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Skills Development Levy (Amendment) Bill

Bill No. 39/2022.

Read the first time on 28 November 2022.

A BILL

i n t i t u l e d

An Act to amend the Skills Development Levy Act 1979.

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 is the Skills Development Levy (Amendment) Act 2023 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

5 Amendment of section 2

2. Section 2 of the Skills Development Levy Act 1979 (called in this Act the principal Act) is amended —

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

10 ““authorised person” means an authorised person appointed by the Agency under section 14A(1);”;

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

15 ““document” means any thing (in whatever form) in which information or material of any description is recorded or stored, and includes any tape, disk or other storage device or medium;”;

20 (c) by inserting, immediately after the definition of “Fund”, the following definition:

““inspector” means an inspector appointed by the Agency under section 14A(2);”;

(d) by deleting the definition of “remuneration”;

25 (e) by inserting, immediately after the definition of “skills development levy” or “levy”, the following definition:

30 ““statutory authority” means a body corporate established or constituted by or under a public Act to perform or discharge a public function, but excludes a Town Council constituted under the Town Councils Act 1988;” and

- (f) by deleting the full-stop at the end of the definition of “VCC Act” and substituting a semi-colon, and by inserting immediately thereafter the following definition:

““wages” means the remuneration in money, including any bonus, due or granted to a person in respect of the person’s employment but does not include such payments as the Minister may, by notification in the *Gazette*, specify.”.

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Amendment of section 5

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3. Section 5(2) of the principal Act is amended —

- (a) by deleting the word “, fines” in paragraph (b);
 (b) by inserting, immediately after paragraph (b), the following paragraph:

“(ba) all moneys recovered by the Agency pursuant to an order of a court under section 57D or 58 of the SkillsFuture Singapore Agency Act 2016, that relate to the whole or the proportion of an incentive, a grant or a loan out of moneys in the Fund;”; and

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- (c) by inserting, immediately after the words “section 6” in paragraph (c), the words “, all contributions to the SkillsFuture Jubilee Fund established by the Government,”.

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Amendment of section 8

4. Section 8(1) of the principal Act is amended by deleting the words “grants and loans from” and substituting the words “incentives, grants and loans out of moneys in”.

Deletion and substitution of heading to Part 4

5. Part 4 of the principal Act is amended by deleting the Part heading and substituting the following Part heading:

“OFFENCES AND ENFORCEMENT POWERS”.

5 Repeal of sections 12 and 13

6. Sections 12 and 13 of the principal Act are repealed.

New section 14A

7. The principal Act is amended by inserting, immediately after section 14, the following section:

10 “Appointment of authorised persons and inspectors

14A.—(1) The Agency may appoint an employee or agent of the Agency, a public officer or an officer of another statutory authority or any other suitably qualified individual to be an authorised person for the purposes of section 15.

15 (2) The Agency may appoint any of its officers or employees to be an inspector for the purposes of this Act.

(3) The Agency must issue to every authorised person and inspector an identification card that identifies him or her as an authorised person or inspector, as the case may be.

20 (4) An authorised person or inspector must produce his or her identification card for inspection —

(a) before exercising a power conferred on him or her by this Act; and

25 (b) at any time during the exercise of a power conferred on him or her by this Act, if asked to do so.”.

Amendment of section 15

8. Section 15 of the principal Act is amended —

(a) by deleting subsection (1) and substituting the following subsection:

“(1) The powers under this section may be exercised only for the purpose of inquiring into or ascertaining the liability of a person to pay the levy, or whether the levy has been duly paid.”;

- (b) by deleting the words “The Agency, or an employee or agent of the Agency duly authorised by the Agency for the purposes of this section,” in subsection (2) and substituting the words “An authorised person”; 5
- (c) by deleting the word “furnish” in subsections (2)(c) and (f) and (3) and substituting in each case the word “provide”; 10
- (d) by deleting the words “Agency or the Agency’s employee or agent” in subsection (2)(e) and substituting the words “authorised person”;
- (e) by inserting, immediately after the words “this Act” in subsection (2)(e)(iii), the words “or any regulations made under this Act”; 15
- (f) by deleting the word “furnished” in subsection (3)(b) and substituting the word “provided”;
- (g) by deleting the word “Agency” in subsection (3)(c) and substituting the words “authorised person”; and 20
- (h) by inserting, immediately after subsection (3), the following subsection:

“(4) If any document is kept in electronic form, the power of an authorised person who is an employee of the Agency, a public officer or an officer of another statutory authority — 25

- (a) to inspect and make copies of or take extracts from any document under subsection (2)(d) includes the power to —

- (i) access any computer or other equipment (including a mobile telephone, thumb drive or hard disk) in which the document is stored; and 30

(ii) require any person having charge of, or otherwise concerned with the operation of, the computer or other equipment to provide assistance in gaining such access; and

(b) to take possession of the document under subsection (2)(e) includes the power to —

(i) make copies of or take extracts from the document in legible or electronic form; and

(ii) transfer the information from the document to a thumb drive, hard disk, tape or other storage device.”.

New section 15A

9. The principal Act is amended by inserting, immediately after section 15, the following section:

“Powers of inspectors

15A.—(1) An inspector may, for the purpose of investigating an offence under this Act or any regulations made under this Act, exercise all or any of the following powers:

(a) the powers conferred on an authorised person under section 15(2), (3) and (4) as if a reference to an authorised person in those provisions were a reference to an inspector;

(b) the powers under subsection (2).

(2) An inspector may —

(a) require any person whom the inspector reasonably believes to have committed the offence to provide evidence of the person’s identity;

(b) require, by written order, the attendance before the inspector of any person within the limits of Singapore who, from any information given or otherwise

obtained by the inspector, appears to be acquainted with the circumstances of the case;

- (c) examine orally any person reasonably believed to be acquainted with the facts or circumstances of the case or with such other matter as the inspector may specify, and reduce to writing the answer given or statement made by that person; 5
- (d) without charge, search for, seize and remove any document (subject to paragraph (e) in relation to a document kept in electronic form) or thing from any premises, as the inspector may consider necessary; and 10
- (e) if the inspector is unable to make copies of or take extracts from any document, or transfer the information from any document, in exercise of the powers under section 15(4)(b) — 15
 - (i) seize the computer or other equipment (including a mobile telephone, thumb drive or hard disk) in which the document is stored, as evidence in proceedings for an offence mentioned in subsection (1); and 20
 - (ii) require any person having charge of, or otherwise concerned with the operation of, the computer or other equipment to disclose any password or access code for gaining access to the document stored in the computer or other equipment. 25

(3) Any person examined under this section is bound to state truly what the person knows of the facts and circumstances concerning matters under this Act or any regulations made under this Act, except that the person need not say anything that might expose him or her to a criminal charge, penalty or forfeiture. 30

(4) A statement made by any person examined under this section must —

- (a) be reduced to writing; 35

- (b) be read over to the person;
- (c) if the person does not understand English, be interpreted in a language that he or she understands; and
- (d) after correction (if necessary), be signed by the person.

(5) This section applies in relation to any investigation into an offence under this Act (other than an offence under the repealed section 12) that commences on or after the date of commencement of section 9 of the Skills Development Levy (Amendment) Act 2023, whether the offence was committed before, on or after that date.

(6) In subsection (5), “repealed section 12” means section 12 of this Act as in force immediately before the date of commencement of section 6 of the Skills Development Levy (Amendment) Act 2023.”.

Repeal and re-enactment of section 16

10. Section 16 of the principal Act is repealed and the following section substituted therefor:

“Penalty for obstructing employee, officer, etc.

16.—(1) A person must not —

- (a) obstruct or hinder an employee, an officer, an agent or a delegate of the Agency, an authorised person or an inspector, who is exercising any power or discharging any duty under this Act or any regulations made under this Act; or
- (b) neglect or refuse to attend before an inspector as required under section 15A, or otherwise fail to comply with a lawful demand of an inspector under section 15A.

(2) A person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not

exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both.”.

New Part 5 heading

11. The principal Act is amended by inserting, immediately before section 19, the following Part heading:

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“PART 5
MISCELLANEOUS”.

Miscellaneous amendments

12. The principal Act is amended —

(a) by deleting the word “remuneration” in the following provisions and substituting in each case the word “wages”:

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Section 2 (definition of “employer”)

Section 3(1)(a) and (2)

Section 11(2)(a); and

(b) by deleting the word “furnish” wherever it appears in the following provisions and substituting in each case the word “provide”:

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Section 21(4)

First Schedule, paragraph 8(1) and the paragraph heading.

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Saving and transitional provisions

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

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EXPLANATORY STATEMENT

This Bill seeks to amend the Skills Development Levy Act 1979 (the Act) for the following main purposes:

- (a) to replace the definition of “remuneration” with a new definition of “wages”, so as to facilitate employers’ compliance with the requirement to pay the skills development levy (the levy);
- (b) to clarify what the Skills Development Fund (the Fund) consists of;
- (c) to provide for the appointment of authorised persons and inspectors;
- (d) to remove the enforcement powers and offences relating to incentives, grants and loans out of moneys in the Fund, as those enforcement powers and offences will be consolidated in the SkillsFuture Singapore Agency Act 2016 (to be amended by the SkillsFuture Singapore Agency (Amendment) Bill);
- (e) to enhance the enforcement powers in the Act relating to the collection of the levy;
- (f) to make miscellaneous amendments in connection with the administration of the Act by the SkillsFuture Singapore Agency (the Agency).

Clause 1 relates to the short title and commencement.

Clause 2 replaces the definition of “remuneration” in section 2 with a new definition of “wages”. An employer is currently required to pay the levy on a monthly basis, similar to the payment of contributions to the Central Provident Fund which is generally payable monthly. The new definition of “wages” mirrors the definition of “wages” in section 2(1) of the Central Provident Fund Act 1953, with a view to facilitating employers’ compliance with the requirement to pay the levy.

Clause 2 also inserts new definitions of certain expressions used in the Bill.

Clause 3 amends section 5(2) to clarify what the Fund consists of. In particular, the amendment of section 5(2)(b) has the effect that fines recovered from proceedings under the Act will be paid into the Consolidated Fund instead.

Clause 4 amends section 8(1) to clarify that the Agency may disburse incentives, grants and loans out of moneys in the Fund for the purposes of the Act.

Clause 5 amends the Part heading of Part 4 to designate the Part as relating to “Offences and Enforcement Powers”.

Clause 6 repeals section 12 (on offences for false or misleading information, statement or document, etc., relating to any incentive, grant or loan) and section 13 (on repayment to the Agency of money wrongfully obtained upon conviction of an

offence under section 12) as the matters covered by those sections will be set out in the SkillsFuture Singapore Agency Act 2016 (to be amended by clause 13 of the SkillsFuture Singapore Agency (Amendment) Bill).

Clause 7 inserts a new section 14A which provides for the appointment of authorised persons and inspectors, and related matters. Both authorised persons and inspectors are individuals, but the difference in their respective appointments is that an employee or agent of the Agency, a public officer or an officer of another statutory authority or any other duly qualified individual (who may be a private individual) can be appointed as an authorised person whereas only an employee or an officer of the Agency can be appointed as an inspector. The other difference between authorised persons and inspectors is that authorised persons exercise powers under section 15 which are for the purposes of more routine inquiries or ascertainment of the liability of a person to pay the levy, or whether the levy has been duly paid, whereas inspectors have more intrusive powers under the new section 15A for the purposes of investigating an offence under the Act or any regulations made under the Act.

Clause 8 amends section 15 mainly to insert the new subsection (4) which provides new powers relating to inspection and taking possession of electronic documents. Amendments are also made to section 15 consequential upon the new section 14A (on appointment of authorised persons) inserted by clause 7, and upon the repeal of sections 12 and 13 by clause 6.

Clause 9 inserts a new section 15A which sets out the powers of inspectors appointed under the new section 14A, for the purpose of investigating an offence under the Act or any regulations made under the Act.

Clause 10 repeals and re-enacts section 16 mainly to re-enact the current offence with amendments that are consequential upon other amendments in the Bill.

Clause 11 inserts a Part heading immediately before section 19, to designate sections 19 to 25 as Part 5 of the Act entitled “Miscellaneous”.

Clause 12 amends various provisions of the Act to make miscellaneous amendments consequential upon the new definition of “wages”, and to make editorial changes to certain words to align with current legislative drafting practice.

Clause 13 empowers the Minister to make provisions of a saving or transitional nature for any provision of the Bill for a period of 2 years after the date of commencement of any provision of the 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.
