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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 22<sup>nd</sup> 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><b>Special Leave For Employees in Quarantine</b></p>	<ul style="list-style-type: none"> <li>• Applies to employees who have been required to be <b>quarantined</b> 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.</li> <li>• These employees shall be provided a special leave with full salary for the duration of such quarantine without requirement to submit a medical certificate.</li> </ul>
<p><b>Special Leave for Employees Unable to Report to Work Due to Travel Restrictions</b></p>	<ul style="list-style-type: none"> <li>• Applies to employees who are unable to report to work by reason of <b>being required to stay at any island that is not their home island</b> due to an order issued by the Director General of Public Health during the COVID-19 state of public health emergency.</li> <li>• 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.</li> </ul>
<p><b>Medical Leave for Employees Who Test Positive for COVID-19</b></p>	<ul style="list-style-type: none"> <li>• Applies to employees who test positive for COVID-19 and who are <b>required to stay at an isolation facility, home isolation, or at a medical facility to seek medical attention</b>, 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.</li> <li>• 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.</li> </ul>
<p><b>Family Responsibility Leave for Employees</b></p>	<ul style="list-style-type: none"> <li>• Applies to employees who have a <b>family member under their care who has tested positive for COVID-19</b> and who is <b>required to stay in home isolation</b>.</li> <li>• 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.</li> <li>• However, the employee must provide the isolation order issued by the Director General of Public Health to their family member.</li> </ul>
<p><b>Special Leave and Employee's Existing Leave Entitlements</b></p>	<ul style="list-style-type: none"> <li>• 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).</li> </ul>

## 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:

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

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