

## Employment of Foreign Manpower Act (CHAPTER 91A)

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# EMPLOYMENT OF FOREIGN MANPOWER ACT (CHAPTER 91A)

(Original Enactment: Act 21 of 1990)

REVISED EDITION 2009

(31st July 2009)

An Act relating to the employment of foreign manpower.

*[30/2007]*

[1st January 1991]

## PART I

## PRELIMINARY

[Act 24 of 2012 wef 09/11/2012]

## Short title

1. This Act may be cited as the Employment of Foreign Manpower Act.

[30/2007]

## Interpretation

2. In this Act, unless the context otherwise requires —

“Appeal Board” means the Appeal Board established by the Minister under section 25H;

[Act 24 of 2012 wef 09/11/2012]

“authorised officer”, in relation to any provision in this Act, means any public officer authorised in that behalf by the Minister for the purposes of that provision;

[Act 24 of 2012 wef 09/11/2012]

“body corporate” includes a limited liability partnership registered under the Limited Liability Partnerships Act (Cap. 163A);

[Act 24 of 2012 wef 09/11/2012]

“construction works” means the construction, extension, installation, carrying out, repair, maintenance, renewal, removal, alteration, dismantling or demolition of —

- (a) any building, erection, edifice, structure, wall, fence or chimney, whether constructed wholly or partly above or below ground level;
- (b) any road, motorway, harbour works, railway, cableway, canal or aerodrome;
- (c) any drainage, irrigation or river control work;
- (d) any electrical, water, gas or telecommunication works; or
- (e) any bridge, viaduct, dam, reservoir, earthworks, pipeline, sewer, aqueduct, culvert, drive, shaft, tunnel or reclamation,

and includes any works which form an integral part of, or are preparatory to the works described in paragraphs (a) to (e), including site clearance, earth-moving, excavation, laying of foundation, site restoration and landscaping, and such other works or activities as the Minister may, by notification in the *Gazette*, specify to be construction works;

“Controller” means the Controller of Work Passes appointed under section 3;

“debarred”, in relation to a person, means a person who is debarred under section 7(4)(d) from applying for, or being issued with, a work pass;

[Act 24 of 2012 wef 09/11/2012]

“employ” means to engage or use the service of any person for the purpose —

- (a) of any work; or
- (b) of providing any training for that person,

whether under a contract of service or otherwise, and with or without salary;

“employer” means any person employing a foreign employee, and includes —

- (a) for the purposes of an application for a work pass, any person who has the intention or purports to have the intention to employ a foreign employee; or
- (b) in a case where a foreign employee has or had a valid work pass, any person specified in the work pass as the employer of the foreign employee;

[Act 24 of 2012 wef 09/11/2012]

“employment inspector” means the Controller and any person appointed as an employment inspector under section 3;

“foreign employee” means —

- (a) any foreigner, other than a self-employed foreigner, who seeks or is offered employment in Singapore; or
- (b) such other person or class of persons as the Minister may, by notification in the *Gazette*, specify;

“foreigner” means any person who is not a citizen or permanent resident of Singapore;

“in-principle approval” means the in-principle approval of an application for a work pass issued by the Controller under section 7(2A);

[Act 24 of 2012 wef 09/11/2012]

“levy” means the levy imposed under section 11;

“occupier”, in relation to any premises, includes —

- (a) the person having the charge, management or control of either the whole or part of the premises either on his own account or as an agent; and
- (b) any person who is carrying out construction or other works at the premises on behalf of some other person;

“premises” includes —

- (a) any building or structure, whether permanent or temporary;
- (b) any land, whether or not built on;
- (c) any place, whether or not enclosed, including any place situated underground or underwater;
- (d) any vehicle, vessel or aircraft; and
- (e) any part of any premises;

“prescribed infringement” means —

- (a) any contravention of section 9(1), 25(1), (2), (3) or (4) or 25A(2);

- (b) any contravention of any provision in the regulations made under this Act that is prescribed as a prescribed infringement; or
- (c) the abetment, within the meaning of section 25F, of any contravention referred to in paragraph (a) or (b);

[Act 24 of 2012 wef 09/11/2012]

“regulatory condition” means a condition of an in-principle approval or a work pass that —

- (a) is prescribed by the Minister as a regulatory condition; or
- (b) is imposed by the Controller under section 7 as a regulatory condition;

[Act 24 of 2012 wef 09/11/2012]

“self-employed foreigner” means any foreigner who, not being employed under a contract of service, seeks to engage in or engages in —

- (a) any trade, vocation or profession, whether for the purpose of gain or otherwise; or
- (b) any other activity in Singapore for the purpose of gain;

[Act 24 of 2012 wef 09/11/2012]

“train”, in relation to a foreign employee, means to teach, instruct or educate the foreign employee in relation to the work in which the foreign employee is employed or to be employed;

“valid work pass” means a work pass that is valid in accordance with section 12;

[Act 24 of 2012 wef 09/11/2012]

“work pass” means a work pass belonging to any prescribed category of work passes which is issued by the Controller under section 7.

[37/95; 26/2001; 30/2007]

### Meaning of “personal identifier”

**2A.**—(1) In this Act, “personal identifier” means any of the identifiers specified in the Schedule (including any in digital form).

(2) The Minister may, by order published in the *Gazette*, amend the Schedule, except that any other personal identifier so prescribed in the order must —

- (a) be an image of, or a measurement or recording of, an external part of the human body; and
- (b) not be an identifier the obtaining of which would involve the taking of an intimate sample within the meaning of section 13A of the Registration of Criminals Act (Cap. 268).

[30/2007]

### Appointment of Controller of Work Passes and employment inspectors, etc.

**3.**—(1) The Minister may appoint a Controller of Work Passes who shall have such functions and powers as are conferred on him by this Act and such number of Deputy Controllers of Work Passes and Assistant Controllers of Work Passes as the Minister may think necessary to assist the Controller in the proper discharge of his functions.

[39/98; 30/2007]  
[Act 24 of 2012 wef 09/11/2012]

(1A) The Deputy Controllers of Work Passes and the Assistant Controllers of Work Passes shall have and may exercise and perform all the powers, duties and functions of the Controller conferred by this Act (except the power of delegation conferred by subsection (3)), subject to such limitations as the Controller may think fit to impose.

[39/98; 30/2007]  
[Act 24 of 2012 wef 09/11/2012]

(2) The Minister may appoint such number of employment inspectors as he may think fit for carrying out the purposes of this Act.

(3) The Controller may delegate the exercise of all or any of the functions or powers conferred on him by this Act (except the power of delegation conferred by this subsection) to one or more authorised officers, subject to such conditions or limitations as set out in this Act or as the Controller may specify in writing; and any reference in this Act to the Controller shall include a reference to such an authorised officer.

[Act 24 of 2012 wef 09/11/2012]

(4) For the purposes of this Act, an authorised officer may be given such title as the Minister may, by notification in the *Gazette*, specify.

[Act 24 of 2012 wef 09/11/2012]

### **Controller and employment inspectors to be public servants**

**3A.** The Controller and every Deputy Controller of Work Passes, Assistant Controller of Work Passes and employment inspector appointed under section 3 shall be deemed to be public servants within the meaning of the Penal Code (Cap. 224).

[30/2007]

### **Exemption**

**4.** The Minister may, by notification in the *Gazette*, exempt any person or class of persons from all or any of the provisions of this Act.

## **PART II**

### **WORK PASSES**

[Act 24 of 2012 wef 09/11/2012]

### **Prohibition of employment of foreign employee without work pass**

**5.—(1)** No person shall employ a foreign employee unless the foreign employee has a valid work pass.

[30/2007]

(2) No foreign employee shall be in the employment of an employer without a valid work pass.

[30/2007]

(3) No person shall employ a foreign employee otherwise than in accordance with the conditions of the foreign employee's work pass.

[30/2007]

(4) In any proceedings for an offence under subsection (1), it shall not be a defence for a defendant to prove that he did not know that the employee was a foreigner unless the defendant further proves that he had exercised due diligence to ascertain the nationality of the employee.

[37/95; 30/2007]

(5) For the purpose of subsection (4), a defendant shall not be deemed to have exercised due diligence unless he had checked the passport, document of identity or other travel document of the employee.

[37/95; 30/2007]

(6) Any person who contravenes subsection (1) shall be guilty of an offence and shall —

(a) be liable on conviction to a fine of not less than \$5,000 and not more than \$30,000 or to imprisonment for a term not exceeding 12 months or to both; and

(b) on a second or subsequent conviction —

(i) in the case of an individual, be punished with a fine of not less than \$10,000 and not more than \$30,000 and with imprisonment for a term of not less than one month and not more than 12 months; or

(ii) in any other case, be punished with a fine of not less than \$20,000 and not more than \$60,000.

[Act 24 of 2012 wef 09/11/2012]

(6A) *[Deleted by Act 24 of 2012 wef 09/11/2012]*

(7) Any person who contravenes subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 2 years or to both.

[Act 24 of 2012 wef 09/11/2012]

(7A) Any person who contravenes subsection (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000.

[30/2007]

[Act 24 of 2012 wef 09/11/2012]

(8) For the purposes of this section —

(a) *[Deleted by Act 24 of 2012 wef 09/11/2012]*

(b) for the avoidance of doubt, where a person has been convicted of an offence under subsection (6), and he has on a previous occasion been convicted for contravening section 5(1) of the Employment of Foreign Workers Act (Cap. 91A, 1997 Ed.) in force immediately before 1st July 2007, the first-mentioned conviction shall be considered a second or subsequent conviction under subsection (6); and

(c) all convictions against the same person for the contravention of subsection (1) at one and the

same trial shall be deemed to be one conviction.

[30/2007]

### **Presumption of employment**

**6.** Where a foreigner is found at any premises, the occupier of the premises shall be presumed, until the contrary is proved, to have employed the foreigner.

[37/95]

### **Prohibition of foreigner without work pass entering or remaining at work place**

**6A.—(1)** No occupier of a work place who has control of access to the work place shall permit any foreigner without a valid work pass to enter or remain at the work place.

[37/95; 30/2007]

(2) Where a foreigner without a valid work pass is found at any work place, it shall be presumed, until the contrary is proved, that the occupier of the work place —

- (a) had control of access to the work place;
- (b) had permitted the foreigner to enter or remain at the work place; and
- (c) had knowledge that the foreigner did not possess a valid work pass.

[37/95; 30/2007]

(3) The presumptions provided for in subsection (2) shall not be rebutted by proof that a defendant did not know that the person was a foreigner unless the defendant further proves that he had exercised due diligence —

- (a) to prevent the foreigner from entering or remaining at the work place;
- (b) to ascertain that the person was a citizen or permanent resident of Singapore by checking his passport, document of identity or other travel documents; or
- (c) to ascertain that the foreigner had at the material time in his possession a valid work pass by checking his original work pass.

[37/95; 30/2007]

(4) For the purposes of subsection (3)(a), a defendant shall not be deemed to have exercised due diligence unless he had taken all reasonable measures to prevent any foreigner without a valid work pass from entering or remaining at the work place, including all the measures prescribed under subsection (5) in respect of the work place.

[37/95; 30/2007]

(5) For the purposes of subsection (4), the Minister may, by notification in the *Gazette*, prescribe the measures that are required to be taken by the occupier of the work place.

[37/95]

(6) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable —

- (a) on conviction to a fine not exceeding \$15,000 or to imprisonment for a term not exceeding 12 months or to both; and



(b) on a second or subsequent conviction, to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 2 years or to both.

[30/2007]

(7) In this section —

“occupier”, in relation to a work place, means the principal contractor who undertakes any construction works at the work place and includes such other person as the Minister may, by notification in the *Gazette*, specify to be the occupier of the work place;

“principal contractor” means a person who has entered into a contract with an owner, a developer or a lessee of a property or his agent for the purpose of carrying out any construction works, or such other works or activities as the Minister may, by notification in the *Gazette*, specify;

“work place” means any place or premises where works are being carried out and includes any premises within the vicinity of the work place to which the occupier has control of access.

[37/95; 30/2007]

(7A) For the avoidance of doubt, where a person has been convicted of an offence under subsection (6), and he has on a previous occasion been convicted for contravening section 6A(1) of the Employment of Foreign Workers Act (Cap. 91A, 1997 Ed.) in force immediately before 1st July 2007, the first-mentioned conviction shall be considered a second or subsequent conviction under subsection (6).

[30/2007]

(7B) All convictions against the same person for the contravention of subsection (1) at one and the same trial shall be deemed to be one conviction.

[30/2007]

(8) Nothing in this section shall prevent any person from being prosecuted under any other provision of this Act for any act or omission which constitutes an offence under that other provision, but no person shall be punished twice for the same offence.

[37/95]

## Application for work pass

7.—(1) Every application for a work pass shall —

(a) where the work pass belongs to any category of work passes prescribed by the Minister, be made by a person prescribed for that category of work passes;

(b) be in such form as the Controller may determine;

(c) be accompanied by the prescribed fee, if any; and

(d) be accompanied by such information, statements and documents as the Controller may require.

[30/2007]

(2) On receipt of an application under subsection (1), the Controller may —

(a) issue a work pass, with or without conditions —

- (i) if the prescribed fee has been paid; and
- (ii) if the Controller is satisfied that the foreign employee or self-employed foreigner to whom the work pass is to be issued is not a prohibited immigrant under section 8 of the Immigration Act (Cap. 133); or

(b) refuse to issue any work pass.

*[30/2007]*

(2A) The Controller may, before issuing a work pass under subsection (2), issue an in-principle approval of the application for the work pass subject to such conditions as the Controller may think fit to impose.

*[Act 24 of 2012 wef 09/11/2012]*

(3) A work pass may, on payment of the prescribed renewal fee, be renewed by the Controller for such period as the Controller may determine, starting from the day immediately following the day on which the work pass would have expired but for that renewal.

*[30/2007]*

(4) The Controller may at any time —

(a) vary or revoke any of the existing conditions of a work pass or impose new conditions;

(b) cancel any in-principle approval, or vary, suspend or revoke a work pass;

*[Act 24 of 2012 wef 09/11/2012]*

(c) reinstate a work pass which has been suspended or revoked, if the prescribed fee has been paid; or

(d) debar any person from applying for or being issued with a work pass for such fixed period of time as may be determined by the Controller.

*[30/2007]*

(4A) For the purposes of this section, the Controller may, in relation to a foreign employee —

(a) impose conditions that the employer of the foreign employee shall comply with —

(i) relating to the employment of the foreign employee; or

(ii) relating to the foreign employee, after the in-principle approval or the work pass relating to that foreign employee is cancelled or revoked or expires; and

(b) impose conditions that the foreign employee shall comply with relating to his employment as a foreign employee.

*[Act 24 of 2012 wef 09/11/2012]*

(4B) In the exercise of any power under subsection (4)(a) or (4A), the Controller shall not —

(a) vary or revoke any existing condition of a work pass to become inconsistent with any condition prescribed by the Minister by regulations under section 29(2)(c); or

(b) impose any new condition for a work pass that is inconsistent with any condition prescribed by the Minister by regulations under section 29(2)(c),

and any condition varied, revoked or imposed by the Controller which is so inconsistent shall, to the extent of the inconsistency, be void.

*[Act 24 of 2012 wef 09/11/2012]*

(4C) In determining whether a person should be debarred under subsection (4)(d) from applying for or being issued with a work pass, the Controller may have regard to such considerations as he deems appropriate, including but not limited to —

- (a) whether the person has acted, or is acting, in concert with or on the direction of a debarred person for or in connection with the employment of any foreign employee; or
- (b) whether the person, as an associate of a debarred person, is engaged in a trade or business which is substantially similar to any trade or business of the debarred person.

*[Act 24 of 2012 wef 09/11/2012]*

(4D) For the purposes of subsection (4C)(b) —

- (a) a person is an associate of an individual —
  - (i) if that person is the individual's spouse, or if that person is a relative, or the spouse of a relative of the individual or his spouse;
  - (ii) if that person is in partnership with the individual, or the individual is the spouse or a relative of any other person with whom the first-mentioned person is in partnership;
  - (iii) if that person employs the individual or the individual employs that person, and for this purpose, any director or other officer of a person that is a company shall be treated as employed by that company;
- (b) a person in his capacity as trustee of a trust is an associate of an individual if the beneficiaries of the trust include, or the terms of the trust confer a power that may be exercised for the benefit of, that individual or an associate of that individual;
- (c) a company is an associate of an individual if that individual has control of it or if that individual and persons who are his associates together have control of it;
- (d) for the purposes of paragraph (a), a person is a relative of an individual if he is that individual's brother, sister, uncle, aunt, nephew, niece, lineal ancestor or lineal descendant;
- (e) any reference in this subsection to a spouse shall include a former spouse;
- (f) for the purposes of paragraph (c), an individual shall be taken to have control of a company if —
  - (i) the directors of the company or of another company which has control of it (or any of them) are accustomed to act in accordance with his directions or instructions; or
  - (ii) he is entitled to exercise, or control the exercise of, one-third or more of the voting power at any general meeting of the company or of another company which has control of it,

and where 2 or more persons together satisfy sub-paragraph (i) or (ii), they shall be taken to

have control of the company; and

- (g) in this subsection, “company” includes any body corporate (whether incorporated in Singapore or elsewhere), and references to directors and other officers of a company and to voting power at any general meeting of a company shall have effect with any necessary modifications.

*[Act 24 of 2012 wef 09/11/2012]*

(5) Any person who is aggrieved by a decision of the Controller under subsection (2), (3) or (4) may appeal to the Minister, whose decision shall be final.

*[30/2007]*

(6) There shall be no judicial review in any court of any decision or act of the Minister or the Controller under this section, except in regard to any question relating to compliance with any procedural requirement of this Act governing such decision.

*[30/2007]*

(7) In subsection (6), “judicial review” includes proceedings instituted by way of —

- (a) an application for a Mandatory Order, a Prohibiting Order or a Quashing Order;
- (b) an application for a declaration or an injunction;
- (c) an Order for Review of Detention; and
- (d) any other suit or action relating to or arising out of any decision made or act done in pursuance of any power conferred upon the Minister or the Controller by this section.

*[30/2007]*

### **Register of foreign employees to be kept by employer**

**8.**—(1) An employer shall keep, in accordance with section 95 of the Employment Act (Cap. 91), a register of foreign employees to whom work passes have been issued under section 7.

*[30/2007]*

(2) The register shall be in such form and shall contain such particulars as the Controller may determine.

(3) The register shall, at all reasonable times, be open to inspection by an employment inspector.

### **Termination of employment of foreign employees**

**9.**—(1) Where the Controller has decided to suspend or revoke the work pass of a foreign employee under section 7(4), the Controller shall notify the employer of the foreign employee of his decision and the employer of the foreign employee shall, within 7 days of receiving the notification, terminate the employment of the foreign employee.

*[30/2007]*

(2) Every employer of a foreign employee who intends to have the work pass of the foreign employee cancelled shall —

- (a) apply to the Controller to cancel the work pass; and

(b) if so required, return the work pass to the Controller within 7 days of such cancellation.

[30/2007]

(3) Where any employer contravenes subsection (1), the Controller may impose on him a financial penalty of such amount, not exceeding \$10,000, as the Controller may determine.

[Act 24 of 2012 wef 09/11/2012]

(3A) Any employer who contravenes subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000.

[Act 24 of 2012 wef 09/11/2012]

(4) The termination of the employment of a foreign employee under subsection (1) shall not be —

- (a) capable of negotiation with a trade union representing the foreign employee;
- (b) a matter in respect of which any form of industrial action may be taken by any such trade union;
- (c) the subject-matter of a trade dispute or of conciliation proceedings or any method of redress whether or not under any written law; and
- (d) any industrial matter within the meaning of the Industrial Relations Act (Cap. 136).

[30/2007]

(5) Where in respect of the employment of any person there has been any contravention of subsection (1), that person shall not, by reason only of such contravention, be deemed to be employed under an illegal contract of employment.

### **Self-employed foreigners to apply for work passes**

**10.—**(1) No foreigner shall be a self-employed foreigner unless he has a valid work pass.

[Act 24 of 2012 wef 09/11/2012]

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall —

- (a) be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 2 years or to both; and
- (b) on a second or subsequent conviction, be punished with imprisonment for a term of not less than one month and not more than 2 years and also be liable to a fine not exceeding \$20,000.

[Act 24 of 2012 wef 09/11/2012]

(3) [Deleted by Act 24 of 2012 wef 09/11/2012]

(4) For the purposes of this section —

- (a) [Deleted by Act 24 of 2012 wef 09/11/2012]
- (b) for the avoidance of doubt, where a person has been convicted of an offence under subsection (2), and he has on a previous occasion been convicted for contravening section 10(1) of the Employment of Foreign Workers Act (Cap. 91A, 1997 Ed.) in force immediately before 1st July 2007 or section 10(1) of this Act in force immediately before the date of commencement of section 7(a) of the Employment of Foreign Manpower

(Amendment) Act 2012, the first-mentioned conviction shall be considered a second or subsequent conviction under subsection (2); and

[Act 24 of 2012 wef 09/11/2012]

- (c) all convictions against the same person for the contravention of subsection (1) at one and the same trial shall be deemed to be one conviction.

[30/2007]

### **Levy in respect of foreign employee or self-employed foreigner**

**11.—**(1) The Minister may, by order published in the *Gazette*, provide for the imposition of a levy of such amount as may be specified in the order on employers in respect of any foreign employee or class of foreign employees, or on self-employed foreigners or any class thereof, who have been issued with a work pass.

[30/2007]

[Act 24 of 2012 wef 09/11/2012]

- (2) The levy shall continue to be payable unless the work pass —

- (a) has expired;
- (b) has been suspended or revoked by the Controller; or
- (c) has been cancelled by the Controller on application by the employer.

[30/2007]

(3) Any order made under subsection (1) may provide for the recovery of the levy in such manner and through such channels as may be specified in the order.

(4) Where the amount of the levy payable by any employer or self-employed foreigner in respect of any month is not paid within such period as may be specified in the order, the employer or self-employed foreigner shall be liable to pay a penalty on the amount for every day the amount remains unpaid commencing from the first day of the month succeeding the month in respect of which the amount is payable.

[30/2007]

(5) The penalty under subsection (4) shall be of an amount determined in accordance with such rate or formula as the Minister may specify by order published in the *Gazette*, but the total penalty shall not exceed 30% of the amount of levy outstanding.

[Act 24 of 2012 wef 09/11/2012]

(6) The Controller may, in any case in which he thinks fit, waive, remit or refund in whole or in part —

- (a) any levy imposed under subsection (1); or
- (b) any penalty due under subsection (4).

[Act 24 of 2012 wef 09/11/2012]

(7) Any levy and penalty due from and payable by any employer or self-employed foreigner shall be recoverable by the Controller, or any person duly authorised by the Controller to act on his behalf, as a debt due to the Government.

[30/2007]

(8) For the purposes of reimbursing any person authorised by the Controller to act on his behalf for the expenses incurred by him in the collection and recovery of the levy, the Minister may authorise the person to be paid such amount as the Minister may determine.

(9) In any proceedings for the recovery of any levy and penalty due thereon which any employer or self-employed foreigner is liable to pay, a certificate purporting to be under the hand of the Controller certifying the amount of the levy and penalty due thereon payable by the employer or self-employed foreigner shall be prima facie evidence of the facts stated therein.

[30/2007]

### **Extent of validity of work pass**

**12.—**(1) A work pass for a foreign employee shall be valid only in respect of the employer and the foreign employee specified therein, and —

- (a) the trade, sector, occupation or type of employment —
  - (i) that is specified in the work pass; or
  - (ii) in any other case, that was submitted to the Controller in, or in connection with, the application for the work pass; and
- (b) any trade, sector, occupation or type of employment not specified in the work pass, for which he has the approval of the Controller to engage in.

[Act 24 of 2012 wef 09/11/2012]

(2) A work pass for a self-employed foreigner shall be valid only in respect of the self-employed foreigner specified therein, and —

- (a) the trade, sector, vocation, profession or activity —
  - (i) that is specified in the work pass; or
  - (ii) in any other case, that was submitted to the Controller in, or in connection with, the application for the work pass; and
- (b) any trade, sector, vocation, profession or activity not specified in the work pass, for which he has the approval of the Controller to engage in.

[Act 24 of 2012 wef 09/11/2012]

(3) A work pass shall be valid for the period specified in the work pass unless it is earlier suspended or revoked by the Controller, or earlier cancelled by the Controller on the application by the employer or self-employed foreigner, as the case may be.

[30/2007]

### **Custody of work pass, etc.**

**13.—**(1) A work pass holder shall not allow any other person to have possession of his work pass.

[30/2007]

(2) If required by the Controller, a foreign employee shall hand over the work pass to his employer on the last day of his employment with that employer.

[30/2007]

(3) An employer who is handed a work pass under subsection (2) shall return the work pass to the Controller within 7 days of the date he receives the work pass.

[30/2007]

(4) Upon demand by an authorised officer or employment inspector, a work pass holder shall produce his work pass for inspection.

[30/2007]

[Act 24 of 2012 wef 09/11/2012]

### **Loss, etc., of work pass**

**14.**—(1) When a work pass has been lost, destroyed or defaced, the foreign employee or the employer or the self-employed foreigner, as the case may be, shall report to the Controller within 7 days of such loss, destruction or defacement, and the Controller may issue a duplicate work pass on payment of the prescribed fee.

[39/98; 30/2007]

(2) Where the foreign employee or the employer or the self-employed foreigner recovers possession of the work pass after notifying the loss of the work pass, the foreign employee or the employer or the self-employed foreigner, as the case may be —

- (a) may retain the work pass if no duplicate work pass has been issued by the Controller under subsection (1); or
- (b) shall immediately return the work pass so recovered to the Controller for revocation if a duplicate work pass has been issued by the Controller under subsection (1).

[30/2007]

(3) A person who finds or comes into possession of a work pass other than his own shall immediately deliver it to the Controller.

[30/2007]

### **Burden of proof, etc.**

**15.**—(1) For the purposes of section 7, and any proceedings in respect of any prescribed infringement or any offence under this Act —

- (a) a person who makes an application for a work pass shall be presumed, until the contrary is proved, to have knowledge of the information provided in the application; and
- (b) subject to subsection (2), the burden of proving the truth of the contents of an application for a work pass shall be on the person who makes the application.

(2) Where any application for a work pass is made by more than one person, then for the purposes specified in subsection (1), each applicant shall bear the burden of proving the truth of the contents of the application that relate to him.

[Act 24 of 2012 wef 09/11/2012]



## PART III

## ADMINISTRATION OF ACT

*[Act 24 of 2012 wef 09/11/2012]*

**Powers of authorised officers and employment inspectors**

**16.—(1)** An authorised officer or employment inspector shall, for the purposes of this Act, have power to do all or any of the following things:

- (a) to enter and inspect, at any reasonable time —
  - (i) any premises or part thereof when he has reasonable cause to believe that any foreign employee or self-employed foreigner is employed or engaged therein or accommodated thereat; or
  - (ii) where an application for a work pass has been made, the business premises of the employer who made the application;

*[Act 24 of 2012 wef 09/11/2012]*

- (aa) to enter and search, by day or by night, any premises or part thereof when he has reasonable cause to believe that evidence of a prescribed infringement or the commission of an offence under this Act, as the case may be, can be found therein;

*[Act 24 of 2012 wef 09/11/2012]*

- (b) to require any person who the authorised officer or employment inspector has reason to believe has any document, including documents of identity and travel documents, or information relevant to the carrying out of the provisions of this Act, to produce any such document or give such information;

*[Act 24 of 2012 wef 09/11/2012]*

- (c) to retain any document relevant to the carrying out of the provisions of this Act;
- (d) to 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 to reduce into writing the answer given or statement made by that person who shall be bound to state truly the facts and circumstances with which he is acquainted; and the statement made by that person shall be read over to him and shall, after correction, be signed by him;
- (e) to require by order in writing the attendance before him of any person who, from information given or otherwise, appears to be acquainted with the facts and circumstances relevant to the carrying out of the provisions of this Act, and that person shall so attend as required and if he fails to attend as so required, to report such failure to a Magistrate who may thereupon issue a warrant to secure the attendance of that person as required by the order;
- (f) to take such photographs, or audio or video recording, as he 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;

*[Act 24 of 2012 wef 09/11/2012]*

- (g) to require any person to produce any article which is relevant to any investigation into a prescribed infringement or an offence under this Act, as the case may be, and, if necessary, to take into custody any such article;

*[37/95; 30/2007]*

*[Act 24 of 2012 wef 09/11/2012]*

- (h) to require an employer to produce all or any of his employees for the purposes of any investigation into a prescribed infringement or an offence under this Act when required by the authorised officer or employment inspector, as the case may be.

*[Act 24 of 2012 wef 09/11/2012]*

(2) An authorised officer or employment inspector may require the occupier of any premises and the occupier's agents and any person found in the premises to furnish such means required by the authorised officer or employment inspector, as the case may be, as necessary for any entry, inspection, search, examination or investigation, the taking of photographs or audio or video recordings, the taking of articles into custody or otherwise for the exercise of his powers under this Act.

*[Act 24 of 2012 wef 09/11/2012]*

(3) An authorised officer or employment inspector may, after concluding his inspection or investigation, hand over to an immigration officer any travel document which he has taken into custody or which has been produced to him.

*[Act 24 of 2012 wef 09/11/2012]*

(3A) If entry to any premises cannot be obtained, an employment inspector may, when he has reasonable cause to believe that any foreign employee or self-employed foreigner is employed or engaged therein or accommodated thereat or that evidence of the commission of an offence under this Act can be found therein, state his authority and purpose and demand entry to the premises, and —

- (a) break open any outer or inner door or window leading to the premises;
- (b) forcibly enter such premises and every part thereof; or
- (c) remove by force any obstruction to such entry or search.

*[Act 24 of 2012 wef 09/11/2012]*

(4) If any person —

- (a) intentionally offers any resistance to or wilfully delays an authorised officer or employment inspector in the exercise of any power under this section;

*[Act 24 of 2012 wef 09/11/2012]*

- (b) fails to comply with the requisition of an authorised officer or employment inspector under this section;

*[Act 24 of 2012 wef 09/11/2012]*

- (c) fails to produce any document which he is required by or under this section to produce;

- (d) wilfully withholds any information as to who is the occupier of the premises or who is the principal contractor or who is his employer; or

- (e) conceals or prevents or attempts to conceal or prevent a person from appearing before or being examined by an authorised officer or employment inspector,

*[Act 24 of 2012 wef 09/11/2012]*

that person shall be deemed to obstruct an authorised officer or employment inspector, as the case may be, in the execution of his duties under this Act.

*[37/95]*

*[Act 24 of 2012 wef 09/11/2012]*

(5) Every employment inspector shall have authority to appear in court and may, with the authorisation of the Public Prosecutor, conduct any prosecution in respect of any offence under this Act.

*[15/2010 wef 02/01/2011]*

*[Act 24 of 2012 wef 09/11/2012]*

## Change of address

**17.**—(1) If required by the Controller, any employer shall inform the Controller of any change in his address within 14 days of such change —

- (a) where the employer is an individual registered under the National Registration Act (Cap. 201), by reporting the change of his place of residence under section 8 of that Act;
- (b) where the employer is a body corporate incorporated under the Companies Act (Cap. 50), a sole proprietorship or a firm registered under the Business Registration Act (Cap. 32) or a limited liability partnership registered under the Limited Liability Partnerships Act (Cap. 163A), by reporting the change of the address of the registered office or place of business under section 143 of the Companies Act, section 14 of the Business Registration Act (Cap. 32) or section 26 of the Limited Liability Partnerships Act (Cap. 163A), as the case may be; or
- (c) where paragraphs (a) and (b) are not applicable, in writing.

*[30/2007]*

(2) The address as reported in subsection (1) shall be deemed to be the last known address of the employer for the purposes of section 18.

*[30/2007]*

(3) If required by the Controller, any foreign employee or self-employed foreigner shall inform the Controller in writing of any change in his address within 14 days of such change.

*[30/2007]*

(4) The address as reported in subsection (3) shall be deemed to be the last known address of the foreign employee or self-employed foreigner for the purposes of section 18.

*[30/2007]*

## Service of notices

**18.**—(1) Every notice, order or document required or authorised by this Act to be served on any person may be served —

- (a) by delivering it to the person or to some adult member or employee of his family or his

household at his last known place of residence;

*[Act 24 of 2012 wef 09/11/2012]*

- (b) by leaving it at his usual or last known place of residence or business in an envelope addressed to him; or
- (c) by sending it by ordinary or registered post addressed to the person at his usual or last known place of residence or business.

*[37/95]*

*[Act 24 of 2012 wef 09/11/2012]*

(2) Where any notice, order or document is served by ordinary or registered post, it shall be deemed to have been duly served at the time it would have been received in the ordinary course of post if the notice, order or document is addressed —

- (a) in the case of a company incorporated in Singapore, to the registered office of the company;
- (b) in the case of a company incorporated outside Singapore, either to the individual authorised to accept service of process under the Companies Act (Cap. 50) at the address filed with the Registrar of Companies, or to the registered office of the company wherever it may be situated;
- (c) in the case of an individual, a partnership (including a limited liability partnership as defined in section 4(1) of the Limited Liability Partnerships Act (Cap. 163A)) or a body of persons, to the last known business or private address of such individual, partnership or body of persons.

*[37/95; 30/2007]*

(3) Where any notice, order or document is served by registered post in accordance with subsection (2), in proving service of the notice, order or document, it shall be sufficient to prove that the envelope containing the same was properly addressed, stamped and posted by registered post.

*[37/95]*

(4) Every notice, order or document to be given by the Controller or an employment inspector under this Act shall be signed by the Controller or employment inspector, or by some person or persons from time to time authorised by the Controller or employment inspector, as the case may be, in that behalf, and every such notice, order or document shall be valid if the signature or an official facsimile thereof of the Controller, employment inspector or such person or persons is duly printed or written thereon.

*[Act 24 of 2012 wef 09/11/2012]*

(5) Any notice or order under this Act requiring the attendance of any person or witness before the Controller or an employment inspector shall be signed by the Controller or the employment inspector, as the case may be, or by a person duly authorised by the Controller.

*[Act 24 of 2012 wef 09/11/2012]*

## **Protection from personal liability**

**19.** No liability shall be incurred by —

- (a) the Controller;
- (b) any authorised officer or employment inspector, or any person acting under the direction of

the Controller; or

(c) any member of the Appeal Board,

for anything which is done or intended to be done in good faith and with reasonable care, in the exercise or purported exercise of any power, or the performance or purported performance of any function or duty, under this Act.

*[Act 24 of 2012 wef 09/11/2012]*

## PART IV

### OFFENCES

*[Act 24 of 2012 wef 09/11/2012]*

#### **Offences by bodies corporate, etc.**

**20.**—(1) Where an offence under this Act committed by a body corporate is proved —

- (a) to have been committed with the consent or connivance of an officer of the body corporate; or
- (b) to be attributable to any neglect on his part,

the officer as well as the body corporate shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(3) Where an offence under this Act committed by a partnership is proved —

- (a) to have been committed with the consent or connivance of a partner; or
- (b) to be attributable to any neglect on his part,

the partner as well as the partnership shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(4) Where an offence under this Act committed by an unincorporated association (other than a partnership) is proved —

- (a) to have been committed with the consent or connivance of an officer of the unincorporated association or a member of its governing body; or
- (b) to be attributable to any neglect on the part of such an officer or member,

the officer or member as well as the unincorporated association shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(5) For the purposes of this section, where an offence under this Act has been committed by a body corporate, an unincorporated association (other than a partnership) or a partnership, it shall be presumed, until the contrary is proved, that the offence is attributable to the neglect of an officer or a member of the

body corporate or unincorporated association or a partner of the partnership, as the case may be, who —

- (a) is primarily responsible for the act or omission which constitutes the offence; and
- (b) has failed to exercise reasonable supervision or oversight as such officer, member or partner.

(6) In this section —

“officer” —

- (a) in relation to a body corporate, means any director, partner, member of the committee of management, chief executive, manager, secretary or other similar officer of the body corporate and includes any person purporting to act in any such capacity; or
- (b) in relation to an unincorporated association (other than a partnership), means the president, the secretary, or any member of the committee of the unincorporated association, or any person holding a position analogous to that of president, secretary or member of a committee and includes any person purporting to act in any such capacity;

“partner” includes a person purporting to act as a partner.

(7) The Minister may make regulations to provide for the application of any provision of this section, with such modifications as the Minister considers appropriate, to any body corporate or unincorporated association formed or recognised under the law of a territory outside Singapore.

*[Act 24 of 2012 wef 09/11/2012]*

### **Power to arrest without warrant**

**21.—**(1) Any police officer or employment inspector may arrest without warrant any person whom he reasonably suspects —

- (a) is committing or has committed an offence under section 5(6), (7) or (7A), 10(2), 22(1)(a), (c), (d), (e) or (f), (2), (3) or (4), 22A(2) or 22B(1); or
- (b) has abetted the commission of any offence referred to in paragraph (a).

*[Act 24 of 2012 wef 09/11/2012]*

(1A) For the purposes of this section, an officer or a member of a body corporate or an unincorporated association or a partner of a partnership who is liable for an offence referred to in subsection (1)(a) by virtue of section 20 shall be treated as having committed that offence.

*[Act 24 of 2012 wef 09/11/2012]*

(2) An employment inspector making an arrest without warrant shall, without unnecessary delay and subject to subsection (4), take or send the person arrested before a Magistrate’s Court.

*[30/2007]*

(3) No employment inspector shall detain in custody a person arrested without warrant for longer than is reasonable in the circumstances, and such period shall not exceed 48 hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate’s Court.

*[30/2007]*

(4) Any person who has been arrested by an employment inspector may be released on bail, or on his

own bond, by an employment inspector.

[30/2007]

### **Arrest how made**

**21A.**—(1) In making an arrest, an employment inspector making the arrest shall touch or confine the body of the person to be arrested unless the person submits to arrest by word or action.

[30/2007]

(2) If the person forcibly resists or tries to evade arrest, the employment inspector may use all means necessary to effect the arrest.

[30/2007]

### **No unnecessary restraint**

**21B.**—(1) The person arrested shall not be subjected to more restraint than is necessary to prevent his escape.

[30/2007]

(2) An employment inspector may use handcuffs or any similar means of restraint on a person arrested to prevent him from —

- (a) inflicting any bodily injury to himself or others;
- (b) damaging any property;
- (c) creating any disturbance; or
- (d) escaping from custody.

[30/2007]

(3) The handcuffs or means of restraint shall not be used for the purpose of punishment.

[30/2007]

### **Search of persons arrested**

**21C.**—(1) When a person is arrested, the employment inspector making the arrest may search the person and take possession of all articles (other than necessary wearing apparel) found upon the person that the employment inspector has reason to believe were connected with the offence for which the person was being arrested.

[30/2007]

(2) Whenever it is necessary to cause a person to be searched, the search shall be made by an employment inspector of the same sex as the person, with strict regard to decency.

[30/2007]

### **Employment inspector to be armed**

**21D.** Every employment inspector shall be provided with such batons and accoutrements as may be necessary for the effective discharge of his duties.

[30/2007]

### **Power to seize offensive weapons**

**21E.** An employment inspector making any arrest may take from the person arrested any offensive weapons which he has about his person.

[30/2007]

### **Power on escape to pursue and arrest**

**21F.** If a person in lawful custody escapes or is rescued, the employment inspector from whose custody he escaped or was rescued may immediately pursue and arrest him in any place within Singapore and deal with that person as he might have done on the original arrest.

[30/2007]

### **Disposal of documents or articles**

**21G.—(1)** Any document or article produced, retained or requisitioned under section 16(1)(b), (c) or (g) or 21E shall —

(a) where the document or article is produced in any criminal trial, be dealt with in accordance with section 364(1) of the Criminal Procedure Code 2010; or

[15/2010 wef 02/01/2011]

(b) in any other case —

(i) be returned to the owner; or

(ii) if the owner is not known, be reported to a Magistrate's Court.

[30/2007]

(2) Where the report of any document or article produced, retained or requisitioned under section 16(1)(b), (c) or (g) or 21E is made to a Magistrate's Court under subsection (1)(b)(ii), the Magistrate's Court may order the document or article —

(a) to be forfeited; or

(b) to be disposed of in such manner as the Magistrate's Court thinks fit.

[30/2007]

(3) Nothing in this section shall be taken to prejudice any right to retain or dispose of property which may exist in law apart from this section.

[30/2007]

### **General offences**

**22.—(1)** Any person who —

(a) being an employer, a foreign employee or a self-employed foreigner to whom a work pass applies or had applied, contravenes any condition (other than a regulatory condition) of the work pass or in-principle approval of the application for the work pass;

(b) contravenes section 13(4);



- (c) wilfully obstructs an authorised officer or employment inspector in the exercise of his powers under section 16, 21, 21A, 21B, 21C, 21E or 21F (as applicable);
- (d) in connection with any application for or to renew a work pass or for any other purpose under this Act, makes any statement or furnishes any information to the Controller or an authorised officer or employment inspector which he knows, or ought reasonably to know, is false in any material particular or is misleading by reason of the omission of any material particular;
- (e) sells, forges, unlawfully alters or, without lawful authority, transfers or allows another person to use any in-principle approval or work pass;
- (f) uses or, without lawful authority, has in his possession any in-principle approval or work pass that is forged or unlawfully altered, or which is issued to another person; or
- (g) contravenes section 13(1), (2) or (3), 14 or 17(1) or (3),

shall be guilty of an offence and shall be liable on conviction —

- (i) in the case of an offence under paragraph (a), (b) or (c), to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both;
- (ii) in the case of an offence under paragraph (d), (e) or (f), to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 2 years or to both; and
- (iii) in the case of an offence under paragraph (g), to a fine not exceeding \$10,000.

(2) Any employer, foreign employee, self-employed foreigner, or any agent involved in the employment of the foreign employee or the engagement of the self-employed foreigner, who —

- (a) knows, or has reason to believe, that an offence has been committed under subsection (1)(d); and
- (b) intentionally omits to furnish any information to the Controller in respect of that offence,

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.

(3) Any foreign employee or self-employed foreigner who makes any statement or submits any document to the Controller under this Act relating to his qualifications which he knows or ought reasonably to know is false in any material particular, or is misleading by reason of the omission of any material particular, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 2 years or to both.

(4) Any employer of a foreign employee or any agent involved in the employment of the foreign employee, or any agent involved in the engagement of a self-employed foreigner, who —

- (a) knows, or has reason to believe, that an offence has been committed by the foreign employee or self-employed foreigner, as the case may be, under subsection (3); and
- (b) intentionally omits to furnish any information to the Controller in respect of that offence,

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.

*[Act 24 of 2012 wef 09/11/2012]*

### **Restrictions on receipt, etc., of moneys in connection with employment of foreign employee**

**22A.**—(1) No person shall deduct from any salary payable to a foreign employee, or demand or receive, directly or indirectly and whether in Singapore or elsewhere, from a foreign employee any sum or other benefit —

- (a) as consideration or as a condition for the employment of the foreign employee, whether by that person or any other person;
- (b) as consideration or as a condition for the continued employment of the foreign employee, whether by that person or any other person; or
- (c) as a financial guarantee related, in any way, to the employment of the foreign employee, whether by that person or any other person.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 2 years or to both.

(3) Any person who deducts from any salary payable to a foreign employee, or demands or receives, directly or indirectly and whether in Singapore or elsewhere, from a foreign employee any sum or other benefit, not being —

- (a) the whole or part of any fee, cost, levy, penalty, charge or amount that the employer of the foreign employee shall bear and be liable to pay under section 25(6);
- (b) the whole or part of any fee or deduction prescribed as recoverable from the foreign employee under section 25(6)(a);
- (c) where sections 26 to 32 of the Employment Act (Cap. 91) apply to the foreign employee, the whole or part of any deduction from the salary of the foreign employee authorised to be made under those sections;
- (d) where sections 26 to 32 of the Employment Act do not apply to the foreign employee, the whole or part of any deduction from the salary of the foreign employee made in accordance with the terms of the employment of the foreign employee; or
- (e) the whole or part of any fee, remuneration, profit or compensation that a licensee under the Employment Agencies Act (Cap. 92) may lawfully charge the foreign employee and receive under that Act,

shall be presumed, until the contrary is proved, to have done so as consideration for the employment of the foreign employee.

*[Act 24 of 2012 wef 09/11/2012]*

### **Proscribed manpower-related practices**

**22B.—(1)** Any person who —

- (a) obtains a work pass for a foreign employee for a trade or business that does not exist, that is not in operation or that does not require the employment of such a foreign employee; and
- (b) fails to employ the foreign employee,

shall be guilty of an offence and shall on conviction be punished with imprisonment for a term of not less than 6 months and not more than 2 years and shall also be liable to a fine not exceeding \$6,000.

**(2)** Where any person is —

- (a) charged with more than 5 offences under subsection (1); and
- (b) convicted of at least 6 of those offences at the same trial,

the person shall be punished, subject to sections 325(1) and 330(1) of the Criminal Procedure Code (Cap. 68), with caning in addition to the punishment prescribed for those offences.

(3) Where, by virtue of sections 325(1) and 330(1) of the Criminal Procedure Code, the person referred to in subsection (2) is not punishable with caning, he shall, in lieu of caning, be punished with a fine not exceeding \$10,000.

*[Act 24 of 2012 wef 09/11/2012]*

**Abetment of offences**

**23.—(1)** Any person who abets the commission of an offence under this Act shall be guilty of the offence and shall be liable on conviction to be punished with the punishment provided for that offence.

*[37/95]*

(2) Where an occupier is charged for abetting another person who has employed a foreign employee in contravention of section 5(1), it shall not be sufficient for the occupier to prove in his defence that he had instructed the other person not to, or obtained from the other person an undertaking that he would not, so employ a foreign employee.

*[37/95; 30/2007]*

**Orders for payment of proceeds of crime**

**23A.—(1)** When any person is convicted of an offence under section 22A(2) or 22B(1), the court shall, in addition to imposing on that person any other punishment, order him to pay, within such time as may be specified in the order —

- (a) in the case of an offence under section 22A(2), a sum which is equal to the amount of the sum or other benefit (where such benefit is a sum of money, or the value of such benefit can be assessed) he deducted or received in contravention of that section; or
- (b) in the case of an offence under section 22B(1), a sum which is equal to the amount of the sum or other benefit (where such benefit is a sum of money, or the value of such benefit can be assessed) he obtained or received for obtaining the work pass referred to in that section.

(2) In determining the sum of money to be recovered under subsection (1), the court shall, if it thinks

fit, take into account —

- (a) any relevant evidence admitted in the proceedings against the defendant for the offence concerned; and
- (b) any order for the payment of compensation by the defendant in respect of any injury arising from the offence concerned to the person injured, or his representative, under section 359 of the Criminal Procedure Code (Cap. 68).

(3) Where a court orders the defendant to pay any sum of money under subsection (1), section 319 of the Criminal Procedure Code shall have effect as if that sum were a fine imposed on him by the court.

(4) Where —

- (a) a warrant to commit the defendant to prison is issued for a default in payment of a sum of money ordered to be paid under subsection (1) in respect of an offence or offences; and
- (b) at the time the warrant is issued, the defendant is liable to serve any term of imprisonment in respect of the offence or offences,

the term of imprisonment to be served in default of payment of that sum shall not begin to run until after the term mentioned in paragraph (b).

(5) A Magistrate's Court or a District Court may, notwithstanding the provisions of any other written law, impose the maximum term of imprisonment on the defendant in default of the payment of any sum of money ordered to be paid under subsection (1).

*[Act 24 of 2012 wef 09/11/2012]*

### **Complaint by employment inspector**

**24.** For the purpose of section 151 of the Criminal Procedure Code 2010, on receiving the complaint in writing and signed by any employment inspector, the Magistrate must proceed to issue a summons or warrant in accordance with section 153 of the Criminal Procedure Code 2010.

*[15/2010 wef 02/01/2011]*

## **PART V**

### **PRESCRIBED INFRINGEMENTS**

*[Act 24 of 2012 wef 09/11/2012]*

### **General prescribed infringements**

**25.—**(1) Where any employer —

- (a) makes or causes to be made, to the Controller, an application for a work pass on the basis of his foreign employee entitlement; and
- (b) commits, or causes or permits to be committed, any act or omission which facilitates, or which results in, the inflation of his foreign employee entitlement,

the Controller may impose on the employer a financial penalty of such amount, not exceeding \$20,000, as the Controller may determine.

(2) Where any person fails to comply with —

- (a) any regulatory condition subject to which an in-principle approval is or had been issued to him by the Controller; or
- (b) being an employer, a foreign employee or a self-employed foreigner to whom a work pass applies or had applied, any regulatory condition of the work pass,

the Controller may impose on the person a financial penalty of such amount, not exceeding \$10,000, as the Controller may determine.

(3) Where any employer inadvertently, or without intent to mislead or defraud, makes any statement or furnishes any information to the Controller which is inaccurate or erroneous, the Controller may impose on the employer a financial penalty of such amount, not exceeding \$20,000, as the Controller may determine.

(4) Where any employer —

- (a) deducts from any salary payable to a foreign employee, or demands or receives, directly or indirectly and whether in Singapore or elsewhere, from the foreign employee any fee, cost, levy, penalty, charge or amount that the employer shall bear and be liable for under subsection (6), or any part thereof; or
- (b) causes any foreign employee to bear any fee, cost, levy, penalty, charge or amount that the employer shall bear and be liable for under subsection (6), or any part thereof,

the Controller may impose on the employer a financial penalty of such amount, not exceeding \$20,000, as the Controller may determine.

(5) In subsection (1), unless the context otherwise requires —

“act or omission”, in relation to a person who is an employer, includes but is not limited to the employer failing to ensure that his Central Provident Fund contribution record of payments as employer required under the Central Provident Fund Act (Cap. 36) only reflects every citizen or permanent resident of Singapore who is employed by him and at the appropriate contribution rate prescribed by law;

“foreign employee entitlement” means the number of foreign employees which a person may employ, according to such criteria and conditions as the Minister or the Controller may determine.

(6) For the purposes of subsection (4), the employer of a foreign employee shall, except where the Controller permits otherwise, bear and be liable to pay the following:

- (a) fees associated with the application, issuance, renewal or reinstatement of a work pass, other than the fees or deductions prescribed as recoverable from the foreign employee;
- (b) costs associated with furnishing security as required by the Controller;

- (c) costs associated with purchasing and maintaining medical insurance coverage for the foreign employee, as required by the Controller;
- (d) costs associated with medical examinations for the foreign employee, as required by the Controller;
- (e) the levy imposed under section 11(1) in respect of the foreign employee and any penalty due thereon;
- (f) costs associated with training the foreign employee, where the training is required by the employer or the Controller;
- (g) costs associated with repatriating the foreign employee at any time; and
- (h) such fee, charge or amount as may be prescribed.

*[Act 24 of 2012 wef 09/11/2012]*

### **Compliance with prescribed duties**

**25A.**—(1) Where an in-principle approval of an application for a work pass has been issued by the Controller, the employer, foreign employee or self-employed foreigner concerned shall comply with such duties for or in relation to the employment of such foreign employee or the engagement of such self-employed foreigner as may be prescribed.

(2) Where any employer, foreign employee or self-employed foreigner fails to comply with any duty prescribed under subsection (1) that he is required to comply with, the Controller may impose on him a financial penalty of such amount, not exceeding \$10,000, as the Controller may determine.

(3) For the purposes of this section —

- (a) duties may be prescribed for or in relation to any foreign employee or self-employed foreigner, or any class thereof, to be complied with following the cancellation, revocation or expiry of the work pass of the foreign employee or self-employed foreigner, as the case may be; and
- (b) different duties may be prescribed in relation to different classes of employers, foreign employees or self-employed foreigners, or different categories of work passes.

*[Act 24 of 2012 wef 09/11/2012]*

### **Directions**

**25B.**—(1) Notwithstanding anything in this Act, where the Controller is satisfied that any person is committing or has committed a prescribed infringement, the Controller may, in addition to or in lieu of the imposition of a financial penalty, give such directions to the person as the Controller thinks appropriate to bring the prescribed infringement to an end and, where necessary, require that person to take such action as is specified in the direction to remedy, mitigate or eliminate any effects of such prescribed infringement and to prevent the recurrence of such prescribed infringement.

(2) Any person who fails, without reasonable excuse, to comply with any direction given under subsection (1) 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.

*[Act 24 of 2012 wef 09/11/2012]*

### **Proceedings for prescribed infringements**

**25C.**—(1) The Controller may inquire into and determine whether any person has committed a prescribed infringement in accordance with this Act.

(2) For the purposes of subsection (1), the Controller shall have the following powers:

- (a) to summon and examine witnesses;
- (b) to administer oaths or affirmations; and
- (c) to compel the production of documents and articles.

(3) All proceedings before the Controller under this section shall be held in private.

(4) In any proceedings before the Controller under this section —

- (a) the Controller 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 matter in such manner as he thinks just;
- (b) any question of fact to be decided by the Controller shall be decided on the balance of probabilities; and
- (c) no party may be represented by an advocate or solicitor or a paid agent.

(5) If any person who has been duly summoned by the Controller to attend at any proceedings under this section makes default in so doing, the Controller may make his determination in the absence of that person notwithstanding that the interest of that person may be prejudicially affected by his determination.

(6) Where the Controller has made a determination that any person has committed a prescribed infringement, the Controller may in his determination —

- (a) state, if any, the amount of financial penalty, not exceeding the maximum financial penalty prescribed for the prescribed infringement, that is payable by the person and the date by which the financial penalty is to be paid; and
- (b) include such directions to the person under section 25B as the Controller thinks appropriate.

(7) The Controller may, on the application of any person referred to in subsection (6) who is aggrieved by a determination or direction of the Controller, vary or set aside the determination or direction or make such other determination or direction as he thinks just.

(8) Any person referred to in subsection (6) who is aggrieved by a determination or direction of the Controller, or any variation thereof, may appeal to the Appeal Board, whose decision shall be final.

*[Act 24 of 2012 wef 09/11/2012]*

### **Recovery of financial penalties**

**25D.**—(1) Any person who has been determined to have committed a prescribed infringement and fails to pay the financial penalty imposed by the Controller by the date specified under section 25C(6)(a) shall be liable to pay to the Controller interest on the amount unpaid at the same rate as for a judgment debt.

(2) Any financial penalty payable in respect of a prescribed infringement and any interest thereon shall be recoverable by the Controller, or any person duly authorised by the Controller to act on his behalf, as a debt due to the Government.

(3) The Controller may, in any case in which he thinks fit, waive, remit or refund in whole or in part any financial penalty imposed or any interest due thereon.

(4) In any proceedings for the recovery of any financial penalty or interest due thereon which any person is liable to pay, a certificate purporting to be under the hand of the Controller certifying the amount of the financial penalty or interest due thereon that is payable by the person shall be prima facie evidence of the facts stated therein.

*[Act 24 of 2012 wef 09/11/2012]*

### **Prescribed infringements by bodies corporate, etc.**

**25E.**—(1) Where a prescribed infringement committed by a body corporate is proved —

- (a) to have been committed with the consent or connivance of an officer of the body corporate; or
- (b) to be attributable to any neglect on his part,

the officer as well as the body corporate shall be treated as having committed the prescribed infringement and dealt with accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(3) Where a prescribed infringement committed by a partnership is proved —

- (a) to have been committed with the consent or connivance of a partner; or
- (b) to be attributable to any neglect on his part,

the partner as well as the partnership shall be treated as having committed the prescribed infringement and dealt with accordingly.

(4) Where a prescribed infringement committed by an unincorporated association (other than a partnership) is proved —

- (a) to have been committed with the consent or connivance of an officer of the unincorporated association or a member of its governing body; or
- (b) to be attributable to any neglect on the part of such officer or member,

the officer or member as well as the unincorporated association shall be treated as having committed the



prescribed infringement and dealt with accordingly.

(5) For the purposes of this section, where a prescribed infringement has been committed by a body corporate, an unincorporated association (other than a partnership) or a partnership, it shall be presumed, until the contrary is proved, that the prescribed infringement is attributable to the neglect of an officer or a member of the body corporate or unincorporated association or a partner of the partnership, as the case may be, who —

- (a) is primarily responsible for the act or omission which constitutes the prescribed infringement; and
- (b) has failed to exercise reasonable supervision or oversight as such officer, member or partner.

(6) In this section —

“officer” —

- (a) in relation to a body corporate, means any director, partner, member of the committee of management, chief executive, manager, secretary or other similar officer of the body corporate and includes any person purporting to act in any such capacity; or
- (b) in relation to an unincorporated association (other than a partnership), means the president, the secretary, or any member of the committee of the unincorporated association, or any person holding a position analogous to that of president, secretary or member of a committee and includes any person purporting to act in any such capacity;

“partner” includes a person purporting to act as a partner.

(7) The Minister may make regulations to provide for the application of any provision of this section, with such modifications as the Minister considers appropriate, to any body corporate or unincorporated association formed or recognised under the law of a territory outside Singapore.

*[Act 24 of 2012 wef 09/11/2012]*

### **Abetment of prescribed infringements**

**25F.**—(1) Where any person abets a prescribed infringement, the Controller may impose on the person a financial penalty of such amount, not exceeding the maximum financial penalty prescribed for the prescribed infringement, as the Controller may determine.

(2) For the purposes of this section —

- (a) a person abets a prescribed infringement who abets either the commission of the prescribed infringement, or the commission of an act which would be a prescribed infringement, if committed by a person capable by law of committing a prescribed infringement with the same intention or knowledge as that of the abettor; and
- (b) a person abets the doing of a thing who —
  - (i) instigates any person to do that thing;
  - (ii) engages with one or more other person or persons in any conspiracy for the doing of

that thing, if an act or omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or

(iii) intentionally aids, by any act or omission, the doing of that thing.

*[Act 24 of 2012 wef 09/11/2012]*

## Appeals to Appeal Board

**25G.**—(1) An appeal to the Appeal Board under section 25C(8) shall be lodged within 14 days after the receipt of the determination or direction of the Controller by the person aggrieved by the determination or direction, as the case may be.

(2) Any person who has lodged an appeal to the Appeal Board under section 25C(8) shall provide such information as may be required by the Appeal Board, in such manner and within such period as may be specified by the Appeal Board.

(3) An appeal under section 25C(8) shall not suspend the effect of the determination or direction to which the appeal relates unless the appeal is against the imposition, or the amount, of a financial penalty.

(4) The Appeal Board shall determine an appeal under section 25C(8) as soon as reasonably practicable, having regard to the nature and complexity of the appeal.

(5) The Appeal Board shall notify the person making an appeal under section 25C(8) of its decision in respect of his appeal and the reasons for its decision.

(6) Without prejudice to the generality of subsection (5), the Appeal Board may —

(a) confirm, vary or reverse the determination or direction of the Controller appealed against; or

(b) direct the Controller to reconsider the determination or direction appealed against.

*[Act 24 of 2012 wef 09/11/2012]*

## Composition and procedure of Appeal Board

**25H.**—(1) For the purposes of section 25G, the Minister may establish an Appeal Board which shall consist of at least 3 persons, one of whom shall be appointed by the Minister to be the chairman of the Appeal Board.

(2) The chairman of the Appeal Board must be a person qualified to be a Judge of the Supreme Court.

(3) The Minister may, in establishing the Appeal Board, determine —

(a) the terms and conditions of the appointment of the members of the Appeal Board; and

(b) such matters as the Minister considers incidental or expedient for the proper and efficient conduct of any appeal by the Appeal Board.

(4) The remuneration and allowances, if any, of a member of the Appeal Board shall be determined by the Minister.

(5) The Appeal Board shall determine the procedure to be adopted by it in considering an appeal

under section 25C(8), and shall be independent in the performance of its functions.

*[Act 24 of 2012 wef 09/11/2012]*

## PART VI

### MISCELLANEOUS

*[Act 24 of 2012 wef 09/11/2012]*

#### **Jurisdiction of Courts**

**26.** Notwithstanding the provisions of any written law to the contrary, a Magistrate's Court or a District Court shall have jurisdiction to try any offence under this Act and shall have power to impose the full punishment for any such offence.

*[Act 24 of 2012 wef 09/11/2012]*

#### **Composition of offences**

**27.—(1)** The Controller may compound any offence under this Act by collecting from a person reasonably suspected of having committed the offence, or having abetted the commission of the offence, a sum not exceeding the lower of the following sums:

- (a) one half of the amount of the maximum fine that is prescribed for the offence;
- (b) a sum of \$5,000.

(2) For the purposes of this section, an officer or a member of a body corporate or an unincorporated association or a partner of a partnership who is liable for an offence that is compoundable under this section by virtue of section 20 shall be treated as having committed that offence.

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

*[Act 24 of 2012 wef 09/11/2012]*

#### **Forms**

**28.** For the purposes of this Act, the Controller may devise and use such forms as he may consider necessary.

#### **Regulations**

**29.—(1)** The Minister may make regulations for any purpose for which regulations may be made under this Act, for prescribing anything which may be prescribed and generally for carrying out the provisions of this Act.

*[Act 24 of 2012 wef 09/11/2012]*

(2) Regulations made under subsection (1) may —

- (a) prescribe the penalties for any contravention of any provision of any regulation, except that —
  - (i) in the case of an offence, no such penalty shall exceed a fine of \$15,000 or

imprisonment for a term of 12 months or both; or

- (ii) in the case of a prescribed infringement, no such penalty shall exceed a financial penalty of \$15,000;

*[Act 24 of 2012 wef 09/11/2012]*

- (b) prescribe such fees or charges as may be necessary for the purposes of this Act, including the fees to be paid in respect of any appeal lodged under this Act;

*[Act 24 of 2012 wef 09/11/2012]*

- (c) prescribe —

- (i) the categories of work passes;
- (ii) the period for which any work pass may be issued, renewed or reinstated;
- (iii) the criteria for the issuance, renewal or reinstatement of any work pass; and
- (iv) any condition (including any regulatory condition) subject to which an in-principle approval may be issued, or a work pass may be issued, renewed or reinstated;

*[Act 24 of 2012 wef 09/11/2012]*

- (d) provide for the taking and recording of any personal identifier of any person —

- (i) who applies for or has been issued with a work pass; or
- (ii) who is suspected of committing an offence under this Act;

- (e) provide for the use of any mechanical, electrical or other form of device or system for the taking or recording of all or any of the personal identifiers;

- (f) provide for the collation of any personal identifier taken or recorded pursuant to regulations made under paragraph (d) and the dissemination thereof to the police and to any other law enforcement agency authorised by the Controller to receive it;

- (g) provide for any matter relating to the release of any arrested person on any bail or bond under section 21(4);

- (h) provide for any matter relating to the security to be furnished by or in respect of any foreigner issued with a work pass or any group or class of such foreigners, including the circumstances and the conditions under which the amount of the security may be varied or the security may be forfeited;

*[Act 24 of 2012 wef 09/11/2012]*

- (i) prescribe the procedure in respect of any proceedings or any matter or thing to be done under this Act.

*[Act 24 of 2012 wef 09/11/2012]*

(3) All such regulations shall be presented to Parliament as soon as possible after publication in the *Gazette*.

### **Transitional provisions**

**30.—(1)** Any permit, appointment, application, appeal, decision, ruling, order, direction or notice issued, made or given under the repealed Regulation of Employment Act (Cap. 272, 1985 Ed.) shall be treated as a permit, appointment, application, appeal, decision, ruling, order, direction or notice issued, made or given under this Act and shall have the same force and effect as a permit, appointment, application, appeal, decision, ruling, order, direction or notice issued, made or given under this Act.

(2) Any form used for the purposes of the repealed Regulation of Employment Act which was in force or had effect immediately before 1st January 1991 shall continue in force and have effect as though prescribed under this Act until new forms are prescribed.

## THE SCHEDULE

Section 2A

### PERSONAL IDENTIFIERS

1. Fingerprints or handprints of a person (including those taken using paper and ink or digital liveness scanning technologies).
2. A photograph or other image of a person's face and shoulders.
3. A person's signature.

[\[30/2007\]](#)

## LEGISLATIVE HISTORY

### EMPLOYMENT OF FOREIGN MANPOWER ACT (CHAPTER 91A)

This Legislative History is provided for the convenience of users of the Employment of Foreign Manpower Act. It is not part of the Act.

#### **1. Act 21 of 1990—Employment of Foreign Workers Act 1990**

Date of First Reading	:	30 August 1990 (Bill No. 22/90 published on 31 August 1990)
Date of Second and Third Readings	:	4 October 1990
Date of commencement	:	1 January 1991

#### **2. 1991 Revised Edition—Employment of Foreign Workers Act (Chapter 91A)**

Date of operation	:	1 March 1991
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#### **3. [Act 37 of 1995—Employment of Foreign Workers Act 1995](#)**

Date of First Reading	:	27 September 1995
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(Bill No. 34/95 published on 28 September 1995)

Date of Second and Third Readings : 1 November 1995  
 Date of commencement : 1 March 1996

**4. 1997 Revised Edition—Employment of Foreign Workers Act (Chapter 91A)**

Date of operation : 20 December 1997

**5. Act 39 of 1998—Employment of Foreign Workers Act 1998**

Date of First Reading : 4 September 1998

(Bill No. 38/98 published on 5 September 1998)

Date of Second and Third Readings : 12 October 1998

Date of commencement : 15 February 1999

**6. Act 26 of 2001—Statutes (Miscellaneous Amendments and Repeal) Act 2001**

Date of First Reading : 11 July 2001

(Bill No. 24/2001 published on 12 July 2001)

Date of Second and Third Readings : 25 July 2001

Date of commencement : 1 September 2001  
 (section 7 — Amendment of Employment of Foreign Workers Act)

**7. Act 30 of 2007—Employment of Foreign Workers (Amendment) Act 2007**

Date of First Reading : 9 April 2007

(Bill No. 17/2007 published on 10 April 2007)

Date of Second and Third Readings : 22 May 2007

Date of commencement : 1 July 2007

**8. 2009 Revised Edition—Employment of Foreign Manpower Act**

Date of operation : 31 July 2009

**9. Act 15 of 2010—Criminal Procedure Code 2010**

(Consequential amendments made to Act by)

Date of First Reading : 26 April 2010

(Bill No. 11/2010 published on 26 April 2010)

Date of Second and Third Readings : 19 May 2010  
Date of commencement : 2 January 2011

**10. Act 24 of 2012—Employment of Foreign Manpower (Amendment) Act 2012**

Date of First Reading : 13 August 2012 (Bill No. 22/2012  
published on 13 August 2012)  
Date of Second and Third Readings : 11 September 2012  
Date of commencement : 9 November 2012