after “50%” in subsection (1), the words “(or such other percentage prescribed in substitution by the Minister)”; and
- (c) by deleting the words “50% of salary” in the section heading and substituting the words “prescribed limit”.

10 (10) Section 33(1) of the Employment Act is amended by deleting “\$2,000” in paragraph (b) and substituting “\$2,500”.

(11) The Employment Act is amended by renumbering section 34 as subsection (1) of that section, and by inserting immediately thereafter the following subsections:

15 “(2) Any employer who is guilty of an offence under subsection (1) for contravening section 21, 22 or 23 shall be liable on conviction —

- (a) to a fine of not less than \$3,000 and not more than \$15,000 or to imprisonment for a term not exceeding 6 months or to both; and
- 20 (b) if the employer is a repeat offender, to a fine of not less than \$6,000 and not more than \$30,000 or to imprisonment for a term not exceeding 12 months or to both.

25 (3) For the purposes of subsection (2), a person is a repeat offender in relation to an offence under subsection (1) if the person who is convicted or found guilty of an offence under subsection (1) of contravening section 21, 22 or 23 (referred to as the current offence) has been convicted or found guilty of an offence of contravening section 21, 22 or 23 on at least one other occasion (whether before, on or after the date of commencement of section 2(11) of the Employment, Parental Leave and Other Measures Act 2013) before the date on which he is convicted or found guilty of the current offence.”.

(12) Section 35 of the Employment Act is amended by deleting “\$2,000” in paragraph (b) and substituting “\$2,500”.

(13) Section 38 of the Employment Act is amended by deleting subsection (6) and substituting the following subsection:

5 “(6) For the purpose of calculating under subsection (4) the payment due for overtime to an employee referred to in the first column of the Fourth Schedule, the employee’s hourly basic rate of pay shall be determined in accordance with the second column of the Fourth Schedule.”.

10 (14) Section 40 of the Employment Act is amended —

 (a) by deleting the word “or” at the end of paragraph (d) of subsection (2A);
 (b) by deleting the full-stop at the end of paragraph (e) of subsection (2A) and substituting the word “; or”, and by inserting immediately thereafter the following paragraph:

15 “(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 (Cap. 67).”; and

 (c) by deleting the words “subsection (2A)(a), (b), (c), (d) and (e)” in subsection (3) and substituting the words “subsection (2A)”.

20 (15) Section 45 of the Employment Act is amended by deleting the words “3 years” and substituting the words “2 years”.

25 (16) Section 76 of the Employment Act is amended by deleting paragraph (ii) of subsection (1)(c) and substituting the following paragraph:

30 “(ii) one or more than one period each of such duration as agreed between the employee and her employer but in aggregate no shorter than as reckoned in accordance with the Fifth Schedule or 24 days, whichever is the lower, all of which

must be taken within the period of 12 months commencing on the day of her confinement.”.

(17) Section 88 of the Employment Act is amended by inserting, immediately after subsection (4), the following subsection:

5 “(4A) Notwithstanding subsections (1) and (4), where an employee who is employed in a managerial or an executive position is required by his employer to work on any holiday to which he would otherwise be entitled under subsection (1), the employee shall be paid the gross rate of pay for that day and 10 may be given the following, in lieu of a day off in substitution for that holiday or an extra day’s salary at the basic rate of pay:

- 15 (a) part of a day off on a working day comprising such number of hours as may be agreed between the employee and his employer; and
- (b) in the case where there is no such agreement —
 - (i) part of a day off on a working day comprising 4 hours if the employee worked on that holiday for a period not exceeding 4 hours; or
 - (ii) a day off on a working day if the employee 20 worked on that holiday for a period of more than 4 hours.”.

(18) Section 89 of the Employment Act is amended by inserting, immediately after subsection (9), the following subsection:

25 “(10) This section shall not apply to any employee seeking or undergoing medical treatment which, in the opinion of a medical practitioner or medical officer performing the examination under subsection (1), is for cosmetic purposes.”.

(19) Section 103(1) of the Employment Act is amended by inserting, immediately after paragraph (a), the following paragraph:

30 “(aa) to enter without previous notice at any reasonable time any place of employment for the purpose of conducting any audit in relation to the terms and conditions of employment of any employee;”.

(20) The Employment Act is amended by inserting, immediately after section 104, the following sections:

“Power to arrest without warrant

105.—(1) Any inspecting officer may arrest without warrant any person whom he reasonably suspects —

- (a) is committing or has committed an offence under section 21, 22 or 23 read with section 34; or
- (b) has abetted the commission of any offence referred to in paragraph (a).

(2) Any inspecting officer may arrest without warrant any person who is an officer or a member of a body corporate or an unincorporated association or a partner of a partnership and whom the inspecting officer reasonably suspects has consented to, connived in or due to neglect on his part caused the commission of an offence referred to in subsection (1)(a).

(3) An inspecting officer making an arrest without warrant shall, without unnecessary delay and subject to subsection (5), produce the person arrested before a Magistrate’s Court.

(4) No inspecting officer shall detain in custody a person arrested without warrant for longer than is reasonable in the circumstances, and such period shall not exceed 48 hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate’s Court.

(5) Any person who has been arrested by an inspecting officer may be released on bail, or on his own bond, by an inspecting officer.

Arrest how made

105A.—(1) In making an arrest, an inspecting officer making the arrest shall touch or confine the body of the person to be arrested unless the person submits to arrest by word or action.

(2) If the person forcibly resists or tries to evade arrest, the inspecting officer may use all means necessary to effect the arrest.

No unnecessary restraint

105B.—(1) The person arrested shall not be subjected to more restraint than is necessary to prevent his escape.

5 (2) An inspecting officer may use handcuffs or any similar means of restraint on a person arrested to prevent him from —

- (a) inflicting any bodily injury to himself or others;
- (b) damaging any property;
- (c) creating any disturbance; or
- (d) escaping from custody.

10 (3) The handcuffs or similar means of restraint shall not be used for the purpose of punishment.

Search of persons arrested

105C.—(1) When a person is arrested, the inspecting officer making the arrest may search the person and take possession of all articles (other than necessary wearing apparel) found upon the person that the inspecting officer has reason to believe were connected with the offence for which the person was being arrested.

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

Inspecting officer to be armed

25 **105D.** Every inspecting officer shall be provided with such batons and accoutrements as may be necessary for the effective discharge of his duties.

Power to seize offensive weapons

105E. An inspecting officer making any arrest may take from the person arrested any offensive weapons which he has about his person.

Power on escape to pursue and arrest

5 **105F.** If a person in lawful custody escapes or is rescued, the inspecting officer from whose custody he escaped or was rescued may immediately pursue and arrest him in any place within Singapore and deal with that person as he might have done on the original arrest.”.

(21) The Employment Act is amended by inserting, immediately after section 112, the following section:

“Abetment of offences

10 **112A.** Any person who abets the commission of an offence under this Act shall be guilty of the offence and shall be liable on conviction to be punished with the punishment provided for that offence.”.

15 (22) Section 113A of the Employment Act is repealed and the following section substituted therefor:

“Offences by bodies corporate, etc.

113A.—(1) Where an offence under this Act committed by a body corporate is proved —

20 (a) to have been committed with the consent or connivance of an officer of the body corporate; or
 (b) to be attributable to any neglect on his part,

the officer as well as the body corporate shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

25 (2) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

30 (3) Where an offence under this Act committed by a partnership is proved —

(a) to have been committed with the consent or connivance of a partner; or

(b) to be attributable to any neglect on his part,

the partner as well as the partnership shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

5 (4) Where an offence under this Act committed by an unincorporated association (other than a partnership) is proved —

10 (a) to have been committed with the consent or connivance of an officer of the unincorporated association or a member of its governing body; or

(b) to be attributable to any neglect on the part of such an officer or member,

15 the officer or member as well as the unincorporated association shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

20 (5) For the purposes of this section, where an offence under this Act has been committed by a body corporate, an unincorporated association (other than a partnership) or a partnership, it shall be presumed, until the contrary is proved, that the offence is attributable to the neglect of an officer or a member of the body corporate or unincorporated association or a partner of the partnership, as the case may be, who —

25 (a) is primarily responsible for the act or omission which constitutes the offence; and

(b) has failed to exercise reasonable supervision or oversight as such officer, member or partner.

(6) In this section —

“officer” —

30 (a) in relation to a body corporate, means any director, partner, member of the committee of management, chief executive, manager, secretary or other similar officer of the body corporate and

includes any person purporting to act in any such capacity; or

5 (b) in relation to an unincorporated association (other than a partnership), means the president, the secretary, or any member of the committee of the unincorporated association, or any person holding a position analogous to that of president, secretary or member of a committee and includes any person purporting to act in any such capacity;

10 “partner” includes a person purporting to act as a partner.”.

(23) Section 114 of the Employment Act is amended by deleting “\$1,000” and substituting “\$5,000”.

(24) Section 115 of the Employment Act is amended by inserting, immediately after subsection (3A), the following subsections:

15 “(3B) Subject to subsection (3C), any order made by the Commissioner under subsection (1) in the absence of a party concerned or affected by the order may be set aside or varied by the Commissioner, on the application of that party, on such terms as the Commissioner thinks just.

20 (3C) An application to set aside or vary an order made by the Commissioner referred to in subsection (3B) shall be made no later than 14 days after the date of the order.”.

(25) Section 119 of the Employment Act is amended by inserting, immediately after subsection (2), the following subsection:

25 “(3) All proceedings before the Commissioner shall be held in private.”.

(26) The Employment Act is amended by inserting, immediately after section 122, the following section:

“No division of claims

30 **123.** No claim shall be divided and pursued in separate proceedings before the Commissioner for the sole purpose of bringing the sum claimed in each of such proceedings within the jurisdiction of this Act.”.

(27) The Employment Act is amended by inserting, immediately after section 127, the following section:

“Protection from personal liability

5 **127A.** No liability shall lie against any person appointed under section 3 or any other person acting under the direction of the Commissioner for anything which is done with reasonable care and in good faith in the execution or purported execution of this Act.”.

10 (28) Section 139(2) of the Employment Act is amended by inserting, immediately after paragraph (g), the following paragraph:

“(ga) provide for any matter relating to the release of any arrested person on any bail or bond under section 105(5);”.

15 (29) The Employment Act is amended by inserting, immediately after the Third Schedule, the following Schedules:

“FOURTH SCHEDULE

Section 38(6)

**EMPLOYEE’S HOURLY BASIC RATE OF PAY FOR
CALCULATION OF PAYMENT DUE FOR OVERTIME**

<i>First column</i>	<i>Second column</i>
<i>Type of employee</i>	<i>Calculation of hourly basic rate of pay</i>
1. A workman employed on a monthly rate of pay	$\frac{12 \times \text{monthly basic rate of pay}}{52 \times 44}$
2. A non-workman whose monthly basic rate of pay is less than \$2,250	$\frac{12 \times \text{monthly basic rate of pay}}{52 \times 44}$
3. A non-workman whose monthly basic rate of pay is \$2,250 or more	$\frac{12 \times \$2,250}{52 \times 44}$

<i>First column</i>	<i>Second column</i>
<i>Type of employee</i>	<i>Calculation of hourly basic rate of pay</i>
4. A workman 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
5. A non-workman 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 or an amount not more than the hourly basic rate of pay of an employee specified in this column for item 3
6. A workman employed on a hourly rate of pay	Actual hourly basic rate of pay
7. A non-workman employed on a hourly rate of pay	Actual hourly basic rate of pay or an amount not more than the hourly basic rate of pay of an employee specified in this column for item 3
8. A workman employed on a daily rate of pay	Daily basic rate of pay divided by the number of working hours per day
9. A non-workman employed on a daily rate of pay	Daily basic rate of pay divided by the number of working hours per day or an amount not more than the hourly basic rate of pay of an employee specified in this column for item 3

FIFTH SCHEDULE

Section 76(1)

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NUMBER OF DAYS ON WHICH A FEMALE EMPLOYEE IS ENTITLED TO ABSENT HERSELF FROM WORK UNDER SECTION 76(1)(c)(ii)

<i>First column</i>	<i>Second column</i>
<i>Number of days on which a female employee is required to work under her contract of service (referred to in this Schedule as her work days)</i>	<i>Calculation of total number of days on which a female employee is entitled to absent herself from work under section 76(1)(c)(ii) for one or more periods</i>

<i>First column</i>	<i>Second column</i>
<i>Number of days on which a female employee is required to work under her contract of service (referred to in this Schedule as her work days)</i>	<i>Calculation of total number of days on which a female employee is entitled to absent herself from work under section 76(1)(c)(ii) for one or more periods</i>
1. Where the number of work days in a week is the same in every week.	$4 \times$ the number of work days in a week
2. Where the number of work days varies from one week to another and there is a consistent or regular pattern repeated over a number of fixed weeks.	$\frac{4 \times \text{the total number of work days in the number of fixed weeks}}{\text{The number of fixed weeks}}$
3. Where the number of work days varies from one week to another and there is no consistent or regular pattern repeated over a number of fixed weeks.	$4 \times$ the average number of work days in a week over the period of 3 weeks immediately preceding the day of confinement or the first day of leave, whichever is the earlier
4. In this Schedule, the calculation of the number of days on which a female employee is entitled to absent herself from work under section 76(1)(c)(ii) shall be determined in accordance with her work pattern under her contract of service immediately preceding the day of confinement or the first day of leave, whichever is the earlier.	
5. In this Schedule, where the number of days in the second column is not a whole number, that number shall be rounded down to the nearest half day or whole day.	
6. In this Schedule —	
10 “week” means a continuous period of 7 days commencing at midnight on Sunday;	
15 “work pattern” means a work pattern described in item 1, 2 or 3 in the first column.	
7. In calculating the number of work days, any day on which a female employee is required to work for 5 hours or shorter under her contract of service shall be regarded as half a day.”.	

Amendments to Child Development Co-Savings Act

3.—(1) Section 9 of the Child Development Co-Savings Act (Cap. 38A) is amended —

- (a) by deleting the words “one or more further periods, not exceeding 48 days in the aggregate, as agreed to by her and her employer, which shall be” in subsections (1)(c)(ii), (1B)(ii)(B), (1D)(ii)(B) and (1F)(ii)(B) and substituting in each case the words “one or more than one period each of such duration as agreed between the employee and her employer but in aggregate no shorter than as reckoned in accordance with Part I of the Schedule or 48 days, whichever is the lower, all of which must be taken”;
- (b) by deleting the words “one or more further periods, not exceeding 24 days in the aggregate, as agreed to by her and her employer, which shall be” in subsections (1A)(v)(A)(AB), (1A)(vi)(A)(AB), (1C)(v)(A)(AB), (1C)(vi)(A)(AB), (1E)(v)(A)(AB) and (1E)(vi)(A)(AB) and substituting in each case the words “one or more than one period each of such duration as agreed between the employee and her employer but in aggregate no shorter than as reckoned in accordance with Part II of the Schedule or 24 days, whichever is the lower, all of which must be taken”;
- (c) by deleting the words “one or more further periods (each commencing on or after the day the child becomes a citizen of Singapore), not exceeding 24 days in the aggregate, as agreed to by her and her employer, which shall be” in subsections (1A)(v)(B)(BB) and (1A)(vi)(B)(BB) and substituting in each case the words “one or more than one period each of such duration as agreed between the employee and her employer but in aggregate no shorter than as reckoned in accordance with Part II of the Schedule or 24 days, whichever is the lower, all of which must commence on or after the day the child becomes a citizen of Singapore and be taken”;

(d) by deleting paragraph (iii) in subsection (1B) and substituting the following paragraph:

“(iii) if the child becomes a citizen of Singapore after the period of 8 weeks commencing on the day of her confinement, one or more than one period each of such duration as agreed between the employee and her employer but in aggregate no shorter than as reckoned in accordance with Part I of the Schedule or 48 days, whichever is the lower, all of which must commence on or after the day the child becomes a citizen of Singapore and be taken within the period of 12 months commencing on the day of her confinement.”;

(e) by deleting the words “one or more further periods (each commencing on or after the day she becomes lawfully married to the child’s natural father), not exceeding 24 days in the aggregate, as agreed to by her and her employer, which shall be” in subsections (1C)(v)(B)(BB) and (1C)(vi)(B)(BB) and substituting in each case the words “one or more than one period each of such duration as agreed between the employee and her employer but in aggregate no shorter than as reckoned in accordance with Part II of the Schedule or 24 days, whichever is the lower, all of which must commence on or after the day she becomes lawfully married to the child’s natural father and be taken”;

(f) by deleting paragraph (iii) of subsection (1D) and substituting the following paragraph:

“(iii) if she becomes lawfully married to the child’s natural father after the period of 8 weeks commencing on the day of her confinement, one or more than one period each of such duration as agreed between the employee and her employer but in

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aggregate no shorter than as reckoned in accordance with Part I of the Schedule or 48 days, whichever is the lower, all of which must commence on or after the day she becomes lawfully married to the child's natural father and be taken within the period of 12 months commencing on the day of her confinement.”;

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(g) by deleting the words “one or more further periods (each commencing on or after the day the relevant event occurs), not exceeding 24 days in the aggregate, as agreed to by her and her employer, which shall be” in subsections (1E)(v)(B)(BB) and (1E)(vi)(B)(BB) and substituting in each case the words “one or more than one period each of such duration as agreed between the employee and her employer but in aggregate no shorter than as reckoned in accordance with Part II of the Schedule or 24 days, whichever is the lower, all of which must commence on or after the day the relevant event occurs and be taken”;

(h) by deleting paragraph (iii) of subsection (1F) and substituting the following paragraph:

“(iii) if the relevant event occurs after the period of 8 weeks commencing on the day of her confinement, one or more than one period each of such duration as agreed between the employee and her employer but in aggregate no shorter than as reckoned in accordance with Part I of the Schedule or 48 days, whichever is the lower, all of which must commence on or after the day the relevant event occurs and be taken within the period of 12 months commencing on the day of her confinement.”;

(i) by deleting the words “one or more further periods, not exceeding 48 days in the aggregate” in

subsections (4)(c)(ii), (4A)(c)(ii)(B), (4B)(c)(ii)(B) and (4C)(d)(ii)(B) and substituting in each case the words “one or more than one period that is in aggregate no shorter than as reckoned in accordance with Part I of the Schedule or 48 days, whichever is the lower”;

5 (j) by deleting the words “one or more periods commencing on or after the day the child becomes a citizen of Singapore, not exceeding 48 days in the aggregate” in subsection (4A)(c)(iii) and substituting the words “one or more than one period that is in aggregate no shorter than as reckoned in accordance with Part I of the Schedule or 48 days, whichever is the lower, commencing on or after the day the child becomes a citizen of Singapore”;

10 (k) by deleting the words “one or more periods commencing on or after the day she becomes lawfully married to the child’s natural father, not exceeding 48 days in the aggregate” in subsection (4B)(c)(iii) and substituting the words “one or more than one period that is in aggregate no shorter than as reckoned in accordance with Part I of the Schedule or 48 days, whichever is the lower, commencing on or after the day she becomes lawfully married to the child’s natural father”;

15 (l) by deleting the words “one or more periods commencing on or after the day the relevant event occurs, not exceeding 48 days in the aggregate” in subsection (4C)(d)(iii) and substituting the words “one or more than one period that is in aggregate no shorter than as reckoned in accordance with Part I of the Schedule or 48 days, whichever is the lower, commencing on or after the day the relevant event occurs”;

20 (m) by deleting subsection (5D) and substituting the following subsections:

25 (n) “(5D) Where —

30 (a) the child is delivered during a former female employee’s first or second confinement, the

applicable period shall be determined by the formula 56 – N; and

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

10 (5E) In subsection (5D), "N" means the total number of days in paragraph (a) and (b) falling any time before the former female employee's employment was terminated upon completion of her contract of service:

15 (a) the days on which she has exercised her entitlement to absent herself from work or to receive payment under subsection (1), (1A), (1B), (1C), (1D), (1E) or (1F) or under section 76(1) or (1A) of the Employment Act (Cap. 91); and

20 (b) the days on which her entitlement to absent herself from work under this section has been reduced under section 12E(5) by virtue of her election for her child's father to take shared parental leave and such election has not been revoked and the leave returned to her in accordance with section 12E, before her employment was terminated upon completion of her contract of service.”.

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30 (2) Section 12AA of the Child Development Co-Savings Act is amended by deleting the words “one or more periods, not exceeding 24 days in the aggregate, as agreed to between the female employee and her employer” in subsection (2)(b) and substituting the words “one or more than one period each of such duration as agreed between the female employee and her employer but in aggregate no shorter than as reckoned in accordance with Part II of the Schedule or 24 days, whichever is the lower”.

35 (3) Section 12AB of the Child Development Co-Savings Act is amended —

5 (a) by deleting the words “one or more periods, not exceeding 24 days in the aggregate” in subsection (1)(a) and substituting the words “one or more than one period that is in aggregate no shorter than as reckoned in accordance with Part II of the Schedule or 24 days, whichever is the lower”; and

10 (b) by deleting the words “not exceeding 24 days in the aggregate” at the end of subsection (1).

(4) Section 12B of the Child Development Co-Savings Act is amended —

15 (a) by deleting subsections (3) and (4) and substituting the following subsection:

20 “(3) Notwithstanding anything in section 87A of the Employment Act, when an employee becomes entitled (whether before, on or after 1st April 2014) to childcare leave or extended childcare leave in relation to a qualifying child under this section, whether or not he has taken (before, on or after 1st April 2014) any childcare leave under section 87A of that Act in relation to the same child before he becomes so entitled, then —

25 (a) he shall not be entitled to childcare leave under section 87A of that Act, or to payment from his employer under section 87A(5) of that Act, for so long as he is entitled to childcare leave or extended childcare leave under this section;

30 (b) any childcare leave taken under section 87A of that Act (before he became entitled to childcare leave or extended childcare leave under this section) in a relevant period shall be treated, for the purposes of this Act, as childcare leave or extended childcare leave taken under this section in that relevant period in relation to the qualifying child;

35 (c) where he has not received any payment from his employer under section 87A(5) of that Act in

respect of any childcare leave already taken by him under section 87A of that Act, he shall be entitled to payment from his employer under subsection (9) in respect of the childcare leave so taken by him; and

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(d) where he has received payment from his employer under section 87A(5) of that Act with respect to the childcare leave taken by him under section 87A of that Act, the payment shall be treated, for the purposes of this Act, as a payment made by his employer to him under subsection (9).”; and

(b) by deleting subsection (5) and substituting the following subsection:

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“(5) Notwithstanding anything in section 87A of the Employment Act, when an employee —

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(a) ceases to be entitled to childcare leave and extended childcare leave (whether before, on or after 1st April 2014) under this section; or

(b) ceases to be entitled to childcare leave (whether before, on or after 1st April 2014) and is not entitled to extended childcare leave under this section,

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but has any child below the age of 7 years at any time during any relevant period, his entitlement, if any, to childcare leave under section 87A of that Act shall be affected in the following manner:

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(i) he shall be entitled to 2 days of childcare leave under section 87A of that Act for that relevant period, if he had not taken any childcare leave or extended childcare leave under this section during that relevant period;

(ii) he shall be entitled to one day of childcare leave under section 87A of that Act for that relevant period, if he had taken one day of childcare leave

or extended childcare leave under this section during that relevant period; and

5 (iii) he shall not be entitled to any childcare leave under section 87A of that Act for that relevant period, if he had taken 2 or more days in total of childcare leave or extended childcare leave or both under this section during that relevant period.”.

10 (5) Section 12E of the Child Development Co-Savings Act is amended —

15 (a) by deleting the words “one or more periods, not exceeding 6 days in the aggregate, as agreed to by the male employee and his employer,” in subsection (1)(b) and substituting the words “one or more than one period each of such duration as agreed between the employee and his employer but in aggregate no shorter than as reckoned in accordance with Part III of the Schedule or 6 days, whichever is the lower, all of”;

20 (b) by deleting subsection (3) and substituting the following subsection:

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

30 (a) at any time during the period of 12 months commencing from and after the date of the birth of the child, he ceases to be actively engaged in his trade, business, profession or vocation during one or more than one period that is in aggregate no shorter than as reckoned in accordance with Part III of the Schedule or 6 days, whichever is the lower; and

35 (b) he loses any income by reason of his so ceasing to be actively engaged in such trade, business, profession or vocation,

be entitled to claim from the Government, the income he would otherwise have derived from his trade, business, profession or vocation had he continued to be actively engaged in such trade, business, profession or vocation during that period or periods referred to in paragraph (a), provided that an election for the natural father to take shared parental leave is made in accordance with subsection (4).”;

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(c) by deleting subsection (5) and substituting the following subsection:

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“(5) Subject to subsection (6), where an election is made in accordance with subsection (4), the mother’s entitlement to absent herself from work and to receive payment under section 9(1), (1A), (1B), (1C), (1D), (1E) or (1F) or to claim from the Government income lost by reason of her ceasing to be actively engaged in her trade, business, profession or vocation under section 9(4), (4A), (4B) or (4C) shall be reduced by the following period:

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(a) one week, where the mother’s entitlement to absent herself from work or where the mother has lost income by reason of her ceasing to be actively engaged in her trade, business, profession or vocation under section 9 is prescribed only in weeks, which shall be taken from the last week of that entitlement;

(b) in a case other than paragraph (a), where the mother is an employee —

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(i) one-quarter of the number of days reckoned in accordance with Part II of the Schedule or one-quarter of 24 days, whichever is the lower, which shall be taken from the last 24 days of that entitlement; or

(ii) one-eighth of the number of days reckoned in accordance with Part I of the Schedule

or one-eighth of 48 days, whichever is the lower, which shall be taken from the last 48 days of that entitlement,

as the case may be; or

5 (c) in a case other than paragraph (a), where the mother is a self-employed woman, one-eighth of the number of days reckoned in accordance with Part I of the Schedule or one-eighth of 48 days, whichever is the lower, which shall be taken from the last 48 days of that entitlement.”; and

10 (d) by deleting subsection (9).

(6) Section 12H of the Child Development Co-Savings Act is amended —

15 (a) by deleting the words “one or more periods, not exceeding 6 days in the aggregate, as agreed to by the male employee and his employer,” in subsection (1)(b) and substituting the words “one or more than one period each of such duration as agreed between the employee and his employer but in aggregate no shorter than as reckoned in accordance with Part III of the Schedule or 6 days, whichever is the lower, all of”;

20 (b) by deleting subsection (4) and substituting the following subsection:

25 “(4) Subject to subsection (5) and any regulations made under section 20, every self-employed man who is the natural father of a child and who satisfies the requirements of section 12I(1), or who is the adoptive father of a child and who satisfies the requirements of section 12I(2) shall, if —

30 (a) at any time during the period of 12 months commencing from and after the date of the birth of the child, he ceases to be actively engaged in his trade, business, profession or vocation during one or more than one period that is in aggregate no shorter than as reckoned in accordance with

Part III of the Schedule or 6 days, whichever is the lower; and

5 (b) he loses any income by reason of his so ceasing to be actively engaged in such trade, business, profession or vocation,

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be entitled to claim from the Government, the income he would otherwise have derived from his trade, business, profession or vocation had he continued to be actively engaged in such trade, business, profession or vocation during that period or periods referred to in paragraph (a)."; and

(c) by deleting subsection (6).

(7) The Child Development Co-Savings Act is amended by inserting, immediately after section 22, the following Schedule:

“THE SCHEDULE

PART I

5

Sections 9(1), (1B), (1D), (1F), (4),
(4A), (4B) and (4C) and 12E(5)

10 NUMBER OF DAYS ON WHICH A FEMALE EMPLOYEE IS ENTITLED
TO ABSENT HERSELF FROM WORK UNDER SECTION 9(1), (1B),
(1D) OR (1F); A SELF-EMPLOYED WOMAN IS ENTITLED TO CLAIM
LOST INCOME FROM THE GOVERNMENT UNDER SECTION 9(4),
(4A), (4B) OR (4C); OR A FEMALE EMPLOYEE'S OR
SELF-EMPLOYED WOMAN'S ENTITLEMENT IS REDUCED UNDER
SECTION 12E(5)(b)(ii) OR (c)

<i>First column</i>	<i>Second column</i>
<i>Number of days on which a female employee is required to work under her contract of service, or on which a self-employed woman is engaged in her trade, business, profession or vocation (referred to in this Part as her work days)</i>	<i>Calculation of total number of days on which:</i> (a) <i>a female employee is entitled to absent herself from work under section 9 for one or more periods;</i> (b) <i>a self-employed woman is entitled to claim lost income from the Government under section 9; or</i> (c) <i>a female employee's or self- employed woman's entitlement is reduced under section 12E(5)(b)(ii) or (c)</i>
1. Where the number of work days in a week is the same in every week.	$8 \times \text{the number of work days in a week}$

<i>First column</i>	<i>Second column</i>
<i>Number of days on which a female employee is required to work under her contract of service, or on which a self-employed woman is engaged in her trade, business, profession or vocation (referred to in this Part as her work days)</i>	<i>Calculation of total number of days on which:</i> <i>(a) a female employee is entitled to absent herself from work under section 9 for one or more periods;</i> <i>(b) a self-employed woman is entitled to claim lost income from the Government under section 9; or</i> <i>(c) a female employee's or self-employed woman's entitlement is reduced under section 12E(5)(b)(ii) or (c)</i>
2. Where the number of work days varies from one week to another and there is a consistent or regular pattern repeated over a number of fixed weeks.	$\frac{8 \times \text{the total number of workdays in the number of fixed weeks}}{\text{The number of fixed weeks}}$
3. Where the number of work days varies from one week to another and there is no consistent or regular pattern repeated over a number of fixed weeks.	<i>In the case of a female employee under section 9(1) or a self-employed woman under section 9(4):</i> <i>8 x the average number of work days in a week over the period of 3 weeks immediately preceding the day of confinement or the first day of leave, whichever is the earlier</i>

<i>First column</i>	<i>Second column</i>
<p><i>Number of days on which a female employee is required to work under her contract of service, or on which a self-employed woman is engaged in her trade, business, profession or vocation (referred to in this Part as her work days)</i></p>	<p><i>Calculation of total number of days on which:</i></p> <p><i>(a) a female employee is entitled to absent herself from work under section 9 for one or more periods;</i></p> <p><i>(b) a self-employed woman is entitled to claim lost income from the Government under section 9; or</i></p> <p><i>(c) a female employee's or self-employed woman's entitlement is reduced under section 12E(5)(b)(ii) or (c)</i></p> <p><i>In the case of a female employee under section 9(1B), (1D) or (1F) or a self-employed woman under section 9(4A), (4B) or (4C):</i></p> <p>8 x the average number of work days in a week over the period of 3 weeks immediately preceding the day on which the last of all the eligibility criteria under section 9A(1A), (1B) or (1C), as the case may be, are satisfied</p>

PART II

Sections 9(1A), (1C) and (1E),
12AA(2), 12AB(1) and 12E(5)

NUMBER OF DAYS ON WHICH A FEMALE EMPLOYEE IS
ENTITLED TO ABSENT HERSELF FROM WORK UNDER
SECTION 9(1A), (1C), (1E) OR 12AA; A SELF-EMPLOYED
WOMAN IS ENTITLED TO CLAIM LOST INCOME FROM
THE GOVERNMENT UNDER SECTION 12AB; OR
A FEMALE EMPLOYEE'S ENTITLEMENT IS REDUCED
UNDER SECTION 12E(5)(b)(i)

First column	Second column
<p><i>Number of days on which a female employee is required to work under her contract of service, or on which a self-employed woman is engaged in her trade, business, profession or vocation (referred to in this Part as her work days)</i></p>	<p><i>Calculation of total number of days on which:</i></p>
	<p><i>(a) a female employee is entitled to absent herself from work under section 9 or 12AA for one or more periods;</i></p>
	<p><i>(b) a self-employed woman is entitled to claim lost income from the Government under section 12AB; or</i></p>
	<p><i>(c) a female employee's entitlement is reduced under section 12E(5)(b)(i)(I)</i></p>
<p>1. Where the number of work days in a week is the same in every week.</p>	<p>$4 \times$ the number of work days in a week</p>
<p>2. Where the number of work days varies from one week to another and there is a consistent or regular pattern repeated over a number of fixed weeks.</p>	<p>$4 \times$ the total number of work days in the number of fixed weeks</p> <hr/> <p>The number of fixed weeks</p>

<i>First column</i>	<i>Second column</i>
<i>Number of days on which a female employee is required to work under her contract of service, or on which a self-employed woman is engaged in her trade, business, profession or vocation (referred to in this Part as her work days)</i>	<i>Calculation of total number of days on which:</i> <i>(a) a female employee is entitled to absent herself from work under section 9 or 12AA for one or more periods;</i> <i>(b) a self-employed woman is entitled to claim lost income from the Government under section 12AB; or</i> <i>(c) a female employee's entitlement is reduced under section 12E(5)(b)(i)</i>
3. Where the number of work days varies from one week to another and there is no consistent or regular pattern repeated over a number of fixed weeks.	<i>In the case of a female employee under section 9(1A), (1C) or (1E):</i> <i>4 × the average number of work days in a week over the period of 3 weeks immediately preceding the day on which the last of all the eligibility criteria under section 9A(1A), (1B) or (1C), as the case may be, are satisfied</i> <i>In the case of a female employee under section 12AA or a self-employed woman under section 12AB, where the child to be adopted is a citizen of Singapore:</i> <i>4 × the average number of work days in a week over the period of 3 weeks immediately preceding the date the application to adopt the child is made</i>

<i>First column</i>	<i>Second column</i>
<p><i>Number of days on which a female employee is required to work under her contract of service, or on which a self-employed woman is engaged in her trade, business, profession or vocation (referred to in this Part as her work days)</i></p>	<p><i>Calculation of total number of days on which:</i></p> <p><i>(a) a female employee is entitled to absent herself from work under section 9 or 12AA for one or more periods;</i></p> <p><i>(b) a self-employed woman is entitled to claim lost income from the Government under section 12AB; or</i></p> <p><i>(c) a female employee's entitlement is reduced under section 12E(5)(b)(i)</i></p> <p><i>In the case of a female employee under section 12AA or a self-employed woman under section 12AB, where the child to be adopted is not a citizen of Singapore:</i></p> <p><i>4 × the average number of work days in a week over the period of 3 weeks immediately preceding the date on which the defendant's pass in respect of the child is issued</i></p>

PART III

Sections 12E and 12H

NUMBER OF DAYS ON WHICH A MALE EMPLOYEE IS
 ENTITLED TO ABSENT HIMSELF FROM WORK UNDER
 SECTION 12E OR 12H; OR A SELF-EMPLOYED MAN IS
 ENTITLED TO CLAIM LOST INCOME FROM THE
 GOVERNMENT UNDER SECTION 12E OR 12H

First column

Number of days on which a male employee is required to work under his contract of service, or on which a self-employed man is engaged in his trade, business, profession or vocation (referred to in this Part as his work days)

1. Where the number of work days in a week is the same in every week.
2. Where the number of work days varies from one week to another and there is a consistent or regular pattern repeated over a number of fixed weeks.

Second column

Calculation of total number of days on which:

(a) *a male employee is entitled to absent himself from work under section 12E or 12H for one or more periods; or*
 (b) *a self-employed man is entitled to claim lost income from the Government under section 12E or 12H*

The number of work days in a week

The total number of work days in the number of fixed weeks

The number of fixed weeks

<i>First column</i>	<i>Second column</i>
<p><i>Number of days on which a male employee is required to work under his contract of service, or on which a self-employed man is engaged in his trade, business, profession or vocation (referred to in this Part as his work days)</i></p> <p>3. Where the number of work days varies from one week to another and there is no consistent or regular pattern repeated over a number of fixed weeks.</p>	<p><i>Calculation of total number of days on which:</i></p> <p>(a) a male employee is entitled to absent himself from work under section 12E or 12H for one or more periods; or</p> <p>(b) a self-employed man is entitled to claim lost income from the Government under section 12E or 12H</p> <p><i>In the case of a male employee or a self-employed man who is a natural father under section 12E or 12H:</i></p> <p>The average number of work days in a week over the period of 3 weeks immediately preceding the day on which the last of all the eligibility criteria under section 12F(1) or 12I(1), as the case may be, are satisfied</p> <p><i>In the case of a male employee or a self-employed man who is an adoptive father under section 12H, where the child to be adopted is a citizen of Singapore:</i></p> <p>The average number of work days in a week over the period of 3 weeks immediately preceding the date the application to adopt the child is made</p>

	<i>First column</i>	<i>Second column</i>
	<i>Number of days on which a male employee is required to work under his contract of service, or on which a self-employed man is engaged in his trade, business, profession or vocation (referred to in this Part as his work days)</i>	<i>Calculation of total number of days on which:</i> <i>(a) a male employee is entitled to absent himself from work under section 12E or 12H for one or more periods; or</i> <i>(b) a self-employed man is entitled to claim lost income from the Government under section 12E or 12H</i>
5		<i>In the case of a male employee or a self-employed man under section 12H, where the child to be adopted is not a citizen of Singapore:</i> The average number of work days in a week over the period of 3 weeks immediately preceding the date on which the defendant's pass in respect of the child is issued
10	4. In this Schedule, the calculation of the number of days on which a male or female employee is entitled to absent himself or herself from work shall be determined in accordance with the work pattern in the following period:	
15	(a) where a female employee is entitled to absent herself from work under section 9(1), the calculation of the number of days shall be determined in accordance with the work pattern under her contract of service immediately preceding the day of confinement or the first day of leave, whichever is the earlier;	
20	(b) where a female employee is entitled to absent herself from work under section 9(1A), (1B), (1C), (1D), (1E) or (1F), the calculation of the number of days shall be determined in accordance with the work pattern under her contract of service immediately preceding the day on which the last of all the eligibility criteria under section 9A(1A), (1B) or (1C), as the case may be, are satisfied;	
	(c) where a female employee is entitled to absent herself from work under section 12AA, the calculation of the number of days shall be determined in accordance with her work	

5 pattern under her contract of service immediately preceding the date on which an application to adopt the child is made (where the child to be adopted is a citizen of Singapore) or the date on which the defendant's pass in respect of the child is issued (where the child to be adopted is not a citizen of Singapore);

10 (d) where a male employee who is a natural father is entitled to absent himself from work under section 12E or 12H, the calculation of the number of days shall be determined in accordance with his work pattern under his contract of service immediately preceding the day on which the last of all the eligibility criteria under section 12F(1) or 12I(1), as the case may be, are satisfied;

15 (e) where a male employee who is an adoptive father is entitled to absent himself from work under section 12H, the calculation of the number of days shall be determined in accordance with his work pattern under his contract of service immediately preceding the date on which an application to adopt the child is made (where the child to be adopted is a citizen of Singapore) or the date on which the defendant's pass in respect of the child is issued (where the child to be adopted is not a citizen of Singapore).

20 5. In this Schedule, the calculation of the number of days on which a self-employed man or woman is entitled to claim lost income from the Government shall be determined in accordance with the work pattern in the following period:

25 (a) where the self-employed woman's entitlement is pursuant to section 9(4), the calculation of the number of days shall be determined in accordance with her work pattern immediately preceding the day of confinement or the first day of leave, whichever is the earlier;

30 (b) where the self-employed woman's entitlement is pursuant to section 9(4A), (4B) or (4C), the calculation of the number of days shall be determined in accordance with her work pattern immediately preceding the day on which the last of all the eligibility criteria under section 9A(1A), (1B) or (1C), as the case may be, are satisfied;

35 (c) where the self-employed woman's entitlement is pursuant to section 12AB, the calculation of the number of days shall be determined in accordance with her work pattern immediately preceding the date on which an application to

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adopt the child is made (where the child to be adopted is a citizen of Singapore) or the date on which the dependant's pass in respect of the child is issued (where the child to be adopted is not a citizen of Singapore);

5 (d) in the case of a self-employed man who is a natural father, where his entitlement is pursuant to section 12E or 12H, the calculation of the number of days shall be determined in accordance with his work pattern immediately preceding the day on which the last of all the eligibility criteria under section 12F(1) or 12I(1), as the case may be, are met;

10 (e) in the case of a self-employed man who is an adoptive father, where his entitlement is pursuant to section 12H, the calculation of the number of days shall be determined in accordance with his work pattern immediately preceding the date on which an application to adopt the child is made (where the child to be adopted is a citizen of Singapore) or the date on which the dependant's pass in respect of the child is issued (where the child to be adopted is not a citizen of Singapore).

15 6. In this Schedule, where the number of days in the second column of Part I, II or III is not a whole number, that number shall be rounded down to the nearest half day or whole day.

20 7. In this Schedule —
25 “week” means a continuous period of 7 days commencing at midnight on Sunday;

“work pattern” means a work pattern described in item 1, 2 or 3 in the first column of Part I, II or III.

30 8. In calculating the number of work days, any day on which an employee is required to work for 5 hours or shorter under his contract of service or on which a self-employed man or woman is engaged in his or her trade, business, profession or vocation for 5 hours or less, shall be regarded as half a day.”.

Related amendment to Industrial Relations Act

35 4. Section 25 of the Industrial Relations Act (Cap. 136, 2004 Ed.) is amended by inserting, immediately after subsection (5), the following subsection:

5 “(5A) Notwithstanding subsection (5)(a), where there is a transfer of an undertaking referred to in section 18A(1) of the Employment Act (Cap. 91), any collective agreement that was entered into between the transferor and the trade union of affected employees and in force immediately before the transfer shall, for the purposes of section 18A(8)(b) of the Employment Act, continue in force between the transferee and the trade union of the affected employees for a period of 18 months after the date of the transfer or until the date of its expiry as specified in the collective agreement, whichever is the later.”.

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No proceedings to be instituted

15 5. No proceedings, whether civil or criminal, shall be instituted in any court or tribunal by or against any employer or employee on account of or in respect of any childcare leave or extended childcare leave which an employee is entitled to or has taken under the Child Development Co-Savings Act (Cap. 38A) or the Employment Act (Cap. 91), as the case may be, prior to the date of commencement of section 3(4).

Savings and transitional provisions

20 6.—(1) Section 34 of the Employment Act (Cap. 91) as in force immediately before the date of commencement of section 2(11) shall continue to apply to any person who, before that date, commits any offence of contravening section 21, 22 or 23 of the Employment Act as in force immediately before that date.

25 (2) Section 76(1) of the Employment Act as in force immediately before the date of commencement of section 2(16) shall continue to apply to any female employee whose confinement occurs, and whose estimated delivery date (as certified by a medical practitioner) for that confinement is, before that date, or to any employer of such a female employee in relation to that female employee as if section 2(16) had not been enacted.

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35 (3) Section 9 of the Child Development Co-Savings Act (Cap. 38A) as in force immediately before the date of commencement of section 3(1)(a) to (l) shall continue to apply to any female employee or self-employed woman whose confinement occurs, and whose

estimated delivery date (as certified by a medical practitioner) for that confinement is, before that date, or to any employer of such a female employee in relation to that female employee as if section 3(1)(a) to (l) had not been enacted.

5 (4) Sections 12AA and 12AB of the Child Development Co-Savings Act as in force immediately before the date of commencement of section 3(2) and (3) shall continue to apply in relation to any female employee or self-employed woman, or to any employer of such a female employee in relation to that female employee if —

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

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

as if section 3(2) and (3) had not been enacted.

20 (5) Section 12E of the Child Development Co-Savings Act as in force immediately before the date of commencement of section 3(5)(a), (b) and (d) shall continue to apply to any male employee or self-employed man who is the natural father of a child, where the mother's confinement occurs, and whose estimated delivery date (as certified by a medical practitioner) for that confinement is, before that date, or to any employer of such a male employee in relation to that male employee as if section 3(5)(a), (b) and (d) had not been enacted.

25 (6) Section 12E(5) of the Child Development Co-Savings Act as in force immediately before the date of commencement of section 3(5)(c) shall continue to apply to the mother of a child, where the mother's confinement occurs, and whose estimated delivery date (as certified by a medical practitioner) for that confinement is, before that date, as if section 3(5)(c) had not been enacted.

30 (7) Section 12H of the Child Development Co-Savings Act as in force immediately before date of the commencement of section 3(6) shall continue to apply to any male employee or self-employed man

5 who is the natural father of a child, where the mother's confinement occurs, and whose estimated delivery date (as certified by a medical practitioner) for that confinement is, before that date, or to any employer of such a male employee in relation to that male employee, as if section 3(6) had not been enacted.

10 (8) Section 12H of the Child Development Co-Savings Act as in force immediately before the date of commencement of section 3(6) shall continue to apply to any male employee or self-employed man who is the adoptive father of a child, or to any employer of such a male employee in relation to that male employee if —

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

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

as if section 3(6) had not been enacted.

20 (9) For a period of 2 years after the date of commencement of any provision of this Act the Minister charged with the responsibility for manpower may, by regulations, prescribe such provisions of a savings or transitional nature consequent on the enactment of the provision, as he may consider necessary or expedient.

EXPLANATORY STATEMENT

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

- (a) to extend the coverage of the Act;
- (b) to improve employment standards for employees;
- (c) to give employers greater flexibility in dealing with employment-related matters;
- (d) to enhance the penalties for certain offences;
- (e) to provide that the number of days on which a female employee is entitled to absent herself from work under section 76(1)(c)(ii) will be

reckoned in accordance with the new Fifth Schedule or 24 days in the aggregate, whichever is the lower;

- (f) to enhance the investigative powers of inspecting officers; and
- (g) to make miscellaneous changes for the better administration of the Act.

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

- (a) to provide that the number of days on which an employee is entitled to absent himself from work or a self-employed person is entitled to claim lost income from the Government when on maternity leave, adoption leave, shared parental leave or paternity leave, as the case may be, where the leave entitlement is based on a number of days in one or more periods, will be reckoned in accordance with the relevant provisions of that Act and the new Schedule to that Act; and
- (b) to provide for the treatment of an employee who was entitled to childcare leave under section 87A of the Employment Act and who subsequently becomes entitled to childcare leave or extended childcare leave under the Child Development Co-Savings Act, and of an employee who ceases to be entitled to childcare leave and is not entitled or ceases to be entitled to extended childcare leave under the Child Development Co-Savings Act and who may be entitled to childcare leave under section 87A of the Employment Act.

This Bill further seeks to make a related amendment to the Industrial Relations Act (Cap. 136).

Clause 1 relates to the short title and commencement.

Clause 2 makes amendments to the Employment Act.

Clause 2(1) amends section 2(2) of the Employment Act to extend the application of the provisions of the Act except the provisions in Part IV to persons who are employed in a managerial or an executive position and earning a monthly salary not exceeding \$4,500 or such other amount as may be prescribed in substitution by the Minister.

Clause 2(2)(a) and (b) amends section 14(2) and inserts a new section 14(2A) of the Employment Act, respectively, to introduce a qualifying service period before an employee employed in a managerial or an executive position who is dismissed with notice or who is dismissed without notice but receives payment of any salary in lieu of notice is eligible to seek reinstatement of employment under section 14(2).

Clause 2(2)(c) amends the heading of section 14 to describe the scope of the section more accurately.

Clause 2(3) amends section 18A of the Employment Act to allow for the purposes of subsection (8)(b) of that section, in the situation where there is a transfer of an undertaking referred to in subsection (1) of that section, any collective agreement entered into between the transferor and the trade union of affected employees and in force immediately before the transfer to continue in force between the transferee and the trade union of affected employees for the period specified in new subsection (8A) of that section.

Clause 2(4) repeals and re-enacts section 26 of the Employment Act to prohibit deductions from the salary of an employee to be made by an employer, unless the deduction is authorised by or under any provision of the Employment Act, or is required to be made by order of a court or other authority competent to make such order, pursuant to a declaration that the employer is an agent for recovery of income tax, property tax or goods and services tax payable by the employee made by the Comptroller of Income Tax, the Comptroller of Property Tax or the Comptroller of Goods and Services Tax (as the case may be), or pursuant to a direction given by the Comptroller of Income Tax under section 91 of the Income Tax Act (Cap. 134).

Clause 2(5) amends section 27 of the Employment Act by deleting subsection (1)(g). This amendment is consequential to the repeal and re-enactment of section 26 by clause 2(4).

Clause 2(6) amends section 29(1) of the Employment Act to provide for the prescription in regulations by the Minister of the upper limit on deductions in substitution for that provided in section 29(1).

Clause 2(7) repeals and re-enacts section 30 of the Employment Act to organise the section into subsections (1), (2) and (3), and to impose an upper limit on the total amount of all deductions under section 27(1)(d) and (e) that can be made in any salary period.

Clause 2(8) amends subsections (3) and (5) of section 31 of the Employment Act to provide for the prescription in regulations by the Minister of the upper limit on deductions in substitution for that provided in those subsections.

Clause 2(9) amends subsection (1) of section 32 of the Employment Act to provide for the prescription in regulations by the Minister of the upper limit on deductions in substitution for that provided in that subsection. Clause 2(9) also makes a consequential amendment to the heading of section 32 and to section 32(i) arising from clause 2(5).

Clause 2(10) amends subsection (1)(b) of section 33 of the Employment Act to increase the salary threshold for employees (other than workmen) as provided in that subsection from \$2,000 to \$2,500.

Clause 2(11) amends section 34 of the Employment Act to introduce a minimum fine and increase the maximum fine for certain offences relating to

payment of salary, and to provide for enhanced penalties if the employer is a repeat offender.

Clause 2(12) amends paragraph (b) of section 35 of the Employment Act to increase the salary threshold for employees (other than workmen) as provided in that paragraph from \$2,000 to \$2,500.

Clause 2(13) deletes and substitutes subsection (6) of section 38 of the Employment Act to provide that for the purpose of calculating under subsection (4) of that section the payment due for overtime to an employee, the employee's hourly basic rate of pay will be determined in accordance with the new Fourth Schedule which is inserted by clause 2(29).

Clause 2(14) amends subsection (2A) of section 40 of the Employment Act to insert a new paragraph (f) to provide that an employee to whom section 40 applies may be required by his employer to exceed the limit of hours prescribed in section 40(1) and to work on a rest day in the case of 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 (Cap. 67). Clause 2(14) also makes a consequential amendment to section 40(3).

Clause 2(15) amends section 45 of the Employment Act to reduce the qualifying service period for payment of retrenchment benefit from 3 years to 2 years.

Clause 2(16) amends section 76 of the Employment Act to provide that the aggregate number of days on which a female employee is entitled to absent herself from work under section 76(1)(c)(ii) shall be no shorter than as reckoned in accordance with the new Fifth Schedule or 24 days, whichever is the lower.

Clause 2(17) inserts a new subsection (4A) of section 88 of the Employment Act to provide that where an employee who is employed in a managerial or an executive position is required by his employer to work on any holiday to which he would otherwise be entitled under section 88(1), the employee must be paid the gross rate of pay for that day and may be given, in lieu of a day off in substitution for that holiday or an extra day's salary at the basic rate of pay, part of a day off on a working day comprising such number of hours as may be agreed between the employee and his employer, and where there is no such agreement, part of a day off comprising 4 hours or a day off on a working day, depending on whether the employee worked on the holiday for a period not exceeding 4 hours or for a period of more than 4 hours.

Clause 2(18) amends section 89 of the Employment Act by inserting a new subsection (10) to provide that the section does not apply to any employee seeking or undergoing medical treatment which, in the opinion of a medical practitioner or medical officer performing the examination under section 89(1), is for cosmetic purposes.

Clause 2(19) amends section 103 of the Employment Act to empower the Commissioner for Labour (the Commissioner) or any inspecting officer to enter without previous notice at any reasonable time any place of employment for the purpose of conducting any audit in relation to the terms and conditions of employment of any employee.

Clause 2(20) introduces new sections 105 and 105A to 105F of the Employment Act. The new section 105 relates to the power of an inspecting officer to arrest without warrant in respect of offences for failure to pay salary under section 21, 22 or 23 read with section 34. The new sections 105A to 105F provide for the mode of arrest, search and seizure.

Clause 2(21) inserts a new section 112A of the Employment Act to make an abetment of any offence under the Act to be an offence in itself.

Clause 2(22) repeals and re-enacts section 113A of the Employment Act to incorporate the modern legislative text on the criminal liability of officers, partners and members of bodies corporate, partnerships and unincorporated associations in respect of offences committed by such entities under the Act. The new section 113A also introduces a presumption that an offence committed by a body corporate, an unincorporated association or a partnership is attributable to the neglect of an officer, a member or a partner of the body corporate, unincorporated association or partnership if he is primarily responsible for the act or omission resulting in the commission of the offence and he has failed to exercise reasonable supervision or oversight in the matter.

Clause 2(23) amends section 114 of the Employment Act to increase the maximum composition sum from \$1,000 to \$5,000.

Clause 2(24) amends section 115 of the Employment Act by inserting new subsections (3B) and (3C) to empower the Commissioner to set aside or vary any order made by him under subsection (1) of that section in the absence of a party concerned or affected by the order.

Clause 2(25) amends section 119 of the Employment Act by inserting new subsection (3) to provide that all proceedings before the Commissioner will be held in private.

Clause 2(26) inserts a new section 123 of the Employment Act to disallow a claim from being divided and pursued in separate proceedings before the Commissioner for the sole purpose of bringing the sum claimed in each of the proceedings within the jurisdiction of the Act.

Clause 2(27) inserts a new section 127A of the Employment Act to protect any person appointed under section 3 or any other person acting under the direction of the Commissioner from liability for anything which is done with reasonable care and in good faith in the execution or purported execution of the Act.

Clause 2(28) amends section 139(2) of the Employment Act to insert a new paragraph (ga) to provide for the making of regulations to provide for any matter relating to the release of any arrested person on any bail or bond under section 105(5).

Clause 2(29) inserts —

- (a) a new Fourth Schedule to the Employment Act to provide for the determination of an employee's hourly basic rate of pay for the purpose of calculating under section 38(4) the payment due for overtime to the employee; and
- (b) a new Fifth Schedule to the Employment Act for the purposes of reckoning the total number of days on which a female employee is entitled to absent herself from work under section 76(1)(c)(ii).

Clause 3 makes amendments to the Child Development Co-Savings Act.

Clause 3(1)(a) to (l) amends section 9(1), (1A), (1B), (1C), (1D), (1E), (1F), (4), (4A), (4B) and (4C) of the Child Development Co-Savings Act to provide that the aggregate number of days on which —

- (a) a female employee is entitled to absent herself from work; or
- (b) a self-employed woman who has lost any income by reason of her ceasing to be actively engaged in her trade, business, profession or vocation and for which she is entitled to claim from the Government that lost income,

shall be no shorter than as reckoned in accordance with Part I, II or III (as the case may be) of the new Schedule to that Act, or 24 or 48 days (as the case may be), whichever is the lower.

Clause 3(1)(m) deletes subsection (5D) of section 9 of the Child Development Co-Savings Act and substitutes new subsections (5D) and (5E). The new subsection (5E) clarifies that "N" includes the total number of days, before the former female employee's contract of employment was terminated upon completion of her contract of service, for which she had also exercised her entitlement to absent herself from work or to receive payment under section 76(1) or (1A) of the Employment Act. The new subsection (5E) also provides that "N" includes the total number of days on which a former female employee's entitlement to absent from work under section 9 has been reduced under section 12E(5).

Clause 3(2) amends section 12AA of the Child Development Co-Savings Act to provide that the aggregate number of days on which a female employee is entitled to adoption leave under subsection (2)(b) of that section shall be no shorter than as reckoned in accordance with Part II of the new Schedule to that Act or 24 days, whichever is the lower.

Clause 3(3) amends section 12AB of the Child Development Co-Savings Act to provide that, for the purposes of adoption leave, the aggregate number of days on which a self-employed woman has lost any income by reason of her ceasing to be actively engaged in her trade, business, profession or vocation and for which she is entitled to claim from the Government that lost income shall be no shorter than as reckoned in accordance with Part II of the new Schedule to that Act or 24 days, whichever is the lower.

Clause 3(4)(a) deletes subsections (3) and (4) of section 12B of the Child Development Co-Savings Act and substitutes a new subsection (3) to provide that —

- (a) an employee who becomes entitled to childcare leave or extended childcare leave (whether before, on or after 1st April 2014) under that Act shall not be entitled to childcare leave or payment for childcare leave under section 87A of the Employment Act, for so long as he is entitled to childcare leave or extended childcare leave under section 12B of the Child Development Co-Savings Act; and
- (b) where an employee has taken (whether before, on or after 1st April 2014) childcare leave under section 87A of the Employment Act in a relevant period, and he subsequently becomes entitled (whether before, on or after 1st April 2014) to childcare leave or extended childcare leave under the Child Development Co-Savings Act, the childcare leave taken under the Employment Act in the relevant period will be treated as childcare leave or extended childcare leave taken under section 12B of the Child Development Co-Savings Act in the same relevant period.

Clause 3(4)(b) deletes and substitutes subsection (5) of section 12B of the Child Development Co-Savings Act to provide that an employee will be entitled to childcare leave under section 87A of the Employment Act in certain circumstances where the employee ceases to be entitled to childcare leave and extended childcare leave (whether before, on or after 1st April 2014) or ceases to be entitled to childcare leave (whether before, on or after 1st April 2014) and is not entitled to extended childcare leave under section 12B of the Child Development Co-Savings Act.

Clause 3(5)(a) amends subsection (1)(b) of section 12E of the Child Development Co-Savings Act to provide that the aggregate number of days on which a male employee is entitled to shared parental leave under subsection (1)(b) of that section shall be no shorter than as reckoned in accordance with Part III of the new Schedule to that Act or 6 days, whichever is the lower.

Clause 3(5)(b) amends subsection (3) of section 12E of the Child Development Co-Savings Act to provide that, for the purposes of shared parental leave, the aggregate number of days on which a self-employed man has lost any

income by reason of his ceasing to be actively engaged in his trade, business, profession or vocation and for which he is entitled to claim from the Government that lost income shall be no shorter than as reckoned in accordance with Part III of the new Schedule to that Act or 6 days, whichever is the lower.

Clause 3(5)(c) deletes and substitutes subsection (5) of section 12E of the Child Development Co-Savings Act to provide that, where an election is made for the natural father to take shared parental leave, the number of days on which a mother's entitlement to absent herself from work and to receive payment, or where the mother is a self-employed woman, her entitlement to claim from the Government income lost by reason of her ceasing to be actively engaged in her trade, business, profession or vocation under section 9 of that Act shall be reduced by the applicable period as specified in that subsection.

Clause 3(5)(d) deletes subsection (9) of section 12E of the Child Development Co-Savings Act.

Clause 3(6)(a) amends subsection (1)(b) of section 12H of the Child Development Co-Savings Act to provide that the aggregate number of days on which a male employee is entitled to paternity leave under subsection (1)(b) of that section shall be no shorter than as reckoned in accordance with Part III of the new Schedule to that Act or 6 days, whichever is the lower.

Clause 3(6)(b) deletes and substitutes subsection (4) of section 12H of the Child Development Co-Savings Act. The new subsection (4) of that section provides that, for the purposes of shared parental leave, the aggregate number of days on which a self-employed man has lost any income by reason of his ceasing to be actively engaged in his trade, business, profession or vocation and for which he is entitled to claim from the Government that lost income shall be no shorter than as reckoned in accordance with Part III of the new Schedule to that Act or 6 days, whichever is the lower.

Clause 3(6)(c) deletes subsection (6) of section 12H of the Child Development Co-Savings Act.

Clause 3(7) introduces a new Schedule to the Child Development Co-Savings Act for the purposes of reckoning the total number of days —

- (a) on which a male employee or a female employee, as the case may be, is entitled to absent himself or herself from work under section 9, 12AA, 12E or 12H of that Act; and
- (b) on which a self-employed man or woman who has lost any income by reason of his or her ceasing to be actively engaged in his or her trade, business, profession or vocation and for which he or she is entitled to claim from the Government that lost income under section 9, 12AB, 12E or 12H of that Act, as the case may be.

Clause 4 makes a related amendment to section 25 of the Industrial Relations Act to allow for the purposes of section 18A(8)(b) of the Employment Act, in

the situation where there is a transfer of an undertaking referred to in section 18A(1) of the Employment Act, any collective agreement entered into between the transferor and the trade union of affected employees and in force immediately before the transfer to continue in force between the transferee and the trade union of affected employees for the period specified in section 25(5A).

Clause 5 provides that no proceedings shall be instituted by or against any employer or employee on account of or in respect of any childcare leave or extended childcare leave that an employee is entitled to or has taken under the Child Development Co-Savings Act or the Employment Act prior to the enactment of clause 3(4).

Clause 6 contains savings and transitional provisions. The clause also empowers the Minister charged with the responsibility for manpower to make regulations to prescribe provisions of a savings or transitional nature consequent on the enactment of any provision of this Bill.

EXPENDITURE OF PUBLIC MONEY

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

Note 1: Employment, PLOM Bill v19 (14.10.13)