

Employment (Amendment) Bill 2017**Debate and voting arrangements**

Object of the Bill : To amend the Employment Ordinance (Cap. 57) (“EO”) so that, for a dismissal in any of the circumstances mentioned in section 32A(1)(c) of EO (i.e. unreasonable and unlawful dismissal),

- (a) the employer’s agreement is not a pre-requisite for ordering reinstatement (“RI”) or re-engagement (“RE”) of the employee;
- (b) a failure to comply with the order entails an additional liability to pay a further sum; and
- (c) a failure to pay the further sum is covered by the offence under section 43P of EO.

First debate	: Clauses with no - Clauses 1, 2, 3 and 6 to 18 amendment
Voting	: To vote on the above clauses standing part of the Bill together
Second debate	: Clauses with the first, - Clauses 4 and 5 second and third groups of amendments proposed by Dr Hon Fernando CHEUNG
Joint debate on the original clauses and the amendments thereto.	
Debate theme: Factors for consideration in determining whether RI or RE of the employee by the employer is reasonably practicable and matters related to revising the further sum	
<u>Dr Hon Fernando CHEUNG’s 1st group of amendments</u> (Clause 4(1))	
– To amend clause 4(1) of the Bill by adding the proposed section 32N(3CA), to specify that if the employer has engaged a replacement for the employee who has been dismissed, the court or Labour Tribunal must not take that fact into account in determining whether RI or RE of the employee by the employer is reasonably practicable unless the employer has satisfied the conditions specified in the proposed section 32N(3CA).	
<u>Dr Hon Fernando CHEUNG’s 2nd group of amendments</u> (Clause 5)	
– To amend the proposed section 32NA(1)(b) in clause 5 of the Bill to increase the further sum from three times the employee’s average monthly wages (subject to a ceiling of HK\$72,500) to six times the employee’s average monthly wages, with the ceiling removed.	

Dr Hon Fernando CHEUNG's 3rd group of amendment (Clause 5)

- To amend the proposed section 32NA(3) in clause 5 of the Bill to the effect that the ceiling for the further sum may be revised by resolution of the Legislative Council (i.e. positive vetting) instead of by notice published in the Gazette (i.e. negative vetting).

Mover	Voting	Remarks	Amendment(s)
Dr Hon Fernando CHEUNG	Dr CHEUNG's 1 st group of amendments	Irrespective of whether his 1 st group of amendments are passed or not, Dr CHEUNG may move his 2 nd group of amendments.	LC Paper No. <u>CB(3) 583/17-18</u>
Dr Hon Fernando CHEUNG	Dr CHEUNG's 2 nd group of amendments	If Dr CHEUNG's 2 nd group of amendments are passed , he will withdraw his 3 rd group of amendment; if Dr CHEUNG's 2 nd group of amendments are negatived , he may move his 3 rd group of amendment.	LC Paper No. <u>CB(3) 583/17-18</u>
Dr Hon Fernando CHEUNG	Dr CHEUNG's 3 rd group of amendment		LC Paper No. <u>CB(3) 583/17-18</u>

Dr Hon Fernando CHEUNG's amendments

(set out in LC Paper No. CB(3) 583/17-18 issued on 10 May 2018)

Council Business Division 3
Legislative Council Secretariat
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