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EMPLOYMENT BULLETIN

REGULATORY UPDATE: COVID-19 SPECIAL MEASURES ACT EMPLOYMENT PROVISIONS

INTRODUCTION

The Government of the Republic of Maldives has ratified the ‘COVID-19 Special Measures Act’ (the “Act”) on 22nd September 2020, containing special measures to, *inter alia*, provide assistance and protections for individuals, families and businesses during this state of public health emergency due to COVID-19.

A copy of the Act (in Dhivehi language) is available on <https://gazette.gov.mv/>

This bulletin highlights and summarises the salient provisions of the Act related to employment matters.

PART 1: PURPOSES OF THE ACT

Section 2 of the Act sets out the following main **purposes**:

- To provide special leave allowances for persons who are unable to resume their employment duties due to the COVID-19 state of public health emergency;
- To determine that an employee's employment status shall not be altered due to COVID-19 except under special exceptional circumstances;
- To provide assistance for families facing hardships due to the COVID-19 state of public health emergency;
- To provide temporary housing for persons displaced due to the COVID-19 state of public health emergency; and
- To determine special policies to ensure continuity of state functions during the COVID-19 state of public health emergency.

PART 2: SPECIAL LEAVE PROVISIONS

Below is a summary of the salient provisions of Chapter 2 of the Act on employee leave:

<p>Special Leave For Employees in Quarantine</p>	<ul style="list-style-type: none"> • Applies to employees who have been required to be quarantined in home/ a quarantine or isolation facility during the COVID-19 state of public health emergency, and who have been provided a relevant document issued by the Director General of Public Health. • These employees shall be provided a special leave with full salary for the duration of such quarantine without requirement to submit a medical certificate.
<p>Special Leave for Employees Unable to Report to Work Due to Travel Restrictions</p>	<ul style="list-style-type: none"> • Applies to employees who are unable to report to work by reason of being required to stay at any island that is not their home island due to an order issued by the Director General of Public Health during the COVID-19 state of public health emergency. • These employees shall be provided a special leave with full salary for the duration they are required to stay at any island that is not their home island, without requirement to submit a medical certificate.
<p>Medical Leave for Employees Who Test Positive for COVID-19</p>	<ul style="list-style-type: none"> • Applies to employees who test positive for COVID-19 and who are required to stay at an isolation facility, home isolation, or at a medical facility to seek medical attention, and who have been provided an isolation order by the Director General of Public Health OR a confirmation of COVID-19 treatment at a medical facility. • These employees shall be provided a special medical leave with full salary for the duration they are required to stay at such isolation facility, home isolation, or at a medical facility, without requirement to submit a medical certificate.
<p>Family Responsibility Leave for Employees</p>	<ul style="list-style-type: none"> • Applies to employees who have a family member under their care who has tested positive for COVID-19 and who is required to stay in home isolation. • These employee shall be provided a special family responsibility leave with full salary for the duration their family member is seeking medical attention for COVID-19, without requirement to submit a medical certificate. • However, the employee must provide the isolation order issued by the Director General of Public Health to their family member.
<p>Special Leave and Employee's Existing Leave Entitlements</p>	<ul style="list-style-type: none"> • The 'special leave' provided under this Act shall not affect the different types of leaves an employee is entitled to under Law No. 2/2008 (the Employment Act).

PART 3: AMENDING THE EMPLOYMENT AGREEMENT OR TERMINATION UNDER SPECIAL CIRCUMSTANCES

Section 9 (a) of the Act restricts certain actions during the effective period of the Act, except under the special exceptional circumstances stated in Section 9 (b) of the Act:

Actions Restricted Except Under Special Exceptional Circumstances	<ul style="list-style-type: none"> • Reduce wages (i.e. salary and allowances) or deferring the date of payment of wages under the employment agreement; • Sending an employee on no-pay leave; • Terminating an employee.
Special Exceptional Circumstances Permitting Above Actions	<p><u>Reduce Wages</u></p> <ul style="list-style-type: none"> • An employer may only reduce wages where: <ol style="list-style-type: none"> i. the employer’s business has been adversely affected by COVID-19; ii. reducing the employer’s income; and iii. resulting in the employer being unable to continue paying previous salary and allowances to their employees. <p><u>Reducing Wages and No-Pay Leave</u></p> <ul style="list-style-type: none"> • An employee must be consulted with and must agree to reducing their wages or going on no-pay leave. <p><u>Terminating Employees</u></p> <ul style="list-style-type: none"> • An employer may terminate some employees where: <ol style="list-style-type: none"> i. the employer’s business has been adversely affected by COVID-19; ii. reducing the employer’s income; and iii. resulting in the employer having to change its organisational structure and make redundancies. • Under such circumstances, an employer is required to inform staff of the following prior to carrying out redundancies: <ol style="list-style-type: none"> i. The employer’s decision to carry out redundancies, and ii. the redundancy policy. • An employee must be provided with the requisite notice period as per their contract of employment, or shall be given payment in-lieu-of.

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