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GOVERNMENT GAZETTE

ACTS SUPPLEMENT

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The following Act was passed by Parliament on 18th November 2008 and assented to by the President on 4th December 2008:—

REPUBLIC OF SINGAPORE

No. 32 of 2008.

I assent.

(LS)

S R NATHAN,
President.
4th December 2008.

An Act to amend the Employment Act (Chapter 91 of the 1996 Revised Edition) and to make consequential amendments to the Children Development Co-Savings Act (Chapter 38A of the 2002 Revised Edition).

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

Short title and commencement

1. This Act may be cited as the Employment (Amendment) Act 2008 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

Amendment of section 2

2. Section 2 of the Employment Act is amended —

(a) by deleting the definition of “approved hospital” and substituting the following definition:

“ “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;”;

(b) by inserting, immediately after the definition of “dependant”, the following definition:

“ “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;”;

(c) by deleting the definition of “employee” and substituting the following definition:

“ “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;”;

- (d) by deleting the definition of “employment exchange”;
- (e) by deleting the definition of “medical officer” and substituting the following definition:

“ “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;”;
- (f) by renumbering the section as subsection (1) of that section, and by inserting immediately thereafter the following subsection:

“(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.”.

Repeal of section 7

3. Section 7 of the Employment Act is repealed.

Amendment of section 8

4. Section 8 of the Employment Act is amended by deleting the words “whether made before or after 15th August 1968”.

Amendment of section 14

5. Section 14(7) of the Employment Act is amended by deleting “\$5,000” and substituting “\$10,000”.

Amendment of section 18

6. Section 18(1) of the Employment Act is amended by deleting the words “, whether enacted before or after 15th August 1968,”.

Repeal and re-enactment of section 22

7. Section 22 of the Employment Act is repealed and the following section substituted therefor:

“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.”.

Amendment of section 24

8. Section 24 of the Employment Act is amended by deleting the words “dismissal or” in subsections (1) and (2).

Amendment of section 33

9. Section 33 of the Employment Act is amended by deleting subsection (1) and substituting the following subsection:

“(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.”.

Amendment of heading to Part IV

10. Part IV of the Employment Act is amended by deleting the word “, HOLIDAYS” in the Part heading.

Repeal and re-enactment of section 35

11. Section 35 of the Employment Act is repealed and the following section substituted therefor:

“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.”.

Amendment of section 37

12. Section 37(1) of the Employment Act is amended by inserting, immediately after the words “section 38(2)”, the words “or 40(2A)”.

Amendment of section 40

13. Section 40 of the Employment Act is amended —

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

“(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.”; and

- (b) by deleting the word “No” in subsection (3) and substituting the words “Except in the circumstances described in subsection (2A)(a), (b), (c), (d) and (e), no”.

Amendment of section 41A

14. Section 41A of the Employment Act is amended by deleting “42(4)” in subsections (2) and (3)(b) and substituting in each case “88(4)”.

Repeal of section 42

15. Section 42 of the Employment Act is repealed.

Amendment of section 43

16. Section 43(1) of the Employment Act is amended by deleting the words “42 and 44” and substituting the words “88 and 89”.

Repeal of section 44

17. Section 44 of the Employment Act is repealed.

Amendment of section 45

18. Section 45 of the Employment Act is amended by deleting the words “the termination of his service by the employer” and substituting the words “his dismissal”.

Amendment of section 47

19. Section 47(2) of the Employment Act is amended by deleting the words “, whether made before or after 3rd December 1971,” in the 1st and 2nd lines.

Amendment of section 53

20. Section 53 of the Employment Act is amended —

- (a) by deleting “\$1,000” and “\$2,000” in subsection (1) and substituting “\$5,000” and “\$10,000”, respectively;
- (b) by deleting subsection (2); and
- (c) by deleting “44” in subsection (3)(a) and (b) and substituting in each case “89”.

Amendment of section 61

21. Section 61 of the Employment Act is amended by deleting “\$1,000” and “\$2,000” and substituting “\$5,000” and “\$10,000”, respectively.

Repeal of section 62

22. Section 62 of the Employment Act is repealed.

Amendment of section 66A

23. Section 66A(1) of the Employment Act is amended by deleting the words “30 hours” and substituting the words “35 hours”.

Amendment of section 71

24. Section 71(2) of the Employment Act is amended by deleting “\$1,000” and “\$2,000” and substituting “\$5,000” and “\$10,000”, respectively.

Amendment of section 74

25. Section 74 of the Employment Act is amended by deleting “\$2,000” in the 6th and penultimate lines and substituting in each case “\$5,000”.

Amendment of section 76

26. Section 76(4) of the Employment Act is amended by deleting the word “Notwithstanding” and substituting the words “Subject to”.

Amendment of section 87A

27. Section 87A(3) of the Employment Act is amended by deleting the words “42, 43 and 44” and substituting the words “88, 43 and 89”.

Repeal of Parts X and XI and re-enactment of Part X

28. Parts X and XI of the Employment Act are repealed and the following Part substituted therefor:

“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.”.

Repeal of section 100

29. Section 100 of the Employment Act is repealed.

Amendment of section 101

30. Section 101(1) of the Employment Act is amended by deleting “\$1,000” and “\$100” and substituting “\$5,000” and “\$500”, respectively.

Amendment of section 102

31. Section 102 of the Employment Act is amended by deleting “\$4,000” in subsections (2) (penultimate line) and (4) and substituting in each case “\$5,000”.

Repeal and re-enactment of section 103

32. Section 103 of the Employment Act is repealed and the following section substituted therefor:

“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:

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- (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.”.

Amendment of section 104

33. Section 104 of the Employment Act is amended by deleting the words “On the occasion of an inspection or enquiry visit,” and substituting the words “On entering any place of employment under section 103,”.

Repeal of section 105

34. Section 105 of the Employment Act is repealed.

Repeal and re-enactment of section 107

35. Section 107 of the Employment Act is repealed and the following section substituted therefor:

“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.”.

Amendment of section 108

36. Section 108 of the Employment Act is amended by deleting “\$1,000” and substituting “\$5,000”.

Amendment of section 110

37. Section 110 of the Employment Act is amended by deleting “\$1,000” and substituting “\$5,000”.

Repeal and re-enactment of section 111

38. Section 111 of the Employment Act is repealed and the following section substituted therefor:

“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.”.

Amendment of section 112

39. Section 112 of the Employment Act is amended by deleting “\$1,000” and “\$2,000” and substituting “\$5,000” and “\$10,000”, respectively.

Amendment of section 113

40. Section 113 of the Employment Act is amended by deleting “\$2,000” and substituting “\$5,000”.

Amendment of section 114

41. Section 114 of the Employment Act is amended by deleting “\$200” and substituting “\$1,000”.

Amendment of section 119

42. Section 119(1) of the Employment Act is amended by deleting the words “12 days’ notice” in the 6th line of paragraph (b) and substituting the words “reasonable notice”.

Repeal of section 123

43. Section 123 of the Employment Act is repealed.

Amendment of section 124

44. Section 124 of the Employment Act is amended —

- (a) by deleting the word “Labour” in the 3rd, 12th, 16th and penultimate lines of subsection (1) and substituting in each case the word “Manpower”;
- (b) by inserting, immediately after the word “summons” in the 21st line of subsection (1), the words “to furnish information or documents, produce any article or give statements”;
- (c) by deleting the words “, and any person who commits, in respect of any such inquiry or complaint, any offence described in Chapter X of the Penal Code, shall be punished as provided in that Chapter” in subsection (2) and substituting the words “shall be guilty of an offence”; and
- (d) by inserting, immediately after subsection (2), the following subsection:

“(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.”.

Repeal and re-enactment of section 137

45. Section 137 of the Employment Act is repealed and the following section substituted therefor:

“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.”.

Amendment of section 139

46. Section 139(2) of the Employment Act is amended by deleting “\$1,000” and “\$2,000” in paragraph (h) and substituting “\$5,000” and “\$10,000”, respectively.

Consequential amendments to Children Development Co-Savings Act

47. The following sections of the Children Development Co-Savings Act (Cap. 38A) in force immediately before the commencement of this section are amended by deleting the words “sections 36, 42, 43 and 44” and substituting in each case the words “sections 36, 88, 43 and 89”:

Sections 12A(2)(a), 12B(7)(a) and 12D(4)(a).

Savings and transitional provisions

48.—(1) Every hospital which, immediately before the date of commencement of section 2(a) of this Act, is declared to be an approved hospital by the Minister by notification in the *Gazette* under section 2 of the Employment Act shall be deemed to be an approved medical institution under the Employment Act as amended by this Act.

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