

# **LABOUR CODE (AMENDMENT) BILL, 2021**

## **EXPLANATORY MEMORANDUM**

The Labour Code (Amendment) Bill, 2021 (“the Bill”) seeks to amend the Labour Code (Cap. 15.03) (“the Code”).

Clause 1 sets out the short title of the Bill.

Clause 2 sets out the interpretation provisions of the Bill.

Clause 3 amends section 3 of the Code by deleting the definitions of “established employee” and “non-established employee” and inserting a definition for Social Security Act.

Clause 4 amends section 8 of the Code by permitting the Labour Commissioner to at any hour of the day or night, enter any workplace liable to inspection.

Clause 5 amends section 22 of the Code by inserting subsection (1A), which provides that a party must refer the dispute to the Labour Commissioner no later than three months after the dispute arose.

Clause 6 amends section 23 of the Code by providing for the rules of the Labour Tribunal to be set out in Schedule 3 of the Code.

Clause 7 amends section 24 of the Code by inserting subsection (1A), which provides that a person who has been convicted of an indictable offence is disqualified from being a member of the Labour Tribunal.

Clause 8 amends section 32 of the Code, which addresses the written terms and conditions of employment. The clause provides for the completion of Form A, which is set out in Schedule 2 of the Code and outlines the information to be provided to the Labour Commissioner in respect of an employee’s terms and conditions of employment.

Clause 9 amends section 51(1) of the Code, by deleting the word “calendar”.

Clause 10 amends section 52(1) of the Code, by replacing “not less” with “not more” the second time it appears. The amendment to section 52 provides that an employee who has been engaged in continuous service with an employer for thirteen weeks or more is eligible for up to twenty-four days of paid sick leave during each year of service. Further clause 52 is amended to provide up to two months of unpaid sick leave to an employee who is still sick after the expiration of the twenty-four days, but the employer may opt to pay the employee during the two-month period.

Clause 11 amends section 53(1) of the Code by deleting “presumed”, the effect being that there will only a reference to date of confinement in respect of maternity leave.

Clause 12 amends section 55 of the Code by deleting the references to “civic purposes” and “civic natures” and replacing both references with “civic duties”.

Clause 13 expands the scope of section 56 of the Code to permit the grant of compassionate leave on the death or critical illness of a stepparent or grandparent.

Clause 14 amends section 59 of the Code by replacing an incorrect reference to employer with “employee”.

Clause 15 amends section 75 by inserting a new subsection (1A), which entitles an employee to severance pay for any period of employment not amounting to a year of completed service and for the payment to be a prorated amount of that which is payable for every year of completed service. Further, in clause 75(4), the references to “age of sixty” are replaced with references to “pensionable age set out in the Third Schedule to the Social Security Act”.

Clause 16 amends section 78(2) of the Code deleting the reference to “civic obligations” and replacing the reference with “civic duties”.

Clause 17 amends section 143 of the Code by deleting “the Schedule” and substituting “Schedule 1”.

Clause 18 amends section 145 of the Code by inserting a new subsection (4), which provides that an appeal against the suspension or withdrawal of the registration of a trade union by the Registrar shall operate as a stay of the decision of the Registrar.

Clause 19 amends section 148 of the Code by inserting a new subsection (4), which provides that an appeal by a trade union or employers’ organisation against the Registrar’s declaration that a trade union or an employers’ organisation is defunct, shall operate as a stay of the decision of the Registrar.

Clause 20 amends section 154 of the Code by inserting subsections (3A) and (3B), which provide that a trade union subject to a withdrawal or cancellation of a certificate of registration by the Registrar may appeal to the High Court and the appeal operates as a stay of the decision of the Registrar.

Clause 21 amends section 160 of the Code, which provides for a person over the age of sixteen to be a member of a trade union or the committee of management, trustee or treasurer of a trade union.

Clause 22 of the Code deletes and replaces section 161(2) of the Code, which provides that a member of a trade union or employers' organisation or the Registrar may to apply to the High Court, claiming on reasonable grounds a violation of the restriction against improper election practices. Subsection (3) is also inserted, under which the Court is empowered to make any other

order relating to an election or fresh elections as it deems fit, in addition to the existing orders it may make.

Clause 23 of the Code deletes the reference to “SCHEDULE” in the Act and inserts “SCHEDULE 1”.

Clause 24 of the Code inserts Schedule 2 and Schedule 3 into the Code. Schedule 2 sets out Form A, which outlines the information to be provided to the Labour Commissioner in respect of an employee’s terms and conditions of employment. Schedule 3 sets out the rules of the Labour Tribunal.

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Hon. Attorney General