

Amend the Employment Ordinance to clarify, for the avoidance of doubt, that the taking part by an employee in a strike is not a lawful ground for an employer to terminate the employee's contract of employment without notice or payment in lieu.

Enacted by the Legislative Council.

1. Short title

This Ordinance may be cited as the Employment (Amendment) Ordinance 2000.

2. Termination of contract without notice by employer

Section 9 of the Employment Ordinance (Cap. 57) is amended---

(a) by renumbering it as section 9(1);

(b) by adding---

"(2) The fact that an employee takes part in a strike does not entitle his employer to terminate under subsection (1) the employee's contract of employment."

3. General exclusions from right to severance payment by reason of dismissal

Section 31C(1) is amended by repealing "Except as provided by section 31H, an" and substituting "An".

4. Sections repealed

Sections 31H, 31X and 32H are repealed.

5. General exclusions from right to long service payment by reason of dismissal

Section 31S(1) is amended by repealing "Except as provided by section 31X, an" and substituting "An".

Explanatory Memorandum

The purpose of this Bill is limited to the making of a clarifying amendment to the Employment Ordinance (Cap. 57) to the effect that the taking part by an employee in a strike is not a lawful ground under section 9 of the Ordinance for the termination of the employee's contract of employment without notice or payment in lieu.

2. Clause 2 adds a new subsection to section 9 to clarify that the taking part by an employee in a strike does not entitle an employer to terminate the employee's contract of employment without notice or payment in lieu under that section.

3. Clause 4 repeals sections 31H, 31X and 32H, which deal with employees' rights to severance payments, long service payments and remedies for employment protection in circumstances involving summary dismissal because of strike. These provisions have become redundant consequential to the amendment to section 9.

4. Clauses 3 and 5 consequentially amend sections 31C and 31S because of the repeal of sections 31H and 31X.