

The Gazette of the Government of Maldives

Volume: 49 No: 201 Date: 5 Safar 1442 (AH) – 22 Sept 2020 Tuesday

Act no: 22/2020

Sixth Amendment to Act no 2/2008 (Employment Act)

Sixth Amendment to the Act No. 2/2008 (Employment Act) Bill, passed by the People’s Majlis in the 33rd sitting of the second session of the People’s Majlis held, on the 6th of September 2020 (Sunday), has been ratified into law by the President by virtue of Article 92 of the Constitution on 22nd September 2020 (5 Safar 1442), Tuesday.

Via letter number 57-D/2020/65 (23rd September 2020) the People’s Majlis notified that the “Sixth Amendment to Act No. 2/2008 (Employment Act) Bill” now published in this Gazette, contained an error due to an administrative mishap, when it was first submitted for ratification by the President. The error was identified as the reference to section 12 given in section 28. Henceforth, this section is now amended to contain the law, as was passed by the People’s Majlis on the 23rd of September 2020.

Sixth Amendment to Act no 2/2008 (Employment Act)

To amend the Act No. 2/2008 as follows.			
1- To add the following two subsections below section 13(i) of the said Act.			
	13	(j)	The employer shall, with the employee draw up and sign the employment contract stated in subsection (b) of this section, and the employer shall serve the employee a copy of the signed contract. Where employees were not provided with a copy of the employment contract, employers shall do so within three months of this Act coming into effect.
		(k)	If either the employment contract, referred to in subsection (b) of this section, was not signed or the employee was not provided a copy of the signed contract, as prescribed in subsection (j) of this section, a fine ranging from MVR2000 (two thousand Rufiyaa) to MVR20,000 (twenty thousand Rufiyaa) shall be imposed on the employer, considering the size of the business.
2- To amend s14 of the said Act as follows.			
Probation	14	(a)	Employment contract may include a probation period not more than 3 (three) months.

		(b)	During the probation period prescribed in subsection (a) of this section, either party may choose to nullify the employment contract without prior notice. However, during probation, the employee is entitled to all rights under sections 32 to 57, in addition to the right to receive minimum wage, in accordance with this Act, pursuant to section 59 of this Act.	
3- To amend section 15(c)(6) of the said Act as follows.				
	15	C	6	Designation, type, and details of work to be performed in employment.
4- To repeal clauses (3), (4), (5), (9) and (10) from subsection (c) of section 15 of the said Act				
5- To add four clauses below subsection (b) of section 21 of the said Act as follows				
	21.	(c)	Notwithstanding subsection (a) of this section, for the purpose of this section, dismissal by redundancy of an employee in accordance with the regulation formulated pursuant to subsection (e), by reason of having to shut down a business or a service of the employer or due to a change in the operational management of the business or due to a declining financial situation suffered by the employer shall be deemed as acceptable reasons for dismissal or redundancy.	
		(d)	Notwithstanding subsection (c) of this section, the burden of proof lies on the employer to specify the reason and show that the employer had acted bona fide and without malice towards any specific employee or several employees in their dismissal or redundancy.	
		(e)	The minister shall enact by regulation the conditions under which an employee can be made redundant within the ambit of subsection (c) of this section and the procedure the employer must follow in such conditions.	
		(f)	When dismissing employees under subsection (c) of this section, an employee who has served the employer for more than 1 (one) year, the employer shall give the employee 1 (one) month notice or salary payable for the period of notice. When an employee who has served the employer for a period more than 1 (one) year but not exceeding 4 (four) years is dismissed, the employer shall give that employee, at least 2 (two) months' notice or salary payable for the period of notice and when an employee who has served more than 4 (four) years is dismissed, the employer shall give that employee, at least 3 (three) months' notice or the salary payable for the duration of the notice.	
6- To amend subsection (a) of section 26 of the said Act as follows.				
Resigning from job	26.	(a)	Where the employer is in breach of the employment contract, the employee has the right to notify the employer of the breach being committed. The employee may resign, if the employer did not rectify the issues raised by the employee in the notice in a timely manner, provided that the employee serves a notice of resignation on the employer in accordance with the employment contract.	
7- To amend section 27 of the said Act as follows.				
Proof of reason for dismissal	27.		The employer shall bear the burden of proof of substantiating the reason for dismissal of an employee in relation to any complaint lodged by an employee against dismissal. If the employer fails to establish a reasonable cause for the	

			dismissal, it will be deemed that the dismissal was unreasonable.
8- To add three subsections below section 32(d) of the said Act as follows.			
	32	(e)	Employer shall keep record of the duration of work, time of clocking in and out, the time when overtime was worked, and the details of payments made towards work done in overtime, in accordance with the regulation formulated under this Act.
		(f)	The employer shall provide the records stipulated in subsection (e) of this section, for inspection by Labor Relations Authority in accordance with the instructions form the Authority.
		(g)	Labor Relations Authority may impose a fine not more than MVR5000 (Five Thousand Rufiyaa) on anyone who contravenes an instruction issued by that Authority under subsection (f) of this section.
9- To amend the opening phrase of subsection (a) of section 34 of this Act as follows.			
Exempted employees	34.	(a)	The following persons are exempted from the implementation of sections 32, 37, and 38 of this Act
10- To add a section below section 34 of the said Act as follows.			
Right to leave the workplace at the end of working hours	34-1	(a)	An employer shall not force an employee to remain on the premises of his/her work site or island or vessel once his or her working hours are over. Furthermore, the employer shall not obstruct the employee from leaving when his/her working hours are over or to return to work at the appointed time.
		(b)	Where the employee requires a means of transport to leave from the workplace and to arrive at the workplace on time, the employer or head of the workplace shall allow such vehicle or vessel to park or dock conveniently.
11- To amend subsection (b) of section 41 as follows.			
	41	(b)	The employer shall pay to the employee upon his or her request and in accordance with the employment contract, the portion of salary which corresponds to the period of annual leave, on a date not later than the last working day, prior to his or her annual leave. However, an employee paid by the State may continue to be paid as usual even if the employee is on leave.
12- To amend section 42 of the said Act as follows.			
Sick leave	42	(a)	Every employee is entitled to at least 30 (thirty) days of sick leave in every year of service.
		(b)	The employer is not obligated to authorize sick leave unless the employee submits, upon returning to work, a medical certificate from a registered medical practitioner stating the diagnosis and the period the employee needed to abstain from work.
		(c)	Notwithstanding subsection (b)of this section, an employee may abstain from work without a medical certificate for 15 (Fifteen) days out of the 30 (thirty) days stated as sick leave on the condition that any abstinence does not prolong 2 (two) consecutive days.
13- To amend section 52 of the said Act as follows.			
Service charge	52	(a)	A service charge not less than 10 (ten) percent (of the price of the service), shall be levied on all services rendered by all businesses operating in the tourism industry. Business activities, other than those

			operating in tourism industry, may also levy service charges for each service they provide.
		(b)	The service charge levied under subsection (a) of this section, shall be distributed equally among all employees of the employer in accordance with this section.
		(1)	Service charge collected in the previous month shall be distributed prior to the end of the month in progress.
		(2)	No discrimination shall be exercised by the employer in the distribution of service charge among all employees in service. For the purpose of this section, services provided through different business activities of a single business shall be given equal worth.
		(c)	For the purpose of this section, "all employees" refer to all those employees, involved directly or indirectly in rendering services on behalf of a service provider.
		(d)	The employer may retain 1 (one) percent of the sum received as service charge and the employer shall not retain any amount more than what is provided herein.
		(e)	The employer shall keep record of the total monthly revenue received by levying service charge, the number of employees who received service charge for that month, the amount each employee is entitled to, and the amount disbursed. The data shall be submitted to the Labor Relations Authority and Maldives Inland Revenue Authority twice a year, on a date prescribed in the regulation of Labor Relations Authority.
		(f)	Notwithstanding subsection (e) of this section, employers shall share the data with the Labor Relations Authority for their inspection, as and when requested by the Authority.
		(g)	Labor Relations Authority may impose a fine not more than MVR50,000 (fifty thousand Rufiyaa) on whoever fails to comply with subsection (e) and (f) of this section.
		(h)	Labor Relations Authority may impose a fine not exceeding MVR 100,000 (hundred thousand Rufiyaa), along with other penalties against whoever fails to levy service charge for businesses operating in the tourism industry pursuant to subsection (a) of this section or fails to disburse the service charge equally among the employees in accordance with subsection (b) of this section. Labor Relations Authority shall stipulate the guideline for imposing fines and other penalties in a regulation pursuant to this Act.
		(i)	For the purpose of subsection (h) of this section, in order to determine non-compliance of subsection (a) and (b), Maldives Inland Revenue Authority shall verify the accuracy of data submitted to Labor Relations Authority under subsection (e) of this section. This verification by the Maldives Inland Revenue authority shall be exercised only upon those who are obliged to submit tax statement subject to Act No. 25/2019 (Income Tax Act).
14- To repeal section 53 of the said Act.			
15- To amend section 59 of the said Act as follows.			

Determining Minimum Wage	59.	The Minister shall determine the Minimum Wage Payable as Salary, for employees working in Maldives pursuant to this Act.	
16- To add 3 sections under section 59 as follows.			
Minimum Wage Advisory Board	59-1	(a)	A board titled "Minimum Wage Advisory Board", shall be established to understand the labor, and working conditions of employees in places where businesses are operated and other worksites and to advise the Minister on a feasible minimum wage as salary.
		(b)	The Board referred to in subsection (a) shall be established within 30 (thirty) days of the commencement of the 6 th Amendment to Act No. 2/2008 (Employment Act), and members shall be appointed to the Board in accordance with section 60 of this Act.
Responsibilities of the Board	59-2	(a)	To determine the Minimum Wage Payable as Salary for employees working in Maldives pursuant to subsection 59 of this Act, the Board shall research and find out the policies, standards and principles that will be feasible in the implementation of a Minimum Wage Payable as Salary.
		(b)	To determine Minimum Wage Payable as Salary to employees working in the Maldives, advise the Minister on a numerical monetary value with due consideration to the following industries and sectors:
		(1)	Fisheries and agricultural industry;
		(2)	Tourism industry;
		(3)	Construction industry;
		(4)	Transportation industry;
		(5)	Health service sector;
		(6)	Education sector;
		(7)	Small and medium enterprise sector;
		(8)	Information, communication and technology sector;
		(9)	Maritime Industry.
		(c)	Pursuant to section 62 of this Act, to review every two years the amount determined by the Minister as Minimum Wage Payable as Salary and to advise the Minister, if the Board finds in favor of adjusting the amount;
		(d)	Notwithstanding subsection (c) of this Act, the Board may, on its own volition, advise the Minister to revise and adjust the Minimum Wage Payable in Salary before the expiration of 2 (two) years in lieu of an economic situation faced by the country.
		(e)	To conduct research and surveys necessary for the execution of the mandate of the Board and find, collect and publish information in addition to carrying out professional, administrative and legal duties related to the execution of the mandate of the Board.
		(f)	The Board shall consider economic factors such as cost incurred on employees and their dependents' necessities which includes cost of living, benefits provided through social protection, standard of living, economic development factors, productivity, rate of creation of employment opportunities, and continuity of employment for a larger number of working population, when formulating policies, standards, and guidelines under this section, to determine a Minimum Wage

			Payable as Salary to employees working in Maldives.
Power to demand Information	59-3	(a)	To execute the functions of the Board and to determine the Minimum Wage Payable as Salary, the Board or Minister may require employers to provide information relating to remuneration paid to their employees upon request from the Board or Ministry.
		(b)	The Board or the Minister may impose a fine not exceeding MVR50,000 (fifty thousand Rufiyaa) against whoever fails to comply with a request for information from the Board or Ministry under subsection (a) of this section.
		(c)	The rules by which the Ministry or the Board may request from employers, information relating to remuneration of their employees pursuant to subsection (a) of this section, shall be prescribed in a regulation formulated under this Act.
17- To amend section 60 of the said Act as follows.			
	60.	(a)	The Board shall comprise of 11 (eleven) members appointed by the President as follows.
		(1)	A nominee by the Ministry of Economic Development as Chairperson of the Board
		(2)	A nominee by Ministry of Finance.
		(3)	4 (four) members nominated by associations which represent the 4 (four) sectors namely, tourism industry, construction industry, women entrepreneurs, and small and medium enterprises.
		(4)	5 (five) members nominated by 5 (five) associations which represent employees or laborers.
		(b)	The members appointed to the Board shall be competent to carry out the mandate and duties of the Board.
		(c)	The term of a member of the Board is of 3 (three) years from the date of appointment.
		(d)	Members may be reappointed for a further term except where a member was dismissed under subsection (e) clauses (2) and (4).
		(e)	The seat of a member shall vacate upon any of the following situations.
		(1)	Resigning by submitting a written resignation to the President.
		(2)	Absenteeism in 3 consecutive sittings of the Board without a suitable reason or permission of the Chairperson of the Board.
		(3)	Completion of the term of membership.
		(4)	Removal of a member from the position in the event the President finds the member to be incompetent to carry out the duties.
		(f)	The Board shall formulate the Articles of the Board.
18- To add a section below 60 of the said Act as follows.			
Remuneration of the Board member	60-1		On the advice of the Minister, the President shall determine the salary and allowances of the members of the Board.
19- To amend section 62 of the said Act as follows.			
Order to declare Minimum wage	62	(a)	After analyzing the advice of the Board, the Minister shall issue an Order to declare the Minimum Wage payable to employees in Maldives within a maximum period of 30 (thirty) days.
		(b)	In the Order issued to declare Minimum Wage for employees in

			Maldives, the Minister shall state hourly salary of an employee, salary affixed for a component of the work, and rate for overtime. Furthermore, in addition to declaring the Minimum Wage specific to a certain type of work or to employees working in a specific industry separately, the date or dates by which employers are required to fully comply with the Order in disbursing the Minimum Wage shall be declared.
		(c)	Pursuant to subsection (a) of this section and with reference to the advice of the Board, the Minister in determining a Minimum Wage, shall consider the cost of basic needs of employees and their dependents, economic status, status of national wealth and productivity of the nation.
		(d)	The Order issued by the Minister pursuant to subsection (a) of this section, shall come into force upon its publication in the Government Gazette and shall remain effective until it is revoked or amended under this Act. The Order is legally enforceable and commands compliance from all who are subject to it.
		(e)	The Minister shall publish in Government Gazette, the first Order to declare Minimum Wage payable to employees in the Maldives under subsection (a) of this section, within a maximum of 30 (thirty) days from the date the Board submits its advice to the Minister.
		(f)	Notwithstanding subsection (b) of this section, employers shall act upon the first Order issued by the Minister pursuant to subsection (e) of this section, prior to the end of year 2021.
		(g)	Notwithstanding subsection (f) of this section, if the employee working in Maldives is a foreigner, the employers shall act upon the Order of the Minister issued under subsection (e) of this section, within a maximum of 2 (two) years from the date of commencement of this Act.
20- To amend section 65 of the said Act as follows.			
Foreigners working in Maldives	65.	(a)	The concerned Ministry may issue quotas to allow foreign employees to be brought to Maldives, grant permission to employ foreigners in Maldives and issue Work Permits to allow them to stay in Maldives for the duration of their employment in accordance with a regulation formulated under to this Act.
		(b)	The regulation formulated under subsection (a) of this section, shall specify the requirements and rules applicable to issuing quotas to allow foreigners into Maldives to be employed and the duration / date as to when collection of Quota Fees will initiate. Furthermore, a Quota Fee of MVR 2000 (two thousand Rufiyaa) shall be paid to an institute declared by the Minister.
		(c)	The Work Permit referred to in subsection (a) shall be issued in accordance with the requirements stipulated in the regulation formulated under this Act and upon payment of MVR350 (three hundred and fifty Rufiyaa) per month, as Work Permit Fee, to an institute designated by the Minister.
21- To add a section below section 65 of the said Act as follows.			
Limiting number of	65-1	(a)	The maximum number of employees that can be recruited from any

foreign employees recruited from any one country for employment in Maldives			one country for employment in the Maldives is 100,000 (hundred thousand) people.
		(b)	Of the foreign employee population in the Maldives, if the number of employees permitted and brought into Maldives from a country exceeds the limit imposed in subsection (a) of this section, the number of foreign employees in Maldives shall be adjusted to conform with subsection (a) of this section, within 3 (three) years of enacting 6 th Amendment to Act No. 2/2008 (Employment Act).
22- To add a section below section 74 of the said Act as follows.			
Training and prioritizing Maldivians in employment	74.	(a)	The Ministry shall conduct programs for training and skill development to increase the employability of Maldivians. In this regard, to increase the opportunities for Maldivian employees in the areas in which Maldivians are scarce, Ministry shall make arrangements to conduct skill development programs and training programs.
		(b)	The head of human resource in workplaces, where the number of employees is more than 50 (fifty) shall be a Maldivian.
		(c)	60 (sixty) percent of the Senior Management of a workplace employing more than 50(fifty) employees shall be composed of Maldivians. The Ministry shall explain what constitutes "Senior Management" in the regulation enacted under this Act.
		(d)	Subsections (b) and (c) of this section shall be effective within 5 (five) years of this Act coming into force by the latest.
		(e)	The companies falling within the ambit of subsections (b) and (c) shall report the progress made in achieving the goals envisioned in those subsections to Labor Relations Authority annually on a date prescribed in the regulation formulated by the Authority. Labor Relations Authority shall publish the said information.
		(f)	Employment opportunities suitable to persons aged between 55 (fifty-five) and 65 (sixty-five) and with education, training and experience shall be made available to ensure their economic wellbeing.
		(g)	Labor Relations Authority may impose a fine not exceeding MVR100000 (hundred thousand Rufiyaa) against anyone who fails to comply with subsections (b) and (c).
23- To add a section below section 75 of this Act as follows:			
Standardization of employee accommodation	75-1	(a)	A regulation formulated under this Act shall provide for the general standards that the accommodations or sleeping arrangements provided for employees by their employers shall conform to and the standards relating to the amenities and other concerns regarding the basic use of the place.
		(b)	Employers shall comply with the standards stipulated under subsection (a) of this section.
		(c)	The regulation pursuant to subsection (a) of this section shall be formulated and published within 30 (thirty) days after the 6 th Amendment to Act No. 2/2008 (Employment Act) comes into effect.

		(d)	Employers shall be given at least 6 (six) months to comply with the standards in the regulation formulated under subsection (a) of this section.
24- To add a section below section 87 of the said Act as follows:			
Courts to conduct cases filed in the Tribunal	87-1	(a)	Employment disputes originating in islands other than Male' can be filed at the Tribunal by filing it in the island court of the island where the dispute originated.
		(b)	Hearings of the employment related lawsuits filed at the magistrate courts in the islands can be conducted by the same courts where the lawsuit was filed. Cases filed in this manner also shall be decided by the Employment Tribunal.
		(c)	Employment Tribunal shall publish the procedure of conducting cases filed in the island courts pursuant to this section, within 6 (six) months of this Act coming into effect.
25- To add 5 (five) sections below section 88 of the said Act as follows			
Enforcing decisions	88-1	(a)	Tribunal shall ensure on its own volition whether the decisions delivered by the Tribunal has been complied with by those who were instructed to act on the decision.
		(b)	Tribunal shall submit the decision to a court having the jurisdiction to entertain the enforcement of decisions of the Tribunal upon receiving confirmation from a party privy to the case that the decision has not been complied with by the party which was instructed to act on it. In this regard court shall conduct the enforcement of such decisions in a similar manner to other judgements submitted for enforcement.
		(c)	Tribunal shall not be regarded as a party to an enforcement case conducted in the court by reason of filling the case in the court for enforcement.
		(d)	Subsection (a) and (b) of this section, shall not be interpreted as a bar against a party privy to the decision of the Tribunal, to file the same in a court on their own.
Hearings to of the tribunal to be held open to the public	88-2	(a)	Tribunal shall conduct open court hearings.
		(b)	Members of the Tribunal sitting in a case have discretion to decide to hold a hearing or part of a hearing <i>in camera</i> , for a reason mentioned below and, in a manner, consistent with democratic principles.
		(1)	To maintain the social ethical values or to establish peace and harmony in the society or to prevent repercussions on national security.
		(2)	To protect the interest of minors in a case filed or to protect the interest of a victim wronged by another.
		(3)	A reason for prohibiting an open court hearing by virtue of another law becomes materializes.
		(c)	Tribunal shall deliver all its orders and decisions in an open court except for reasons provided in subsection (b) of this section and where the Tribunal has not decided otherwise.
To	88-3		Tribunal shall have the power to summon people relating to cases filed in

summon persons to the Tribunal			Tribunal in accordance with the regulation formulated under this Act to question and require them to furnish documents in relation to cases filed therein.
Conducting cases via audio or video conferencing	88-4	(a)	Case filed at the Tribunal must be heard where the plaintiff, respondent, their respective lawyers, other persons summoned by the Tribunal and the members of the Tribunal hearing the case are in the same gathering physically.
		(b)	Notwithstanding the general rule prescribed in subsection (a) of this section, in special circumstances determined by the Tribunal and in a manner consistent with principles of justice, the Tribunal may conduct hearings where the hall / rooms of the concerned parties in the hearing are connected with the room / hall designated to hold the hearing in the Tribunal by audio or video conferencing. In this regard, Tribunal may deem the following situations to be special circumstances.
		(1)	A circumstance where the exigency of presenting oneself for the hearing is not safe due to a declared state of emergency under the Constitution or an Act or due to a disaster.
		(2)	A circumstance where justice may not take effect, due to a delay caused in the disposal of the case and considering the challenges and obstacles of travelling due to geographical locations of islands and regions, weather conditions, cost of travelling and the financial burden a party may have to bear.
		(c)	Tribunal shall formulate a regulation on conducting hearings through audio or video conferencing pursuant to subsection (b) of this section within one month of this Act coming into force. The said regulation shall include the following.
		(1)	The preparations required of all parties participating the hearing through audio or video conferencing.
		(2)	The rules that all participants shall uphold during a hearing conducted by means of an audio or video conferencing mechanism in the hearing room of the Tribunal connecting all participants.
		(3)	The equipment and facilities required for audio and video conferencing.
		(4)	A guideline drawn up in consultation with the Department of Judicial Administration, to cooperate with the courts to get access to the audio and video conferencing systems established in the magistrate courts, in the event a party privy to the case is residing outside Male'.
		(5)	Transmission speed and bandwidth.
		(6)	How to resolve technical problems.
		(7)	How to resolve the issues of lengthy time differences when a party to the case is residing abroad.
		(8)	How to accommodate an interpreter where needed.
		(9)	Any other rules relating to conducting hearings through audio and video conferencing.

		(d)	Recording of hearings conducted through audio and video conferencing shall be kept safely for a period of 10 (ten) years from the date of disposal of the case.
General meeting of the Tribunal	88.5		All the members of the Tribunal shall constitute the Members' Committee. The President of the Tribunal shall preside over meetings of the said Committee. The mandate of the Members' committee is as follows.
		(a)	To deliberate and decide on ways of improving services rendered by the Tribunal.
		(b)	To formulate the regulation pursuant to chapter 10 of this Act.
		(c)	To formulate the operating procedure of the Tribunal and rules of procedures for conducting cases, disciplinary standards applicable to members, the Articles of the Members' Committee.
		(d)	To decide on the matters to be included in the budget prior to preparing the budget.
		(e)	To identify the areas of training required for the employees of the Tribunal.
		(f)	To plan the execution of the responsibilities assigned to the Tribunal by law.
		(g)	In addition to the above, to oversee the administrative matters of the court.
		(h)	To establish a central register of all cases filed at the Tribunal and to make available administrative conveniences institutionally to conduct the cases in a timely manner.
26- To amend the definition of "Senior Management Officials" in section 97 of the said Act as follows.			
	97		The term "Senior Management Officials" refers to an employee filling a position designated as a senior management position by the employer, among other employees working in senior management. In this regard, the requirements of and standards for a position to be designated as a senior management position shall be stipulated in the regulation formulated pursuant to this Act.
27- The regulations required under this Act shall be published in the Government Gazette, no later than 6 (six) months of this Act coming into force.			
28- Section 13 of the Act shall come into effect on 1 st January 2021. Other sections of this Act shall come into effect from the date of publication of this Act in the Government Gazette.			