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EMPLOYMENT BULLETIN

## REGULATORY UPDATE: INDUSTRIAL RELATIONS ACT 2024

### INTRODUCTION

The President of Maldives has enacted the Industrial Relations Act on 2<sup>nd</sup> January 2024 which address the mechanisms on resolving disputes between the employees and employers.

The Act shall come into force within **3 months from the date of publication**. A copy of the Act is available on: <https://gazette.gov.mv/gazette/6930>

The *Regulation on Resolving Disputes between Employers and Employees* (Regulation R-12/2011) is effectively repealed following the enactment of the Act.

## FOREWORD

Though the Maldives Constitution guarantees workers the fundamental right to strike (Article 31), there was a lack of legislation providing for establishment of workers unions and industrial relations in general.

Several industry-specific ‘rights groups’ have been registered as non-government organisations/ associations in recent years, in the absence of a mechanism to register as a formal *workers union*.

The new Industrial Relations Act seeks to address these gaps and provide framework for registration of unions and mechanisms for resolving disputes between employers and employees.

### Overview of Key Regulatory Matters

<b>General Matters</b>	<ul style="list-style-type: none"> <li>Expands on the fundamental right to strike/ take industrial action as guaranteed under the Maldives Constitution.</li> <li>Provides for detailed and tiered framework for mediation between workers and employers, with escalation measures.</li> <li>Creates the new position of ‘Registrar of Unions’.</li> <li>The Labour Relations Authority shall act as the regulatory body of the unions.</li> </ul>
<b>On Unions</b>	
<b>“Union”</b>	<p>Any union that is registered as the following:</p> <ul style="list-style-type: none"> <li>workers trade union; or</li> <li><b>union of employers.</b></li> </ul>
<b>Registration of Unions</b>	<p>The registration of workers trade unions shall be satisfied with 7 signatures. An employers union shall be registered with a minimum of 3 signatures in addition to the requisite forms and supporting documents.</p> <ul style="list-style-type: none"> <li>No requirement to obtain prior approvals.</li> <li>Any individual shall have a right to register or take part in a union.</li> <li>Any individual shall be able to hold positions in the union.</li> </ul>
<b>Union Privileges</b>	<p>Civil lawsuits against unions are not allowed to the extent it is in exercise of/ protection of rights of its members in line with the Act.</p> <p>Notwithstanding the above, if a targeted action has been taken by a union to:</p> <ul style="list-style-type: none"> <li>deprive a specific business party of its interests;</li> <li>negatively impact a business dealing of a party;</li> <li>encourage employees to act in contravention of their employment contracts;</li> <li>initiate action to limit/ restrict a right of a party;</li> <li>encourage employees to boycott working hours without due cause; or</li> <li>conduct an activity in contravention of the Act and constitutes a disturbance of peace</li> </ul> <p>a party may be allowed to initiate a civil suit against the union.</p>

<b>Industrial Action/ Strike</b>	A union may only carry out industrial action / execute a strike affecting all or some members only after a majority of members approve such industrial action by way of secret ballot.
<b>Restrictions on Employers</b>	Employers are generally prohibited from: <ul style="list-style-type: none"><li>• encouraging employees to join/ refrain from joining a particular union;</li><li>• offering employment on the basis of joining/ not joining a particular union;</li><li>• discrimination in respect of pay, training, advancements, employment conditions, termination etc. based on the employee's past, current or potential membership of a union;</li><li>• directly or indirectly impeding an employee from exercising their rights under this Act; or</li><li>• termination of employment, threats or implying the same in connection with an employee's current or potential activities in a union.</li></ul>
<b>National Centers</b>	<ul style="list-style-type: none"><li>• "National Trade Centers" may be formed upon collective establishment of union federations.</li><li>• "National Employment Centers" may be formed upon collective establishment of union federations.</li></ul>

### **On Industrial Relations**

<b>Industrial Relations</b>	The Act states that a Director General of Industrial Relations is to be appointed within 3 months of the effective date of the Act to perform the following functions: <ul style="list-style-type: none"><li>• establishing a mechanism to enable parties to submit disputes relating to trade unions;</li><li>• developing and publishing the guidelines on hearing cases of disputes relating to the trade unions;</li><li>• investigating and taking the necessary actions in relation industrial relations disputes;</li><li>• facilitating collective bargaining for unions; and</li><li>• arranging tripartite labour dialogues.</li></ul>
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### **On Collective Bargaining**

<b>Process of Collective Bargaining</b>	<p>A trade union may invite an employer/ employers' union for collective bargaining by nominating a representative for the process. The invitation shall also include a proposal on:</p> <ul style="list-style-type: none"><li>• proposed changes to the work environment or conditions;</li><li>• regulating the relationship between employer and employee; or</li><li>• regulating or improving relations between employer/ employers' union/ workers/ trade unions.</li></ul> <p>An employer/ employers' union must respond to the collective bargaining proposal within 15 (fifteen) days.</p> <p>If the collective bargaining discussion has not commenced within 30 (thirty) days of the invitation, the inviting party may escalate the matter to the Director General of Industrial Relations. Conciliation procedures (as stipulated in the Act) will commence thereafter.</p>
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	Once a collective agreement is reached between parties, the same must be registered with the Director General of Industrial Relations within 21 (twenty one) days.
<b>Form of Collective Agreement</b>	Subordinate regulations are to be issued on form and content of the collective agreement and its performance.
<b>On Industrial Action</b>	
<b>Industrial Action</b>	<p>'Industrial actions' are deemed to be carrying out one or more of the following actions carried out within the scope of the Act:</p> <ul style="list-style-type: none"><li>• lockout, or withholding from the duties of the employment, or stoppage or refraining from work, or slowing down the speed of work or changing any other regular procedures at work;</li><li>• peaceful assemblies or walks for expression of opinions or strike;</li><li>• refraining from performing work outside of official working hours.</li></ul> <p>Actions or promotion of an action in the form of intimidation in relation to a dispute between an employer and employee, or to induce fear to stop the actions of a party trying to secure the rights granted under the Act are strictly prohibited.</p> <p>Industrial actions taken under this Act shall be peaceful strikes that does not cause bodily harm and/or damage the property of any person.</p>
<b>Picketing</b>	As an industrial action or a related reason, guarding and restricting the entry of employees into the place of employment without any legal cause is prohibited under this Act.
<b>Notice before Industrial Action</b>	Employees must provide at least 48 (forty eight) hours prior notice prior to taking any industrial action.
<b>Prohibition of Industrial Action</b>	<p>Industrial Actions are prohibited under the following circumstances:</p> <ul style="list-style-type: none"><li>• parties are engaging in discussions to reach a collective agreement in relation to a dispute at the stage of an industrial action;</li><li>• settlement remedies have been prescribed in a collective agreement by parties in relation to a dispute at the stage of an industrial action;</li><li>• if an industrial action is initiated by a union, the proposal for such action did not receive two-thirds (2/3) of votes from the secret ballot among the general members of the union;</li><li>• a state of emergency has been declared in accordance with the Maldives Constitution;</li><li>• it is predicted that as a result of an industrial action, substantial physical harm maybe caused to a person or a group of persons and/or to their health;</li><li>• participants of the industrial action are key workers/ essential workers; or</li><li>• a prior notice has not been issued for the industrial action in accordance with the Act.</li></ul>

**Questions on Industrial Relations Act? Reach out to our contacts below:**



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