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### Regulation on Service Charge

Labor Relations Authority  
Male' Maldives

<b>Chapter 1</b>			
<b>Introduction</b>			
Introduction and title	1	(a)	This is a Regulation formulated pursuant to subsections (e) and (h) of section 52 of Act No. 2/2008 (Employment Act) to provide for levying service charge by businesses, disbursement of service charge among employees and the procedure of submitting the records relating to service charge to Labor Relations Authority and Maldives Inland Revenue Authority by the employer.
		(b)	The Title of this Regulation shall be "Regulation on Service Charge".
Objectives	2		The following includes the main objectives of this Regulation.
		(a)	To ensure that service charge is levied by parties who are obligated by law to levy service charge.
		(b)	To provide the guidelines on how service charge shall be distributed among employees.
		(c)	To ensure that the money collected as service charge is distributed equally among the employees.
		(d)	To provide for the procedures to be followed when submitting information on the amount collected as service charge and the amount distributed to employees, to the relevant authorities by the employer.
		(e)	To provide for penalties against non-compliance.
<b>Chapter 2</b>			
<b>Levying Service Charge</b>			
Tourism industry	3		Tourist resorts, tourist hotels, tourist guesthouses, training resorts, transit hotels, city hotels, tourist vessels, yacht marinas, integrated tourist resorts and private islands operating under Act no. 2/99 (Maldives Tourism Act) shall levy a service charge of at least 10 (ten) percent from all the services.
		(a)	Diving schools and centers, spas, water sports facilities and excursion services, cafes/restaurants/canteens and other service establishments complementary to the businesses specified in

			subsection (a) of this section shall levy service charges. This includes any service provided through a different business by outsourcing.
		(b)	It is not obligatory to levy service charge for services such as cafes, restaurants and canteens established specifically for employees working in the places specified in this section.
		(c)	It is not obligatory to levy service charges on goods sold in shops established in the facilities specified in this section. For the purpose of this section, shops established to sell goods refer to places where the only or main activity is selling goods instead of service provision.
		(d)	Businesses within the ambit of this section shall levy service charge from 1 <sup>st</sup> January 2021 irrespective of whether the business is properly licensed in accordance with law.
How to collect service charge	4	(a)	Businesses operating in the tourism industry should levy at least 10 (ten) percent of the price of the service as service charge, from each service provided by the business.
		(b)	If the whole or part of a tourist resort, tourist hotel, tourist guesthouse, training resort, transit hotel, city hotel, integrated tourist resort or private island, or a specific number of rooms or a house thereof, is leased for a specified period for a determined price, the service charge for the transaction must be levied based on the total amount of the transaction.
		(c)	Notwithstanding subsection (b) of this section, it is not obligatory to levy service charge on rentals of long-term lease holds of rooms and villas by virtue of strata arrangements effected pursuant to Act No. 2/99 (Maldives Tourism Act) and on the transaction amounts for exchange of rights relating to businesses which are authorized under the Act No. 2/99 (Maldives Tourism Act).
		(d)	When a tourist vessel is chartered for a specified period of time, service charge for that transaction shall be levied based on the total fee charged for chartering.
		(e)	Amount levied in service charge shall be indicated on each business transaction that requires levying service charge.
Industries other than tourism industry	5		If a business other than the businesses that are obligated to levy service charge under this Regulation, collect service charge from a service or services they provide, this Regulation must be followed in distributing and reporting information relevant to the service charge.
<b>Chapter 3</b>			
<b>Distribution of Service Charge</b>			
Determining the time when service charge was paid	6		Notwithstanding that a customer has paid the service fee, in full or in part, prior to obtaining the service, it shall be deemed that the service charge was paid at the time the customer obtained the service. In like manner, where payments to be made after obtaining a service or in installments pursuant to an agreement, the time of paying service charge shall be deemed as the time the service was rendered to the customer.
Separate business	7	(a)	Service charges levied from different business activities in any one

activities under a business			business location of the employer shall be calculated and distributed collectively.
		(b)	Except in the situation stated in subsection (a) of this section, service charges levied from businesses run at different locations shall not be calculated and distributed collectively.
		(c)	Service charges levied by an outsourced business, or a business owned by a third party operating in the business location of the employer shall not be calculated and distributed collectively with the service charges collected through the business of the employer.
		(d)	As stipulated in this section, service charge must be distributed equally among all the employees contributing directly or indirectly to provide a service of the employer. No one other than the employees of the employer shall be beneficiaries of the distribution of the service charge.
Administrative fee	8		The employer may retain an administrative fee amounting to 1 (one) percent of the sum of service charge received per month. The employer shall not retain more than the amount stated under any circumstance.
Calculating service charge	9	(a)	Monthly service charge payable to an employee shall be calculated as stipulated in subsection (b) and (c) of this section by calculating the average service charge per day multiplied by the number of days the employer worked.
		(b)	The average service charge per day shall be calculated by dividing the total amount of service charge required to be distributed by the total number of days of service put in by employees who served in that month.
		(c)	When determining the number of days served by an employee, paid leaves and rest days allowed under Act No. 2/2008 (Employment Act) shall not be deducted.
When service charge is payable	10		The total amount calculated as service charge for the previous month shall be fully distributed to the employees by the employer before the end of the month in progress.
Releasing the information	11		The employer shall arrange to inform the employees before the end of each month, the total amount received by the employer as service charge in the previous month and the amount calculated per employee in that month.
<b>Chapter 4</b>			
<b>Keeping and submitting records on service charge related data</b>			
Data to be kept on record	12	(a)	Each employer shall keep monthly records of the following information in connection with the service charge levied from any service.
		(1)	Details of the total amount received in service charge per month.
		(2)	The amount of administrative fee retained by the employer from the total amount received in service charge if any.
		(3)	The amount entitled to employees from the total amount of service charge.
		(4)	Details of the employees who served in that month (full name, National Identity Card Number or Passport Number and

			designation).
		(5)	Number of days each employer served.
		(6)	Daily service charge payable to each employee who served in that month.
		(7)	Amount paid to each employee as service charge for that month.
		(b)	All record keeping and information required under this Regulation shall be maintained in Dhivehi or English.
		(c)	During inspections conducted by the Labor Relations Authority, Information maintained under this Regulation shall be provided immediately upon request by the Employment Officer. If the Authority instructs to submit the information in connection with an ongoing investigation, it must be submitted as per the Authority's instructions.
Registration	13	(a)	All parties levying service charge shall register through a system provided by and in accordance with the instructions from the Labor Relations Authority to enable submission of records under this Regulation.
		(b)	If the information submitted by the employer at the time of registering pursuant to this section, changes, it shall be notified to the Labor Relations Authority through the system provided within 7 (seven) days from the date of change of information.
		(c)	In communicating notices and documents to the employer pursuant to this Regulation, the communication shall be deemed complete when such notice or document is emailed to the email address registered pursuant to this section.
Submitting information	14	(a)	Information maintained by the employer under section (12) of this Regulation, shall be sent to the Labor Relations Authority and the Maldives Inland Revenue Authority as stipulated in this section.
		(b)	Information shall be submitted with the details of each calendar month separately.
		(c)	Information for the first six months of the calendar year shall be submitted before 1 <sup>st</sup> of October each year.
		(d)	Information for the last six months of the calendar year shall be submitted before 1 <sup>st</sup> of April the next year.
		(e)	This section does not restrict the submission of monthly information separately at the end of each month provided it is done not later than the dates stipulated in subsection (c) and (d).
Verifying information	15		Maldives Inland Revenue Authority should verify the information submitted under section (14) of this Regulation to the Labor Relations Authority. This verification shall be done for those who are required to submit tax statements under Act No. 25/2019 (Income Tax Act).
<b>Chapter 5</b>			
<b>Penalties for violations of Regulation</b>			
Imposing fines	16	(a)	If a business providing services in the tourism industry does not levy service charge in accordance with section (3) of this Regulation, or if any party levying service charge violates Chapter 3 of this Regulation

			in distributing service charge among employees, a fine not exceeding MVR100,000 (one hundred thousand Rufiyaa) shall be imposed depending on the size of the business.
		(b)	If those who are required to levy service charge under this Regulation, and others who levy service charge, fail to comply with the requirement to keep and maintain records in accordance with subsections (a) and (b) of section 12 of this Regulation, or fail to comply with an order to provide information under subsection (c) of section 12 of this Act, a fine not more than MVR 10,000 (ten thousand) shall be imposed for the first count of violation, followed by fines not exceeding MVR 50,000 (fifty thousand) for each count of repeated violation.
		(c)	Failure to submit information as per the dates stipulated in section 14 of this Regulation by a party levying service charge, shall be served a notice requiring to submit the information within 7 (seven) days of the notice for the first count of violation and if the information was not provided within the said period, a fine of not more than MVR 25000 (twenty five thousand) shall be levied. If the information is not submitted within the time provided and the violation is repeated for a second time and each time thereafter, a fine not exceeding MVR50,000 (fifty thousand Rufiyaa) shall be imposed.
		(d)	Fines under this Regulation shall be imposed by the Labor Relation Authority. Payment of fines shall be made to the Maldives Inland Revenue Authority or any other designated office by that Authority.
<b>Chapter 6</b> <b>Miscellaneous</b>			
Definitions	17	(a)	Unless otherwise stated in this regulation, the periods specified in this regulation shall be calculated excluding public holidays.
		(b)	Unless the context of this Regulation clearly designates a different meaning to the following words or phrases, it shall be assigned the following meanings.
		(1)	"Employee" refers to anyone who works for a salary or a wage.
		(2)	"Employer" refers to the party which gets work done by paying a wage or salary.
		(3)	"Tourism Industry" refers to Tourist resorts, tourist hotels, tourist guesthouses, training resorts, transit hotels, city hotels, tourist vessels, yacht marinas, integrated tourist resorts and private islands licensed to operate under Act No. 2/99 (Maldives Tourism Act).
		(4)	"Public Holiday" refers to the days determined as public holidays pursuant to Employment Act.
Commencement of Regulation	18		This Regulation shall come into force from the date it is published on the Government Gazette.