



THE STATUTES OF THE REPUBLIC OF SINGAPORE

RETIREMENT AND RE-EMPLOYMENT ACT

(CHAPTER 274A)

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Retirement and Re-employment Act

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An Act to provide for a minimum retirement age for employees, for the re-employment of employees and for matters connected therewith.

[4/2011]

[1st July 1993]

PART I

PRELIMINARY

Short title

1. This Act may be cited as the Retirement and Re-employment Act.

[4/2011]

Interpretation

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

“collective agreement” has the same meaning as in the Industrial Relations Act (Cap. 136);

“Commissioner” means the Commissioner for Labour appointed under section 3(1) of the Employment Act (Cap. 91);

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

“eligible employee” means an employee who satisfies the re-employment eligibility criteria set out in section 7(1);

“employee” means a person who has entered into or works under a contract of service with an employer;

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

(a) the Government;

(b) any statutory authority;

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

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

“employment assistance payment” means such sum of money which is payable by an employer to an eligible employee under section 7C(1);

“investigating officer” means any person appointed as an investigating officer under section 3;

“prescribed minimum retirement age” means such other minimum retirement age as may be prescribed by the Minister under section 4(1);

“re-employment”, with its grammatical variations and cognate expressions, means the employment of an employee by the same employer on or after the date the employee attains the specified age;

“salary” has the same meaning as in section 2(1) of the Employment Act;

“specified age” means —

- (a) in relation to any person or class of persons as may be prescribed by the Minister by notification in the *Gazette*, such age as may be prescribed by the Minister in the *Gazette* in relation to such person or class of persons; and
- (b) in relation to any other person —
 - (i) the prescribed minimum retirement age; or
 - (ii) where the retirement age stipulated in an employment contract is higher than the prescribed minimum retirement age, the retirement age so stipulated;

“tripartite guidelines” means the guidelines relating to re-employment issued by the Minister under section 11B.

[4/2011]

(2) For the purposes of this Act, an employee shall be treated as dismissed by his employer if —

- (a) the contract under which he is employed by the employer is terminated by the employer, whether it is so terminated by notice or without notice; or
- (b) the employer retires the employee, or requires or causes that employee to retire or resign on the ground of age.

(3) In this Act, a person shall be regarded as attaining or having attained N years of age (where N is a positive integer) or other higher age on or after the Nth or other anniversary, as the case may be, of the date of his birth.

[4/2011]

Officers

3.—(1) The Commissioner for Labour shall be the officer in charge of the general administration of this Act.

[4/2011]

(2) Any Deputy Commissioner for Labour, Principal Assistant Commissioner for Labour or Assistant Commissioner for Labour

appointed under the Employment Act (Cap. 91) may, subject to such limitations as may be prescribed, perform all duties imposed and exercise all powers conferred on the Commissioner by this Act, and every duty so performed and power so exercised shall be deemed to have been duly performed and exercised by the Commissioner for the purpose of this Act.

[4/2011]

(3) The Minister may appoint such number of investigating officers, conciliation officers and other officers as he may consider necessary or expedient for the purpose of this Act.

[4/2011]

(4) The Minister may, from time to time, make rules for the conduct of the duties of officers under this Act.

[4/2011]

PART II

MINIMUM RETIREMENT AGE

Minimum retirement age

4.—(1) Notwithstanding anything in any other written law, contract of service or collective agreement, the retirement age of an employee shall be not less than 62 years or such other age, up to 67 years, as may be prescribed by the Minister.

[4/2011]

(2) No employer shall dismiss on the ground of age any employee who is below 62 years of age or the prescribed minimum retirement age.

[4/2011]

(3) Any employer who contravenes subsection (2) 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.

Salary adjustment at 60 years of age

5.—(1) This section shall only apply to employees who attain 60 years of age on or after 1st January 1999, and any reference in this section to an employee shall be a reference to any such employee.

[49/98; 4/2011]

(2) Where a retirement age higher than 60 years is prescribed by or under section 4(1), an employer may, from time to time and in accordance with this section, reduce the salary of any of his employees on or at any time after the employee attains 60 years of age.

[49/98; 4/2011]

(3) An employer who intends to reduce the salary of any of his employees under this section shall, before the employee concerned attains 60 years of age or other higher age, as the case may be, give reasonable prior notice in writing to the employee of his intention to reduce his salary, stating the amount of such reduction and the effective date of such reduction, and giving him a reasonable opportunity of being heard.

[49/98; 4/2011]

(4) If an employee does not agree with any proposed reduction in his salary, he may either retire or be retired by his employer on or after attaining 60 years of age notwithstanding any of the provisions of this Act.

[49/98; 4/2011]

(5) An employer may reduce under this section the salary of different employees differently except that —

- (a) the reduction shall be based on reasonable factors other than age (including but not limited to the employee's productivity, performance, duties and responsibilities, and the wage system such as the seniority system applicable to the employee) unless age is a bona fide occupational qualification reasonably necessary to the ordinary performance of the employee's job; and
- (b) no employer may reduce the salary of any of his employees by an aggregate amount which exceeds 10% of the salary paid or payable to the employee when that employee attains or attained 60 years of age.

[49/98; 4/2011]

(6) Notwithstanding any law to the contrary, the service of a written notice under subsection (3) by an employer on any of his employees shall not be regarded as a termination or repudiation of the contract of employment between the employer and the employee, or as requiring or causing the employee to retire or resign on the ground of age.

[49/98; 4/2011]

Invalidity of term of contract of service

6. Any term of a contract of service or collective agreement made before, on or after 1st July 1993 which provides for a retirement age which is less than 62 years or the prescribed minimum retirement age shall be void to the extent that it is so less favourable.

[4/2011]

PART III

RE-EMPLOYMENT OF ELIGIBLE EMPLOYEES

Re-employment eligibility criteria

7.—(1) For the purposes of this Act, an employee shall be eligible for re-employment if —

- (a) he attains the specified age on or after 1st January 2012; and
- (b) upon attaining or having attained the specified age or other higher age, which higher age shall not exceed 65 years or such other age, up to 67 years, as may be prescribed by the Minister, he —
 - (i) is assessed by his employer to have at least satisfactory work performance; and
 - (ii) is medically fit to continue working.

[4/2011]

(2) For the purpose of subsection (1)(b)(ii), an employee shall be presumed to be medically fit to continue working, unless the employer of the employee proves, on a balance of probabilities, that the employee is not medically fit.

[4/2011]

Employer to re-employ eligible employee

7A.—(1) An employer shall, before his employee (being an eligible employee) attains the specified age, offer re-employment to that employee and the obligation of the employer to re-employ that employee shall begin from the time that employee attains the specified age, until that employee attains the age of 65 years or such other age, up to 67 years, as may be prescribed by the Minister.

[4/2011]

(2) Where —

- (a) an employee who attains the specified age on or after 1st January 2012 continues to work for his employer after he has attained the specified age; and
- (b) the employer does not, upon that employee attaining the specified age —
 - (i) re-employ that employee; or
 - (ii) terminate the employment of that employee,

then any right, privilege, obligation or liability acquired, accrued or incurred by the employee under the contract of service between him and his employer before he attains the specified age shall not be affected.

[4/2011]

(3) Where subsection (2) applies, the employer referred to in that subsection —

- (a) may, at any time after the employee referred to in that subsection has attained the specified age —
 - (i) re-employ the employee; or
 - (ii) terminate the employment of the employee if the employee does not satisfy the eligibility criteria set out in section 7(1); and
- (b) shall be deemed to have complied with the requirement under subsection (1) for the period between —
 - (i) the time the employee attains the specified age; and

- (ii) the time the employer re-employs the employee or terminates the employment of the employee under paragraph (a).

[4/2011]

(4) For the purposes of re-employment under subsection (1) or (3)(a)(i), a new contract of service shall be entered into by the employee and his employer in which the job scope and the terms and conditions may vary from those in the previous contract of service between them.

[4/2011]

(5) Any variation referred to in subsection (4) shall be based on reasonable factors such as, but not limited to, the employee's productivity, performance, duties and responsibilities, and the wage system such as the seniority system applicable to the employee.

[4/2011]

(6) Unless otherwise agreed by the parties to a new contract of service for the purpose of re-employment under subsection (1) or (3)(a)(i), the period of employment stipulated in the contract shall not be less than one year at any one time.

[4/2011]

(7) Notwithstanding subsection (6), where the period between —

- (a) the effective date of the coming into force of a new contract of service for the purpose of re-employment under subsection (1) or (3)(a)(i); and
- (b) the date on which the employee (who is a party to the new contract of service) attains the age of 65 years or such other age, up to 67 years, as may be prescribed by the Minister,

is less than one year, the period of employment stipulated in the new contract of service may be for that shorter period.

[4/2011]

(8) Where an employer does not intend to re-employ an employee because the employee does not satisfy the eligibility criteria set out in section 7(1), the employer shall, in so far as is reasonably practicable, give notice in writing to the employee, within a reasonable period before he terminates the employment of the employee, stating his intention to do so.

[4/2011]

(9) Notwithstanding any of the provisions of this Act, an eligible employee may retire or be retired, if he does not wish to be employed by his employer on or after the date he attains the specified age.

[4/2011]

(10) An eligible employee who intends to retire shall, in so far as is reasonably practicable, give notice in writing to his employer, within a reasonable period before he retires, stating his intention to do so.

[4/2011]

Period of service under previous employment contract and under re-employment contract

7B.—(1) Unless otherwise agreed by the parties to a contract of service, and subject to subsections (2) and (3), when a new contract of service is entered into between an employer and his employee pursuant to section 7A(4), then for the purposes of determining any right, privilege, obligation or liability to be acquired, accrued or incurred by the employee under his new contract of service, any period for which the employee has served under his employer under the previous contract of service before he commences his service under the new contract of service shall be disregarded.

[4/2011]

(2) Any period for which an employee has served under his employer before he commences his service under the new contract of service entered into pursuant to section 7A(4) shall be reckoned for the purposes of —

- (a) computing the minimum period of 3 months for entitlement to annual leave under section 43(1) of the Employment Act (Cap. 91); and
- (b) determining the period of service of an employee for entitlement to paid sick leave under section 89(1) and (2) of the Employment Act.

[4/2011]

(3) Where there is more than one contract of service entered into by an employee and his employer pursuant to section 7A(4), the aggregate periods for which the employee has served under his employer under those contracts of service shall be treated as continuous service for the purposes of determining any right,

privilege, obligation or liability acquired, accrued or incurred by the employee under those contracts.

[4/2011]

Employment assistance payment

7C.—(1) If an employer is unable to re-employ an eligible employee in accordance with section 7A because the employer is unable to find a vacancy in his establishment which is suitable for the eligible employee despite making reasonable attempts to do so in accordance with the tripartite guidelines, the employer shall be required to —

- (a) retire the eligible employee, or allow him to retire, on or after the date he attains the specified age; and
- (b) offer an employment assistance payment to the eligible employee.

[4/2011]

(2) Notwithstanding subsection (1), an employer shall not be required to offer any employment assistance payment to an eligible employee who informs his employer of his decision not to continue to be employed by his employer on or after the date he attains the specified age.

[4/2011]

(3) Subject to subsection (4), the employment assistance payment shall be —

- (a) a single lump-sum payment paid by an employer by the last day of employment of the eligible employee; or
- (b) other mutually agreed arrangements.

[4/2011]

(4) In determining the amount of employment assistance payment to be paid under this section, an employer shall take into account the tripartite guidelines.

[4/2011]

PART IV
REMEDIES

Remedies for unlawful dismissal on ground of age

8.—(1) Where any employee below the specified age considers that he has been unlawfully dismissed on the ground of age, he may, within one month of the dismissal, make representations in writing to the Minister to be reinstated in his former employment.

[4/2011]

(2) The Minister may, before making a decision on any such representations, direct the Commissioner in writing to inquire and report whether in his opinion the employee has been unlawfully dismissed on the ground of age.

[4/2011]

(3) If, after considering any report made by the Commissioner under subsection (2), the Minister is satisfied that the employee has been unlawfully dismissed by his employer on the ground of age, the Minister may, notwithstanding any rule of law or agreement to the contrary —

- (a) direct the employer to reinstate the employee in his former employment and to pay the employee an amount that is equivalent to the salary that the employee would have earned had he not been unlawfully dismissed by the employer; or
 - (b) direct the employer to pay such amount of salary as compensation as the Minister may consider just and equitable having regard to all the circumstances of the case,
- and the employer shall comply with the direction of the Minister.

[4/2011]

(4) In determining the amount of compensation to be awarded under subsection (3), the Minister shall, in particular, have regard to —

- (a) the loss sustained by the employee in consequence of the unlawful dismissal;
- (b) the prospects of the employee in obtaining alternative employment;
- (c) the steps taken by the employee to mitigate his loss;

- (d) the period the employee has served with the employer; and
- (e) the age of the employee.

(5) The decision of the Minister on any representation made under this section shall be final.

[4/2011]

(6) Any direction of the Minister under subsection (3) shall operate as a bar to any action for damages by the employee in any court in respect of the unlawful dismissal on the ground of age.

(7) Any employer who fails to comply with the direction of the Minister under subsection (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

[4/2011]

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

(9) The Minister may, by writing under his hand, delegate all or any of his powers under this section (except this power of delegation) to any public officer.

(10) A delegation under subsection (9) is revocable at will and no delegation shall prevent the exercise of any power by the Minister.

(11) A power so delegated, when exercised by the delegate, shall for the purposes of this section be deemed to have been exercised by the Minister.

Conciliation

8A.—(1) An employee who has a re-employment dispute with his employer which relates to any matter referred to in subsection (4)(a) or (b) must, before making any representation to the Minister under section 8B, first notify the Commissioner in writing of the re-

employment dispute no later than one month after the last day of his employment with his employer.

[4/2011]

(2) An employee (being an employee who attains the specified age on or after 1st January 2012) who considers that he has been dismissed without just cause or excuse by his employer on or after the date the employee attains the specified age must, before making any representation to the Minister under section 8B, first notify the Commissioner in writing of the dismissal no later than one month after the last day of his employment with his employer.

[4/2011]

(3) An employee who has a re-employment dispute with his employer which relates to any matter referred to in subsection (4)(c) or (d) must, before lodging a claim with the Commissioner under section 8C, first notify the Commissioner in writing of the re-employment dispute no later than 6 months after the last day of his employment with his employer.

[4/2011]

(4) For the purposes of this Part, a re-employment dispute means a dispute over any of the following matters:

- (a) the denial of re-employment to an employee on the ground that the employee does not satisfy the eligibility criteria set out in section 7(1);
- (b) the denial of re-employment, in accordance with section 7C(1), to an employee on the ground that the employer is unable to find a vacancy in his establishment which is suitable for the employee;
- (c) the reasonableness of the terms and conditions of any re-employment offer made pursuant to section 7A(1) or (3)(a)(i) by an employer;
- (d) the reasonableness of the amount of any employment assistance payment offered to an employee pursuant to section 7C(1)(b).

[4/2011]

(5) Upon receipt of the notice referred to in subsection (1), (2) or (3), the Commissioner may consult, or direct a conciliation officer to

consult, the employer and employee concerned in an endeavour to assist them to reach an agreement through conciliation.

[4/2011]

Remedies relating to unreasonable denial of re-employment and dismissal without just cause or excuse

8B.—(1) An employee who has a re-employment dispute with his employer which relates to any matter referred to in section 8A(4)(a) or (b), or an employee (being an employee who attains the specified age on or after 1st January 2012) who considers that he has been dismissed without just cause or excuse by his employer on or after the date the employee attains the specified age, may at any time after any conciliation conducted pursuant to section 8A(5), make representations in writing to the Minister to be re-employed.

[4/2011]

(2) Any representations to the Minister under subsection (1) shall be made no later than one month after the conclusion of any conciliation conducted pursuant to section 8A(5).

[4/2011]

(3) Where an employee who is dismissed by his employer makes any representations to the Minister in accordance with subsection (1) to be re-employed, such representations made shall operate as a bar to —

- (a) the lodging of any claim under section 8C(1) in relation to the matter referred to in section 8A(4)(d), by that employee in respect of that dismissal; and
- (b) the making of any representations to the Minister in respect of that dismissal under section 14(2) of the Employment Act (Cap. 91) or section 35(3) of the Industrial Relations Act (Cap. 136).

[4/2011]

(4) Where an employee who is dismissed by his employer makes any representations to the Minister in respect of that dismissal under section 14(2) of the Employment Act or section 35(3) of the Industrial Relations Act, such representations made shall operate as a bar to —

- (a) the making of any representations to the Minister in respect of that dismissal under subsection (1); and

- (b) the lodging of any claim under section 8C(1) in relation to the matter referred to in section 8A(4)(d), by that employee in respect of that dismissal.

[4/2011]

(5) The Minister may, before making a decision on any such representations made under subsection (1), direct the Commissioner to inquire and report whether in the Commissioner's opinion the employee has been unreasonably denied of re-employment by his employer, or has been dismissed without just cause or excuse by his employer, as the case may be.

[4/2011]

(6) If, after considering any report made by the Commissioner under subsection (5), the Minister is satisfied that the employee has been unreasonably denied of re-employment by his employer, or dismissed by his employer without just cause or excuse, as the case may be, the Minister may, notwithstanding any rule of law or agreement to the contrary —

- (a) direct the employer to re-employ the employee; or
- (b) direct the employer to pay such amount of compensation as the Minister may consider just and equitable having regard to all the circumstances of the case,

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

[4/2011]

(7) Notwithstanding any other provision in this section, if the Minister —

- (a) after considering any report made by the Commissioner under subsection (5); and
- (b) is satisfied that in relation to a dispute, being a re-employment dispute over the matter referred to in section 8A(4)(b), the employer had made reasonable attempts to find a vacancy in his establishment which is suitable for his employee,

the Minister may allow the employee to lodge a claim for employment assistance payment with the Commissioner within such time as the Minister may determine.

[4/2011]

(8) Sections 8C(4), 8D, 8E and 8F shall apply in relation to any claim lodged by an employee pursuant to subsection (7).

[4/2011]

(9) In determining the amount of compensation to be awarded under subsection (6), the Minister may, in particular, have regard to —

(a) the tripartite guidelines; and

(b) the steps taken by the employer to re-employ his employee.

[4/2011]

(10) The decision of the Minister on any representation made under this section shall be final.

[4/2011]

(11) Any direction of the Minister under subsection (6) shall operate as a bar to any action for damages by the employee in any court in respect of the unreasonable denial of re-employment, or the dismissal of the employee without just cause or excuse, as the case may be.

[4/2011]

(12) Any employer who fails to comply with the direction of the Minister under subsection (6) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

[4/2011]

(13) Where any amount of compensation to be paid by an employer under subsection (6) is not paid in accordance with the direction of the Minister and the employer has been convicted of an offence under subsection (12), the amount or part thereof that remains unpaid shall be recoverable by the court as if it were a fine and the amount so recovered shall be paid to the employee entitled to payment under the direction of the Minister.

[4/2011]

(14) The Minister may, by writing under his hand, delegate all or any of his powers under this section (except the power of delegation conferred by this section) to any public officer.

[4/2011]

(15) A delegation under subsection (14) is revocable at will and no delegation shall prevent the exercise of any power under this section by the Minister.

[4/2011]

(16) A power so delegated, when exercised by the delegate, shall for the purposes of this section be deemed to have been exercised by the Minister.

[4/2011]

Remedies relating to unreasonable terms and conditions of re-employment contract and employment assistance payment

8C.—(1) An employee who has a re-employment dispute with his employer relating to any matter referred to in section 8A(4)(c) or (d), may at any time after any conciliation conducted pursuant to section 8A(5), lodge a claim with the Commissioner for the purpose of making a claim for the payment or the amount of the employment assistance payment, as the case may be.

[4/2011]

(2) Any claim lodged with the Commissioner under subsection (1) shall be made no later than one month after the conclusion of any conciliation conducted pursuant to section 8A(5).

[4/2011]

(3) Where an employee who is dismissed by his employer lodges any claim with the Commissioner in accordance with subsection (1) in relation to the matter referred to in section 8A(4)(d), such claim shall operate as a bar to —

- (a) the making of any representations under section 8B(1) by that employee in respect of that dismissal; and
- (b) the making of any representations to the Minister in respect of that dismissal under section 14(2) of the Employment Act (Cap. 91) or section 35(3) of the Industrial Relations Act (Cap. 136).

[4/2011]

(4) In making a decision on any claim in relation to the employment assistance payment, the Commissioner —

- (a) may take into account the tripartite guidelines and any steps taken by the employer to re-employ his employee; and
- (b) may, notwithstanding paragraph (a), make an order in the prescribed form for any amount of employment assistance payment to be paid by an employer to an employee as the

Commissioner considers just and equitable having regard to all the circumstances of the case.

[4/2011]

Procedure for making and hearing claims

8D.—(1) The procedure for the making and hearing of claims in relation to the employment assistance payment shall be as follows:

- (a) an employee claiming shall lodge a claim in the prescribed form at the office of the Commissioner, specifying briefly the subject-matter of the claim and the remedy sought to be obtained, or he may make his claim in person to the Commissioner who shall immediately reduce it or cause it to be reduced in writing;
- (b) upon receipt of the claim and of the registration fee payable by the employee in accordance with the prescribed rate of fees, the Commissioner shall summon in writing the employer against whom the claim is made, giving reasonable notice to him of the nature of the claim and the time and place at which the claim will be inquired into, and the Commissioner shall also notify or summon all persons whose interests may appear to him likely to be affected by the proceedings;
- (c) if any person interested has been duly summoned by the Commissioner to attend an inquiry, and makes default in so doing, the Commissioner may subsequently summon in writing that person, giving reasonable notice to him of the nature of the claim and the subsequent time and place at which the claim will be inquired into, and the summons may be delivered by ordinary post to his last known address, and shall be deemed to be duly served on that person;
- (d) the Commissioner may also summon such witnesses as either party may wish to call;
- (e) at any time between the issuing of summons and the hearing of the claim, the Commissioner may hold or cause to be held a preliminary inquiry at which the employee claiming and the employer against whom the claim is made shall be present after having been notified in writing of the inquiry;

- (f) at the preliminary inquiry, the employee may amend or withdraw the whole claim or portion thereof, or reach a settlement in respect of the claim;
- (g) if a settlement is effected at a preliminary inquiry in respect of a claim or portion thereof, the Commissioner shall make an order recording the terms of the settlement and that order shall have effect as if it were an order made under paragraph (h);
- (h) at the time and place appointed, the parties shall attend and state their case before the Commissioner and may call evidence, and the Commissioner, having heard on oath or affirmation the statements and evidence and any other evidence which he may consider necessary, shall give his decision and make such order in the prescribed form as may be necessary for giving effect to the decision;
- (i) if any person interested has been duly summoned by the Commissioner to attend at the inquiry and makes default in so doing, the Commissioner may hear the claim and make his decision in the absence of that person notwithstanding that the interest of that person may be prejudicially affected by his decision; and
- (j) the Commissioner shall keep a case book, in which he shall enter notes of the evidence taken and the decisions arrived at in each case heard before him and shall authenticate them by attaching his signature thereto, and the record in the case book shall be sufficient evidence of the giving of any decision, or of the making of any order, and of the terms thereof; and any person interested in a dispute, a decision or an order, shall be entitled to a copy of the record upon payment of the prescribed fee.

[4/2011]

(2) Where an employer admits to the Commissioner in writing that an amount of the employment assistance payment is owing by him to an employee, he need not be summoned before the Commissioner and the Commissioner may make such order in his absence.

[4/2011]

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

[4/2011]

(4) In hearing claims or conducting proceedings under this section, the Commissioner —

- (a) shall not be bound to act in a formal manner or in accordance with the Evidence Act (Cap. 97) but may inform himself on any matters in such manner as he thinks just; and
- (b) shall act according to equity, good conscience and the merits of the case without regard to technicalities.

[4/2011]

(5) In proceedings before the Commissioner, a party —

- (a) being an employee and a member of a trade union that has been given recognition under Part III of the Industrial Relations Act (Cap. 136) by the employer of the employee, may be represented by an officer of the trade union; and
- (b) being an employer may be represented by one of his employees, but shall not be represented by an advocate or solicitor or a paid agent.

[4/2011]

(6) Any summons issued under subsection (1)(b) or (d) or section 9A(1), may be served on any person in the same manner as the service of a summons under section 116 of the Criminal Procedure Code (Cap. 68).

[4/2011]

(7) Any summons sent by registered post to any person in accordance with subsection (6) shall be deemed to be duly served on the person at the time when the summons would in the ordinary course of post be delivered and, in proving service of the summons, it shall be sufficient to prove that the envelope containing the summons was properly addressed, stamped and posted by registered post.

[4/2011]

(8) No fees other than a registration fee in accordance with the prescribed rate of fees shall be charged by the Commissioner in

respect of processes issued by him under this section and all orders made by the Commissioner shall, notwithstanding that they may in respect of the amount or value be in excess of the ordinary jurisdiction of the court, be enforced by a District Court in the same manner as a judgment of that Court and all necessary processes may be served by the Court on behalf of the Commissioner.

[4/2011]

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

[4/2011]

(10) Nothing in this section shall limit or affect the jurisdiction of any court.

[4/2011]

Joining of claims

8E.—(1) In proceedings under section 8D where it appears to the Commissioner that there is more than one employee having a common claim or similar claims against the same employer or person liable, it shall not be necessary for each of them to make a separate claim under that section, but the Commissioner may, if he thinks fit, permit one or more of them to lodge a claim and to attend and act on behalf of and generally to represent the others, and the Commissioner may proceed to adjudicate on the several or joint claim of each and every such employee.

[4/2011]

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

[4/2011]

Appeal against decision or order of Commissioner

8F.—(1) Where any person interested is dissatisfied with the decision or order of the Commissioner, he may, within 14 days after the decision or order, appeal to the High Court.

[4/2011]

(2) The procedure governing any such appeal to the High Court shall be provided for in the Rules of Court.

[4/2011]

(3) No appeal shall lie against any decision or order of the Commissioner unless a substantial question of law is involved in the appeal.

[4/2011]

(4) In determining any appeal under subsection (1), the High Court may have regard to the tripartite guidelines.

[4/2011]

PART V GENERAL

Powers of Commissioner and investigating officers

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

- (a) enter without previous notice at any reasonable time any place of employment for the purposes of conducting any audits which is deemed necessary by the Minister, or make such inquiry into the terms and conditions of employment of any employee as he may think fit;
- (b) examine orally any person supposed to be acquainted with the facts and circumstances relevant to the carrying out of the provisions of this Act, and reduce into writing the answer given or statement made by the person who shall be bound to state truly the facts and circumstances with which he is acquainted, and the statement made by the person shall be read over to him and shall, after correction, be signed by him;
- (c) require the employer to produce before him any other employee employed by the employer together with any contract of service or other document concerning the employment;
- (d) make copies of any document required to be produced under paragraph (c);

- (e) take or remove for purposes of investigations any document;
- (f) take such photographs or audio or video recording, as the Commissioner or investigating 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;
- (g) require any person to produce any article which is relevant to any investigation carried out under this Act and, if necessary, to take into custody any such article.

[4/2011]

(2) *[Deleted by Act 4 of 2011]*

(3) Any person who hinders or obstructs an investigating officer in the exercise of the power under this section or makes to an investigating officer exercising the power under this section a statement either orally or in writing which is false in any material particular 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.

Investigations of complaints and offences

9A.—(1) Whenever —

- (a) the Minister, the Commissioner or an investigating officer has reasonable grounds for believing that an offence under this Act has been committed;
- (b) the Minister, the Commissioner or an investigating officer wishes to inquire into any matter for which provision is made by this Act or any dispute as to such matter, or any matter connected with an investigation; or
- (c) any person complains of any breach of any provision of this Act,

the Minister, the Commissioner or the investigating officer, as the case may be, may summon any person whom he has reason to believe can give information regarding the subject-matter of the inquiry or complaint, and the person so summoned shall be legally bound to attend at the time and place specified in the summons to furnish

information or documents, produce any article or give statements, and to answer truthfully all questions which the Minister, the Commissioner or the investigating officer, as the case may be, may put to him.

[4/2011]

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

[4/2011]

(3) The Commissioner or investigating officer shall have the power to report any failure by such person to attend as required by the 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.

[4/2011]

Obstructing employee, etc.

9B.—(1) Any employer or other person who in any way obstructs any employee in appearing before the Commissioner pursuant to any summons issued under this Act shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both.

[4/2011]

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

[4/2011]

Penalties

9C. Any person who is guilty of any breach or any offence under this Act for which no penalty is otherwise provided shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both, and for a subsequent offence under the same section to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

[4/2011]

Composition of offences

10.—(1) An investigating officer, with the approval of the Commissioner, may in his discretion compound any offence under this Act which is prescribed as a compoundable offence by collecting from a person reasonably suspected of having committed the offence a sum not exceeding —

(a) one half of the amount of the maximum fine that is prescribed for the offence; or

(b) \$1,000,

whichever is the lower.

[4/2011]

(1A) On payment of such sum of money, no further proceedings shall be taken against that person in respect of the offence.

[4/2011]

(2) The Minister may make regulations to prescribe the offences which may be compounded.

Exemption

11.—(1) The Minister may, by notification in the *Gazette*, exempt with or without conditions any person or class of persons from all or any of the provisions of this Act.

(2) The Minister may at any time revoke any such exemption, vary or revoke any existing conditions or impose new conditions.

Restriction on contracting out

11A. Any term of a contract of service or collective agreement shall be void in so far as it purports —

(a) to exclude or limit the operation of any provision of this Act;
or

(b) to preclude any person from making a representation, a claim or an application under this Act.

[4/2011]

Power to issue tripartite guidelines

11B. The Minister may, from time to time, issue guidelines relating to the re-employment of eligible employees and the terms and conditions of re-employment of eligible employees, in the form of tripartite guidelines, and upon the publication of such guidelines in the *Gazette*, regard may be had to the guidelines for the purposes of Part III and sections 8A, 8B, 8C and 8F of this Act and section 34 of the Industrial Relations Act (Cap. 136).

[4/2011]

Regulations

12.—(1) The Minister may make regulations for any purpose for which regulations may be made under this Act and for prescribing anything which may be prescribed and generally for the purpose of carrying this Act into effect.

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations with respect to any of the following matters or for any of the following purposes:

- (a) for prescribing the procedure in respect of any proceedings under this Act;
- (b) for any incidental matters for which the Minister thinks it expedient to provide with a view to securing compliance of this Act;
- (c) for prescribing the form of the orders to be made under this Act; and
- (d) for prescribing the fees payable for the provision of a copy of the notes of evidence and any decision recorded under section 8D(1)(j).

[4/2011]

Savings and transitional provisions

13.—(1) Nothing in this Act shall operate to relieve any employer of any duty or liability imposed upon him by the provisions of any other written law for the time being in force.

(2) Nothing in the Retirement Age (Amendment) Act 2011 (Act 4 of 2011) shall affect any investigation carried out by an investigating officer who —

(a) before 1st January 2012, is subject to any direction of the Minister to investigate and report on whether in the investigating officer's opinion, an employee has been unlawfully dismissed on the ground of age; and

(b) has not submitted the report to the Minister before that date, and everything in relation to the investigation and report may be done in all respects after that date as if the Retirement Age (Amendment) Act 2011 had not been enacted.

(3) Any representation made to the Minister before 1st January 2012 —

(a) which is investigated by an investigating officer before that date; and

(b) which is not yet decided by the Minister before that date, may be continued to be dealt with and everything in relation thereto may be done in all respects after that day as if the Retirement Age (Amendment) Act 2011 had not been enacted.

(4) For a period of 2 years after 1st January 2012, the Minister may by regulations prescribe such additional provisions of a savings or transitional nature as he may consider necessary or expedient.

LEGISLATIVE HISTORY

RETIREMENT AND RE-EMPLOYMENT ACT (CHAPTER 274A)

(Formerly known as the Retirement Age Act (Cap. 274A, 2000 Ed.))

This Legislative History is provided for the convenience of users of the Retirement and Re-employment Act. It is not part of the Act.

1. Act 14 of 1993 — Retirement Age Act 1993

Date of First Reading	: 26 February 1993 (Bill No. 8/93 published on 27 February 1993)
Date of Second and Third Readings	: 12 April 1993
Date of commencement	: 1 July 1993

2. 1994 Revised Edition — Retirement Age Act (Chapter 274A)

Date of operation	: 15 March 1994
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3. Act 49 of 1998 — Retirement Age (Amendment) Act 1998

Date of First Reading	: 12 October 1998 (Bill No. 47/98 published on 13 October 1998)
Date of Second and Third Readings	: 26 November 1998
Date of commencement	: 1 January 1999

4. 2000 Revised Edition — Retirement Age Act (Chapter 274A)

Date of operation	: 1 July 2000
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5. Act 4 of 2011 — Retirement Age (Amendment) Act 2011

Date of First Reading	: 22 November 2010 (Bill No. 36/2010 published on 22 November 2010)
Date of Second and Third Readings	: 11 January 2011
Date of commencement	: 1 January 2012

COMPARATIVE TABLE
RETIREMENT AND RE-EMPLOYMENT ACT
(CHAPTER 274A)

(Formerly known as the Retirement Age Act (Cap. 274A, 2000 Ed.))

The following provisions in the 1994 Revised Edition of the Retirement Age Act were renumbered by the Law Revision Commissioners in the 2000 Revised Edition.

This Comparative Table is provided for the convenience of users. It is not part of the Retirement and Re-employment Act.

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