**BERMUDA**

# EMPLOYMENT AMENDMENT (NO. 2) ACT 2026

## 2026 : 36

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WHEREAS it is expedient to amend the Employment Act 2000 to provide for measures that prohibit an employer from taking disciplinary action against an employee while on leave or off duty, the imposition of civil penalties by the Employment and Labour Relations Tribunal for non-compliance and the extension of the timeline for the delivery of Tribunal decisions;

Be it enacted by The King's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

**Citation**

1 This Act which amends the Employment Act 2000 ("the principal Act") may be cited as the Employment Amendment (No. 2) Act 2026.

**Amends section 3AA**

2 Section 3AA of the principal Act is amended by inserting after subsection (2) the following—

"(3) The Director may delegate to any member of staff of the Department any of his functions under this Act subject to such conditions as the Director may specify.".

**Amends section 20**

3 Section 20(3) of the principal Act is amended—

(a) in paragraph (b) by deleting the full stop and substituting a semi-colon;

(b) by inserting after paragraph (b) the following—

"(c) on any other leave that an employee is entitled to under any agreement or contract of employment; or

(d) while off duty.".

**Amends section 24**

4 Section 24 of the principal Act is amended—

(a) in subsection (1) by deleting the words "An employer" and substituting "Subject to subsection (1A) an employer";

(b) by inserting after subsection (1) the following—

"(1A) Disciplinary action under subsection (1) shall not be taken while an employee is—

(a) on vacation leave, maternity leave, paternity leave, parental leave or bereavement leave;

(b) on sick leave, unless the period of sick leave extends beyond six weeks;

(c) on any other leave that an employee is entitled to under any agreement or contract of employment; or

(d) off duty.

(1B) Notwithstanding subsection (1A) an employer may take immediate disciplinary action against an employee in the case of a documented risk that is urgent in nature including—

(a) fraud;

(b) theft;

(c) violence or threats of violence;

(d) harassment;

(e) intimidation;

(f) destruction of company property;

(g) misuse of confidential information;

(h) cyber security risk;

(i) risk related to workplace safety;

(j) risk related to vulnerable persons within the workplace.

(1C) An employer taking immediate disciplinary action in circumstances specified under subsection (1B) shall, in writing, provide reasons for the disciplinary action taken to—

(a) the employee;

(b) the Department of Labour; and

(c) the employee's trade union or other representative (if any),

within seven days from the date such action is taken.";

(c) by inserting after subsection (4) the following—

"(5) In this section "disciplinary action" includes—

(a) a verbal warning;

(b) a written warning;

(c) a disciplinary notice;

(d) notice of a disciplinary meeting;

(e) a notice of suspension;

(f) a dismissal notice;

(g) a formal allegation of misconduct or other similar correspondence, in any physical or electronic form.".

**Amends section 25**

5 Section 25 of the principal Act is amended—

(a) by renumbering the current provision as subsection (1);

(b) in subsection (1) by deleting the words "An employer" and substituting "Subject to subsection (2) an employer";

(c) by inserting after subsection (1) the following—

"(2) A dismissal action under subsection (1) shall not be taken while an employee is—

(a) on vacation leave, maternity leave, paternity leave, parental leave or bereavement leave;

(b) on sick leave, unless the period of sick leave extends beyond six weeks;

(c) on any other leave that an employee is entitled to under any agreement or contract of employment; or

(d) off duty.".

**Amends section 26**

6 Section 26 of the principal Act is amended by inserting after subsection (4) the following—

"(5) A written warning shall not be issued or employee's contract of employment terminated, under this section, while an employee is—

(a) on vacation leave, maternity leave, paternity leave, parental leave or bereavement leave;

(b) on sick leave, unless the period of sick leave extends beyond six weeks;

(c) on any other leave that an employee is entitled to under any agreement or contract of employment; or

(d) off duty.".

**Amends section 27**

7 Section 27 of the principal Act is amended by inserting after subsection (3) the following—

"(4) A written warning shall not be issued or employee's contract of employment terminated, under this section, while an employee is—

(a) on vacation leave, maternity leave, paternity leave, parental leave or bereavement leave;

(b) on sick leave, unless the period of sick leave extends beyond six weeks;

(c) on any other leave that an employee is entitled to under any agreement or contract of employment; or

(d) off duty.".

**Amends section 44A**

8 Section 44A of the principal Act is amended—

(a) in the definition of—

(i) "award" by inserting after the words "before it" the words "and includes an order for the payment of compensation";

(ii) "employee" by deleting the second occurrence of the word "and";

(b) by inserting in the correct alphabetical order the following—

" "Naming Register"means the Naming Register for Unpaid Tribunal Awards established under section 44LB; and".

**Inserts section 44BA**

9 The principal Act is amended by inserting after section 44B the following—

"**Immunity from suit**

44BA No action, suit, prosecution or other proceeding shall lie against the members of the Tribunal in respect of any act done in good faith in execution or intended execution of any function under this Act.".

**Inserts section 44CA**

10 The principal Act is amended by inserting after section 44C the following—

"**Case management powers of the Tribunal**

44CA (1) For the purposes of ensuring that matters are dealt with expeditiously and in accordance with Schedule 2 in relation to proceedings, the Tribunal shall have the power to—

(a) set hearing dates giving due regard to the Tribunal's schedule and the availability of parties;

(b) limit the number of adjournments available to a party;

(c) grant or refuse a request for an adjournment, after considering—

(i) the circumstances giving rise to the request;

(ii) whether the grant of an adjournment is reasonable in the circumstances;

(iii) any resulting delay;

(iv) expenses incurred by the Tribunal or a party to proceedings;

(d) at any stage of the proceedings, on its own initiative or on application by a party, give an order or direction that must be complied with by a specified date.

(2) Notwithstanding subsection (1)(a) the Tribunal may direct that a party confirms his availability to attend a set hearing date.

(3) A person who attempts to delay or frustrate the Tribunal's ability to deal with a matter expeditiously by refusing to—

(a) confirm his availability to attend set hearing dates; or

(b) participate in the scheduling of hearing dates, where required to do so,

shall be deemed non-compliant with an award and shall be liable to a civil penalty as imposed by the Tribunal.

(4) The case management powers conferred under this section do not derogate from the Tribunal's general powers under section 44C.".

**Amends section 44F**

11 Section 44F of the principal Act is amended—

(a) in subsection (1) by deleting the words "30 days" and substituting "30 business days";

(b) by inserting after subsection (4) the following—

"(5) In this section "business day" means a day other than a Saturday, Sunday or public holiday.".

**Amends section 44I**

12 Section 44I of the principal Act is amended—

(a) by deleting the headnote and substituting the following—

"**Enforcement of Tribunal awards**";

(b) by repealing subsection (1) and substituting the following—

"(1) Where—

(a) the Tribunal makes an award; and

(b) the chairman or deputy chairman of the Tribunal certifies that the award has been so made, and specifies the terms of the award,

the award is enforceable as if it were an order made by a court of summary jurisdiction in civil proceedings.";

(c) by inserting after subsection (1) the following—

"(1A) An award made by the Tribunal shall be binding on the parties to the matter—

(a) as from the date of the award; or

(b) subject to section 44J, from such date as may be specified in the award (not being earlier than the date on which the matter to which the award relates first arose).";

(d) in subsection 4(a) by deleting the words "subsection (1)" and substituting "subsection (1A)".

**Inserts section 44LA to 44LD**

13 The principal Act is amended by inserting after section 44L the following—

"**Notice of continuing non-compliance**

44LA (1) Where an amount due under an award or civil penalty remains unpaid after the relevant period the Director may serve a notice of continuing non-compliance, on the party against whom the award is made or civil penalty imposed.

(2) Without prejudice to any other remedy in civil proceedings in the Supreme Court or in a court of summary jurisdiction an employee may, with respect to an amount due under an award, in writing make an application to the Director to serve a notice under subsection (1).

(3) A notice served under subsection (1) shall—

(a) be in writing;

(b) state the sum of the award that is outstanding;

(c) state the amount of any civil penalty, where imposed;

(d) notify the party that his name will be entered into the Naming Register on the date specified in the notice;

(e) inform the party of his right to make written representations or submit proof of payment of the award or civil penalty, to the Director, within 14 days of service of the notice.

(4) In this section "relevant period" means the period that—

(a) if no appeal is made in accordance with section 44O(2) relating to an award of the Tribunal has elapsed;

(b) if an appeal is made under section 44O, the period ending when the appeal is withdrawn or determined.

**Naming Register for Unpaid Tribunal Awards**

44LB (1) The Director shall establish, maintain and publish a register known as the Naming Register for Unpaid Tribunal Awards.

(2) A party may be entered on the Naming Register where—

(a) an amount due under an award or civil penalty remains unpaid after a period of 14 days has elapsed from the date of service of a notice under section 44LA(1); and

(b) no stay of enforcement or objection is in place.

(3) The Naming Register shall contain—

(a) the name of the party against whom the award is made or civil penalty imposed;

(b) the date that the award was made or civil penalty imposed;

(c) the amount of the award or civil penalty;

(d) the date on which payment became due;

(e) any sums remaining unpaid;

(f) the date on which the party's name was entered on the Naming Register; and

(g) an annotation of the party's status as unpaid, partially unpaid, paid, under review or stayed pending appeal.

(4) The Naming Register shall not contain the names of employees or any other confidential information.

(5) The Director shall publish the Naming Register, in such form as considered reasonably necessary to inform the public of the continued non-compliance of a party.

(6) Section 44F(3) does not apply to a publication under this section in relation to a party against whom an award is made or civil penalty imposed.

**Objection to entry on Naming Register**

44LC (1) A party may within 14 days after service of a notice under section 44LA(1), object to the proposed entry on the Naming Register.

(2) An objection may be made on one or more of the following grounds—

(a) the award or civil penalty was paid in full;

(b) the award or civil penalty has been set aside, varied, suspended or stayed by the Supreme Court;

(c) an appeal against the enforcement of an award or civil penalty is pending;

(d) the notice of continuing non-compliance was not properly served on the party;

(e) payment was prevented by circumstances beyond the party's control;

(f) publication would be unlawful or manifestly disproportionate.

(3) An objection under subsection (1) shall—

(a) be in writing;

(b) identify the disputed entry and ground for objection; and

(c) provide any supporting evidence.

(4) A party shall not be entered on the Naming Register until—

(a) an objection under subsection (1) has been determined by the Director; and

(b) the Director gives written reasons for the decision.

**Correction, annotation or removal from Naming Register**

44LD (1) A party or other person materially affected by an entry on the Naming Register may, in writing, at anytime apply to the Director for its correction, annotation, or removal.

(2) An application under subsection (1) may be based on the grounds that—

(a) the outstanding award or civil penalty has been paid in full;

(b) the published information has become inaccurate or misleading;

(c) continued publication is no longer proportionate; or

(d) exceptional circumstances justify correction, annotation or removal.

(3) Notwithstanding subsection (1) where the amount of an award or civil penalty is paid in full the Director shall within 30 days after receiving satisfactory proof of payment—

(a) remove the entry in relation to the party; or

(b) annotate the entry in relation to the party as paid.

(4) Where liability or enforcement is stayed by the Supreme Court, after an entry is made on the Naming Register, the entry shall be—

(a) temporarily removed; or

(b) annotated as stayed pending appeal.

(5) The Director shall correct any material error related to an entry on the Naming Register without unreasonable delay, whether or not an application has been made.

(6) A person aggrieved by a decision concerning entry on the Naming Register may appeal to the Supreme Court.

(7) The Supreme Court may—

(a) order the correction, annotation or removal of an entry on the Naming Register; or

(b) make any such orders as it deems fit.

(8) An appeal shall not act as an automatic stay on the issuance of a notice under section 44LA(1) or entry on the Naming Register where the Supreme Court allows an appeal, out of time, but the Court may make any such orders as it deems fit.".

**Amends section 44M**

14 Section 44M of the principal Act is amended by—

(a) repealing subsection (1) and substituting the following—

"(1) Where a person contravenes—

(a) a provision of the Employment and Labour Code for which a civil penalty is liable to be imposed;

(b) an award,

the Tribunal may impose an appropriate civil penalty.";

(b) inserting after subsection (1) the following—

"(1A) A civil penalty imposed under subsection (1) shall—

(a) in the case of paragraph (a) not exceed $10,000 for each contravention;

(b) in the case of paragraph (b) not exceed $15,000 for each contravention.";

(c) inserting after subsection (4) the following—

"(4A) In considering whether to impose a civil penalty under subsection (1) (b) the Tribunal shall have regard to the following—

(a) the duration of non-compliance with an award;

(b) the amount of the award that remains unpaid where a partial payment is made;

(c) whether circumstances suggest non-payment was deliberate;

(d) whether the party is known in relation to similar matters;

(e) any previous non-compliance with an award;

(f) the party's financial circumstances;

(g) any prejudice that may be caused to the employee.".

**Amends section 44N**

15 Section 44N of the principal Act is amended by—

(a) deleting the headnote and substituting the following—

"**Submission of reports to the Minister**";

(b) renumbering the current provision as subsection (1);

(c) inserting after subsection (1) the following—

"(2) Notwithstanding subsection (1) the Director shall at least once in each calendar year submit, to the Minister, a report of the parties appearing on the Naming Register, but such report shall not reveal the names of employees.".

**Amends Schedule 2**

16 Schedule 2 of the principal Act is amended by repealing paragraph 16 and substituting the following—

"16 As soon as practicable after a matter is referred to the Tribunal, it shall hold a case management hearing to give all parties orders and directions and to set hearing dates to allow parties or their representatives full opportunity to present evidence on oath and make submissions.".

**Transitional**

17 This Act applies to any award that was made or became payable before the commencement of this Act and remains outstanding at the commencement of this Act as if the award was made or became payable on or after the commencement of this Act with respect to—

(a) the service of a notice of continuing non-compliance under section 44LA;

(b) an entry on the Naming Register under section 44LB.

**Commencement**

18 This Act shall come into operation on such day as the Minister responsible for labour relations may appoint by notice published in the Gazette.

[Assent Date: 01 October 2026]

[Operative Date: 1 November 2026]