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General Regulation on Employment

Ministry of Economic Development
Male' Maldives

General Regulation on Employment

Chapter 1			
Introduction			
Introduction	1	(a)	Pursuant to Act no: 2/2008 (Employment Act), this Regulations provides for the rules to be followed in the following circumstances.
		(1)	The rules the employer shall follow when the employer, by reason of having to discontinue a business or service or having to implement operational changes or declining financial status, cause an employee to be redundant.
		(2)	The rules pertaining to keeping record of the number of hours and time the employee is required to work for the employer in regular working hours, overtime, the payments made towards the overtime and making the said records available for inspection by the Labor Relations Authority upon request.
		(3)	Enforce the implementation of sections 50 and 51 by requiring the employers to give employees, their due salaries, and payments due on pro rata basis and stipulating procedures applicable to employers who act in breach of the sections referred to herein.
		(b)	This Regulation is formulated pursuant to section 21(e), section 32(e) and section 58(b) of Act no2/2008 (Employment Act).
Title	2		The title of this Regulation shall be, "General Regulation on Employment".
Chapter 2			
Redundancy due to economic factors suffered by the employer			
Scope	3		The sections of this chapter shall be applicable to redundancies effected under section 21(c) of the Employment Act and shall not be applicable to dismissals referred to in sections 21(a), 23 and 31 of the same Act.

Situations for redundancy	4	(a)	An employee may be made redundant when the occupation of the employee is rescinded if the employer is faced with any of the following economic conditions.
		(1)	Employer is compelled to cease business operations or provision of services.
		(2)	Employer is obliged to implement operational changes.
		(3)	Employer's financial status is declining.
		(b)	If an employee is to be made redundant by reason of the employer having to close down a business or service operated by the employer, pursuant to subsection (a)(1) of this section, the redundancy shall satisfy the following criteria:
		(1)	The occupation rescinded or going to be rescinded shall be directly involved in the operation of the business or service operation which is being close down.
		(2)	If the occupation rescinded or going to be rescinded is indirectly involved in the business or service operation which is to be closed down, not less than 50% of the responsibilities of the occupation must be involved with that business or service provision.
		(c)	For the purpose of subsection (a) (1) of this section, a business or service shall be considered to have been compelled to close down, if the business remained closed for a period of 12 (twelve) months from the date it closed down.
		(d)	For the purpose of subsection (a) (2) of this section, a business or service shall be considered to have rescinded the occupation or occupations due to operational changes, if the occupation or occupations that were rescinded, were not reinstated for a period of 12 (twelve) months from the date it was rescinded.
		(e)	For the purpose of subsection (d) of this section, if the responsibilities and duties assigned to the occupations that were rescinded, were to be replaced under another occupation with a different title, it shall be considered to have reinstated the rescinded occupations.
		(f)	For the purpose of subsection (a) (3) of this section, a declining financial status of the employer shall be deemed if the employer is faced with any of the following conditions.
		(1)	The employer's revenue plunges to a low, unprecedented in the last 6 (six) months of its operation
		(2)	The employer's revenue is estimated to drop for a period, not less than 6(six) months, in the immediate future.
		(g)	The burden of proof to show that the employer experienced or was going to experience financial distress in duly paying the remunerations to the employees due to one of the situations stated in subsection (f) of this section, lies with the employer in the event a case is filed at a tribunal or court.
		(h)	The burden of proof to show that, a redundancy under this section was executed bona fide, with genuine need for it and in accordance with the laws and regulations shall lie with the employer.

Employees to be informed of the situation for redundancy.	5	(a)	Prior to making an employee or a number of employees redundant pursuant to a situation envisaged in section 4(a) of this section, the employer shall inform them of the possibility of redundancy or the decision to do so.
		(b)	The notice issued pursuant to subsection (a) of this section shall include the following components:
		(1)	The reason or condition for redundancy, from the conditions or reasons provided in section 4(a) of this Regulation.
		(2)	Information of measures that will be implemented, if any, to prevent or reduce the number of employees made redundant.
		(3)	The criteria by which employees shall be opted for redundancy, in the given circumstance.
Measures to be implemented prior to dismissal by redundancy.	6		Employer shall make every effort to implement measures in accordance with this chapter, to prevent or reduce the number of employees that will be made redundant. In this regard, employer shall implement all any of the following measures in accordance with the law and the employment contract.
		(a)	Allow the employees the opportunity to resign on their own or to resign subject to conditions agreed by both parties.
		(b)	Allow employees to change to other employments or occupations or occupation of different responsibilities and duties with the same employer.
		(c)	Allow employees to remain employed without pay and without reporting to work for a specific period.
		(d)	Discontinue or reduce hiring more employees.
		(e)	Reduce the number of employees hired on a temporary basis.
		(f)	Put in place a mechanism of less work and proportionally less salary and other allowances.
Deciding employees to be made redundant	7	(a)	The employer shall formulate the criteria by which employees shall be opted for redundancy, in the given circumstance and inform the employees in the manner prescribed in section 5 of this Regulation.
		(b)	The criteria referred to in subsection (a) of this section shall consider the following factors.
		(1)	The length of service period of the employees
		(2)	Academic qualification, experience and skill level, the employees possess with respect to the competency required to execute the duties of the occupations or employments.
		(3)	Records of attendance and discipline.
		(4)	Appraisal of employees
		(c)	Employees shall be made redundant in the given circumstance based on the criteria referred to in subsection (a) of this section, without malice and in a fair and just manner.
		(d)	The justification for redundancy with reference to the criteria referred to in subsection (a) of this section, shall be shared with the employees who are opted for dismissal under subsection (c) of this section.
Serving notice before dismissal	8		Employees shall be given notice or paid for the notice period, as stipulated under section 21(c) of Employment Act prior to dismissal by redundancy

		under this Chapter.	
Sharing information with the Ministry	9	(a)	When the Ministry requires the employer to provide the details relating to dismissal of an employee under section 21(c) of the Act, the employer shall share the details within 5 (five) days of the request from the Ministry.
		(b)	Ministry shall have the discretion to impose a fine, not more than MVR 2000 (two thousand), in the event the employer fails to share the information when requested under subsection (a) of this section.
Chapter 3			
Keeping record of hours worked by employees' and overtime payments and reporting			
Working hours	10	For the purpose of this Chapter, working hours refers to the regular working hours as stated in the employment contract, or the job description and the overtime worked in accordance with the employment contract.	
Keeping record of the working hours	11	(a)	The employer shall, in accordance with the Act and this Regulation, keep record of the dates and times, an employee works for the employer as regular working hours and overtime and payments for overtime.
		(b)	In recording the information pertaining to subsection (a) of this section, the employer shall record the starting and closing time of work daily.
		(c)	The employer shall install a mechanism by which the time employees report to work and spend working can be recorded and maintained in a manner trusted by the employee. The attendance report of the employee shall be completed through the said mechanism.
		(d)	This Regulation does not prohibit salary deductions corresponding to duration of absenteeism recorded, owing to an employee failing to complete the attendance records after reporting to work.
Details to be included in the attendance records	12	(a)	The following details shall be shown on the attendance record of the employees
		(1)	The starting time of the work session and the time the session ends.
		(2)	The time the employee signed in and signed out.
		(3)	Overtime worked (time signed in and signed out).
		(4)	Number of days the employee was absent from work.
		(5)	Details of leave taken
		(b)	If the work schedule of the workplace requires attendance at different times of the day, for the purpose of subsection (a) (1) and (2), the records must show the starting time and ending time of work sessions and the time an employee signed in and signed out separately for each day.
Keeping record of overtime and the payments thereof	13	(a)	As expressed in the employment contract, if an employee is required to work beyond the regular working hours stated in the job description, the attendance records of the employee shall separately record the overtime worked and the employee shall be paid for the overtime as instructed in the Act.

		(b)	The salary statement of the employee shall separately show the total amount received by the employee for overtime.
Duration of record keeping	14	(a)	Information recorded pursuant to this chapter shall be kept safely by the employer for at least 2 (two) years from the date the record was created.
		(b)	Notwithstanding subsection (a) of this section, this Regulation does not inhibit the implementation of any other law or regulation requiring the records to be kept for a period exceeding that stated in that subsection.
Sharing information with Labor Relations Authority	15	(a)	The records required to be maintained under this Regulation shall be made available to Labor Relations Authority on demand during their inspections.
		(b)	Further to the situation given in subsection (a) of this section, the employer shall furnish the records to Labor Relations Authority within 5 (five) days from the date of request by the Labor Relations Authority.
		(c)	Employers failing to furnish the records within 7 (seven) days, from the date of request made under subsection (b) of this section, shall be held liable under section 16 of this Regulation.
Penalties	16	(a)	Labor Relations Authority may take action in the following manner, against those who fail to comply with the sections of this Chapter.
		(1)	Under section 86 of the Act
		(2)	Impose a fine in accordance with section 32(g) of the Act
		(b)	Labor Relations Authority shall adhere to the following procedure in imposing fines pursuant to subsection (a)(2) of this section.
		(1)	The first time an employer fails to show records to Labor Relations Authority upon a request made under subsections 15 (a) or (b) of this Regulation, a fine not more than MVR 2500 (two thousand five hundred) shall be imposed.
		(2)	The second time an employer fails to show records to Labor Relations Authority upon a request made under subsections 15 (a) or (b) of this Regulation, and each subsequent time thereafter a fine not more than MVR 5000 (five thousand rufiyaa) shall be imposed.
		(c)	The fine stipulated in this section shall be paid to Maldives Inland Revenue Authority or any other designated by that Authority.
Chapter 4			
Guidelines to enforce matters related to remuneration on the employer			
	17		Employers shall pay to their employees, salaries, Ramadan Allowance, and any other benefits due under the Act and the employment contract. If any employer fails to pay according to the Act and employment contract, the employer shall be held liable under section 20 of this Regulation.
Keeping record of salaries and allowances	18	(a)	Employers shall keep and maintain records showing details of payouts and calculations of salaries and Ramadan Allowances, prescribed in sections 50 and 51 of the Act respectively, given to employees.
		(b)	Employer shall keep record of the receipt of salaries and allowances referred to in subsection (a) of this section, by their employees.

		(c)	Information recorded pursuant to subsections (a) and (b) of this section, shall be kept safely by the employer for at least 2 (two) years from the date the record was created.
		(d)	Notwithstanding subsection (c) of this section, this Regulation does not inhibit the implementation of any other law or regulation requiring the records to be kept for a period exceeding that stated in that subsection.
Lodging complaints	19	(a)	Employees have the right to lodge complaint at Labor Relations Authority if their employer denies them their salaries and benefits.
		(b)	Labor Relations Authority shall place a mechanism to lodge complaints via a form or an electronic device within 30 (thirty) days from the date of commencement of this Regulation.
Administrative penalties	20	(a)	When a complaint is lodged under section 19 of this Regulation, the Labor Relations Authority shall follow the procedure below in the given order, in investigating and imposing administrative penalties.
		(1)	Allow a period of 7 days to the employer to respond to the complaint of the employee after the complaint is investigated.
		(2)	If the employer failed to respond within the period given in subsection (a)(1) of this section, impose a fine of MVR 2000 (two thousand Rufiyaa).
		(3)	If the employer failed to comply with subsection (a)(1) of this section repeatedly, Labor relations authority may, in addition to imposing the fine in (a)(2), publish the name of the employer on its website as a party which has contravened sections 50 and 51 Of the Act.
		(b)	The administrative penalty in subsection (a)(3) of this section, shall be discontinued when the employer submits a plea to the Labor Relations Authority requesting to discontinue the administrative penalty with documents proving that all overdue salaries and allowances due to the employees have been paid in full.
Chapter 5			
Miscellaneous			
Commencement of this Regulation	21		This Regulation shall come into force on the date it is published on the Government Gazette.
Repeal of regulation	22		Regulation number 2016/R-98 (Regulation to enforce matters related to remuneration on the employer 2016), shall be repealed upon commencement of this Regulation.
definitions	23		Unless the context reads otherwise, the following words and phrases shall be given the meanings ascribed to them herein below.
		(a)	“Remuneration” refers to the salary, additional benefits, allowances, and other financial advantages, paid to the employee in monetary terms or other valuables in relation to the employment.
		(b)	“Employer” refers to any person, company, government, or any other organization formed by people which gives employment subject to an employment contract. This term includes parties who take paid services from non-independent contractors, replacements, heirs and successors in title of those who give employment.

		(c)	“Employee” refers to a person who gives services subject to an employment contract. This term includes non-independent contractors and those who were in the service of an employer in the past.
		(d)	“Occupation”, for the purpose of Chapter 2, includes the duties and responsibilities of the occupation.
		(e)	“Attendance of employees” refers to records of working hours of employees kept, maintained, and updated by writing on paper or a book or a machine which require punching card or using fingerprint or any others competent means.
		(f)	“Act” refers to Act number: 2/2008 (Employment Act) including all amendments to it.