

Industrial Relations (Amendment) Bill

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Bill No: 25/2002

Read the first time: 8th July 2002

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Expenditure of Public Money

Industrial Relations (Amendment) Bill

Bill No. 25/2002

Read the first time on 8th July 2002.

An Act to amend the Industrial Relations Act (Chapter 136 of the 1999 Revised Edition) and to make related amendments to the Trade Unions Act (Chapter 333 of the 1985 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 Industrial Relations (Amendment) Act 2002 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

Amendment of section 24

2. Section 24(2) of the Industrial Relations Act (referred to in this Act as the principal Act) is amended by deleting the words “or section 25” in the penultimate line of paragraph (a).

Repeal of section 25

3. Section 25 of the principal Act is repealed.

Amendment of section 29

4. Section 29 of the principal Act is amended —

- (a) by inserting, immediately after the words “this Part”, the words “or Part IIIA”; and
- (b) by inserting, immediately after the words “this Part” in the section heading, the words “or Part IIIA”.

New Part IIIA

5. The principal Act is amended by inserting, immediately after section 30, the following Part:

“PART IIIA

LIMITED REPRESENTATION OF EMPLOYEES IN MANAGERIAL AND EXECUTIVE POSITIONS

Interpretation of this Part

30A.—(1) In this Part, unless the context otherwise requires —

“executive employee”, in relation to an employer, means an employee who is employed in a managerial or an executive position by the employer;

“recognised trade union” means a trade union the majority of whose membership consists of employees in non-managerial or non-executive positions and which has been accorded recognition by an employer only in respect of such employees under section 16.

(2) For the purposes of this Part, the Minister for Finance shall be deemed to be the employer of employees of the Government.

Limited representation of executive employees

30B.—(1) Notwithstanding section 16, a recognised trade union may represent any executive employee individually, and not as a class, for all or any of the following purposes only:

- (a) to make representations to the Minister under section 35(2);
- (b) upon the retrenchment of the executive employee, to negotiate with the employer with a view to resolving any dispute relating to the retrenchment benefit payable to the executive employee;
- (c) to negotiate with the employer with a view to resolving any dispute relating to a breach of contract of employment by the executive employee or the employer;
- (d) to represent the executive employee in proceedings before a Court in respect of the dismissal or reinstatement of the employee in circumstances arising out of a contravention of section 82 or any matter referred to in paragraph (b) or (c).

(2) Where a recognised trade union seeks to represent an executive employee under subsection (1), the employer may object to such representation only on the ground that the employee —

- (a) is employed in a senior management position or performs or

exercises any function, duty or power of a person employed in a senior management position, including the control and supervision of major business operations, accountability for operational performance, formulation of business policies, plans and strategies and provision of leadership to other employees;

- (b) performs or exercises any function, duty or power which includes decision making, or the power to substantially influence decision making, on any industrial matters including the employment, termination of employment, promotion, transfer, reward or discipline of other employees;
- (c) performs any function or duty which includes representing the employer in any negotiation relating to any industrial matters;
- (d) has access to confidential information relating to the budget and finances of the employer, any industrial relations matter or the salaries and personal records of other employees; or
- (e) performs or exercises any other function, duty or power which may give rise to a real or potential conflict of interest if he is represented by the trade union.

(3) Where an employer raises any objection under subsection (2), the employer and the trade union shall make a joint application to a Court for the determination of the question.

(4) Until the Court gives its decision, the recognised trade union may continue to represent other executive employees whose representation by the trade union under subsection (1) is not objected to by the employer under subsection (2).

(5) The powers of a Court under subsection (3) shall be exercisable by the Court constituted by the President alone.

Invitation to negotiate

30C. A recognised trade union representing an executive employee under section 30B may serve on an employer or an employer may serve on a recognised trade union, as the case may be, a notice in the prescribed form (referred to in this Part as an invitation to negotiate) —

- (a) setting out proposals for resolving any dispute relating to the issue of retrenchment benefit payable to the executive employee upon the

retrenchment of the executive employee or a breach of contract of employment by the executive employee or his employer; and

- (b) inviting the employer or trade union, as the case may be, to negotiate with it in relation to those matters with a view to arriving at a settlement.

Acceptance of invitation to negotiate

30D. An employer or a recognised trade union upon whom an invitation to negotiate has been served under section 30C may, within 7 days after service of that invitation, serve on the recognised trade union or employer which served the notice an acceptance of the invitation to negotiate (referred to in this Part as an acceptance to negotiate).

Non-acceptance of invitation to negotiate

30E.—(1) Where a recognised trade union or an employer upon whom an invitation to negotiate was served under section 30C has not served an acceptance to negotiate within the time specified in section 30D, the employer or trade union which served the invitation to negotiate, as the case may be, may notify the Commissioner.

(2) Upon receipt of a notification under subsection (1), the Commissioner shall consult, or direct a conciliation officer to consult, with the employer or trade union which has not served an acceptance to negotiate with a view to persuading that employer or trade union to accept the invitation.

Conciliation

30F.—(1) If, after the expiration of 14 days from the date of service of an invitation to negotiate, an agreement has not been reached between the recognised trade union and employer by whom and upon whom the invitation was served as to all the matters set out in the invitation, either party to the negotiations may notify the Commissioner.

(2) Upon receipt of a notification under subsection (1), the Commissioner may consult, or direct a conciliation officer to consult, with the employer and trade union concerned in an endeavour to assist them to reach a settlement by conciliation.”.

Amendment of section 31