

CHAPTER 2
FUNDAMENTAL PRINCIPLES

Prohibition of forced employment 3. (a) No person shall be compelled or forced into employment.

(b) "Forced employment" shall mean any services or labour obtained from a person under threat of punishment, undue influence or intimidation, and does not include services or labour performed of his own volition by any person. The following are exempted from such definition:-

(1) labour carried out by, or services obtained from a person under the control and supervision of the relevant State authority in pursuance of a court judgement; or

(2) labour or services obtained to the extent deemed reasonable in instances of emergencies which may pose risk to the life or well being of the entire populace or a section of the population.

Non-discrimination 4. (a) It is prohibited to discriminate amongst persons carrying out equal work either in the granting of employment, determination of remuneration, increase in remuneration, provision of training, determination of conditions and manner of employment, dismissal from employment or resolution of other employment related matters, based on race, colour, social standing, religion, political beliefs or affiliation with any political party, sex, marital status, family obligations, and in so far as it does not contravene the provisions herein age or disability.

(b) The implementation of any principles, activities or programmes with the objective of assisting those persons

disadvantaged against for any of the reasons specified in sub-section (a) or socially disadvantaged persons shall not be deemed as discrimination amongst employees carrying out equal work.

(c) Sub-section (a) does not prevent the taking into consideration of matters such as educational qualifications required for employment, aptitude, experience and such other matters directly related to employment.

(d) Where a complaint is lodged against an employer alleging contravention of sub-section (a), the onus is on the employer to show that there has been no discrimination or that any discrimination is based on reasonable cause and does not contravene sub-section (a).

(e) Any preference given to Maldivians by an employer in granting employment shall not be deemed discrimination as provided herein.

Contravention of basic principles 5.

(a) Any person whose rights conferred pursuant to the basic principles specified in this Chapter have been affected, may submit such matter to the Tribunal specified in Section 10.

(b) Complaints submitted to the Tribunal in connection with a right conferred pursuant to the basic principles specified in this Chapter shall be dealt with expeditiously by the Tribunal. The complainant and the respondent shall both be afforded ample opportunity to make submissions and respond to arguments.

(c) Where the Tribunal deems that a complaint submitted to it is based on legitimate and valid grounds, it has the power to issue orders mandating compliance with the basic principles specified in this Chapter, including:-

- (1) an order to perform or cease performance of an act;

- (2) an order to re-instate a dismissed employee;
- (3) an order to restore a benefit or advantage that has been denied to a person; or
- (4) an order providing for compensation.

CHAPTER 3

EMPLOYMENT OF MINORS

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| Minimum age | 6. | Minors under the age of sixteen years shall not be employed except in connection with training associated with their education or deportment. Minors under the age of sixteen years who participate in the family's line of work of their own will shall be exempted from this principle. |
| Prohibition of employment of minors | 7. | (a) No minor shall be employed in any work or employment or in conditions of work or employment that may have a detrimental effect on his health, education, safety or conduct.
(b) All age limits stipulated in this Chapter shall be computed according to the Gregorian calendar. A child shall be deemed to be under eighteen years of age as provided for in Law No 9/91 (The Law on the Protection of the Rights of the Child). |
| Obtaining guardian's approval | 8. | (a) A minor shall only be engaged in any employment or work, in accordance with Section 6 and Section 7, after the written approval of the minor's legal guardian or guardian recognised at law has been obtained.
(b) For the purposes of sub-section (a) a legal guardian or guardian recognised at law shall be defined as is provided in Law No 4/2000 (The Family Law). |
| Hours of work | 9. | (a) A minor employed in accordance with Section 6, shall not |

be required to be at work during school hours of the minor.

(b) A minor shall not be required to work after 11pm at night.

Register of minors in employment 10. Any person employing minors in accordance with this Act shall record and maintain a register containing the name, address and date of birth of such minors.

Health check 11. (a) Employment of a minor on a vessel (in accordance with this Act) is subject to a medical certificate of fitness for such employment by the minor issued by a licensed medical practitioner registered with the Government.
(b) A minor shall only continue to be employed on a vessel for a period of more than one year subject to a medical certificate of fitness for such employment issued by a medical practitioner licensed by the Government. Such a health check up must be conducted at least on an annual basis at the expense of the employer.

Penalty 12. Any person contravening a provision of this Chapter shall be fined a sum not less than Mrf 1,000 and not more than Mrf 5,000.

CHAPTER 4

EMPLOYMENT AGREEMENT

Forms of employment agreement 13. (a) Unless otherwise provided herein, the provisions of this Chapter shall apply to all forms of employment agreements.
(b) There shall be a written employment agreement (consisting of one or several documents) between the employer and the employee. Such employment agreement shall include:-

- (1) the name of the employee, permanent address, current address, identity card number or passport number, date of birth, nationality, emergency contact person's name, address and phone number;
- (2) whether employment is permanent or temporary;
- (3) date of commencement of employment agreement;
- (4) salary and other benefits;
- (5) method and guidelines for calculation of salary;
- (6) pay day;
- (7) days on which leave may be granted;
- (8) principles pursuant to which disciplinary measures may be taken against the employee due to his conduct;
- (9) staff appraisal; and
- (10) manner of dismissal from employment.

(c) The following types of agreements are permitted:-

- (1) employment agreements of a definite term;
 - (2) employment agreements of an indefinite term;
- and
- (3) employment agreements specific to certain types of work.

(d) Either party to an employment agreement may terminate such agreement, where it does not (as specified for in this Chapter) provide a defined notice period for resigning from or termination from employment.

(e) Employment agreements of a definite term shall, subject to sub-section (g), terminate at the end of the term specified in the employment agreement without requirement of any further notice.

(f) Employment agreements of a definite term shall not exceed a maximum period of two years.

(g) Employment agreements of a definite term shall be deemed as employment agreements of an indefinite term, if renewed or if its term is extended such that the total duration of employment exceeds two years, or if it can be deemed from the actions of both parties that such a renewal or extension has occurred.

(h) Employment agreements of a definite term or specific to certain types of work shall be deemed as employment agreements of an indefinite term, if the objective or effect of the employment agreement is such that the employee is required to continue carrying out employment of a kind which is usually carried out at the place of work on a permanent basis.

(i) Employment agreements specific to a certain type of work shall terminate upon completion of the specific work undertaken without requirement of any further notice.

Probation

14. The employment agreement can specify a term of no more than three months as the period during which an employee is subject to probation. Either party may terminate the employment during such period without the giving of any notice.

Job description

15. (a) Except in the circumstance specified in sub-section (d), every employer shall provide each employee with a written job description detailing the duties and scope of employment.
(b) Every employer must provide each person in employment at the commencement of this Act, with a job description within three months of the commencement of this Act. Every person employed after the commencement of this Act, must be provided by with a job description by the employer within one month of commencing such employment. The job

description must be renewed in the event of a change in job or a promotion.

(c) The job description specified in this Section shall include:-

- (1) the name of the employer, address, nationality, and type of work;
- (2) the name of the employee, permanent address, current address, identity card number, date of birth, and nationality;
- (3) date of commencement of employment agreement;
- (4) method and guidelines for calculation of salary;
- (5) durations at which salary shall be paid;
- (6) job title and job description;
- (7) place of employment;
- (8) normal working hours;
- (9) leave provisions; and
- (10) principles pursuant to which disciplinary measures may be taken against employee due to his conduct.

(d) Employees shall be exempt from the provisions of this Section in the following circumstances:-

- (1) where the normal weekly working hours are less than a total of sixteen hours; or
- (2) employment for a definite fixed term of six weeks or any work which will definitely be completed within six weeks.

(e) Where the employee has not been provided with a job description by the employer, the employee in order to obtain his benefits according to the terms and conditions required to be incorporated into a job description has the right to enforce such terms and conditions or any verbal agreements made with the employer. The employer shall not have the right to

enforce such agreement in a manner that will cause a detriment to the employee.

(f) Employers who have not provided employees with the job description specified in sub-section (a) shall be subject to a fine of not more than Mrf 1000.

Permanent
employment

16. (a) Permanent employment shall be deemed to commence from and inclusive of the date on which the employee begins work. The duration of employment shall be inclusive of the date of dismissal or termination of employment.

(b) A suspension in duration of employment shall not be deemed to have occurred for absenteeism of the employee arising out of the following:-

(1) leave pursuant to this Act, any other statute or any employment agreement;

(2) any specific period of paid or unpaid leave where the employee is prohibited from work pursuant to this Act, any other statute or any employment agreement;

(3) any period away from work deemed to be due to unfair dismissal from work and pending reinstatement pursuant to Section 29 of this Act or any other agreement;

(4) any period away from work due to temporary employee lay off's; or

(5) any period away from work with the consent of the employer.

Transfer of
employment
agreement

17. (a) Except as provided in sub-section (b) no employment agreement shall be transferred to a party other than the employee without the consent of such employee.

(b) Where a business or a commercial venture (in part or in full) is sold, leased, transferred or released in any other

manner, the employment agreements of employees associated with such business or work shall be transferred to the transferee of such business or work. The rights and duties of employees and employers arising out of the employment agreement shall be transferred accordingly. Any transactions between the transferor and the employee prior to the transfer shall be deemed to have occurred as between the transferee and the employee.

(c) Where a business or a venture (in part or in full) is sold, leased or transferred, or released in any other manner, the period of employment with the previous employer and the person deemed as the current employer (transferee) upon transfer of the business or venture, shall both count as continuous employment and shall not be deemed as a discontinuation in employment.

(d) Any obligation imposed on a person pursuant to an ongoing prosecution or a conviction for an alleged offence, shall in the circumstances specified in sub-section (b), not be deemed transferred to another party and there shall be no lessening in the obligations of such person.

Employment of a
specified duration

18. Where a person is employed during the same period of time every year to carry out seasonal work, and is so employed by the same employer every year, his accrued duration of employment shall be deemed as continuous employment with such employer.

WORK ETHICS AND DISMISSAL

Disciplinary measures
imposed on employee

19. (a) Where the employee does not conform to work ethics, the employer has the power to impose appropriate and

reasonable disciplinary measures from amongst those specified in this Section.

(b) For the purposes of this Section the following shall be included in the definition of “disciplinary measures”:-

- (1) counselling;
- (2) caution in writing;
- (3) suspension from employment for a period not exceeding fourteen days; or
- (4) demotion.

(c) In ascertaining the reasonableness of disciplinary measures imposed on an employee, due regard shall be had to the extent of the breach of work ethics, the duties of such employee, measures imposed by the employer, manner of imposing such measures, loss caused by the employee’s breach of work ethics and the employee’s conduct prior to such incident.

(d) Complaints may be lodged at the Tribunal by any employee concerning the reasonableness of the disciplinary measures imposed against him.

Permitted deductions
from wages

20. (a) Employees may be fined for absenteeism from work during official working hours, such fine to be deducted from his wages and to be commensurate to the time absent from work. No other fines shall be imposed by the employer on account of absenteeism.

(b) This Section does not prevent the determination of reasonable compensation on account of loss or detriment to the property or business of the employer due to a wilful act or omission by the employee.

Prohibition of
dismissal without

21. (a) An employee shall not be dismissed from employment without showing appropriate cause as to failure to maintain

reasonable cause

work ethics, inability to carry out employment duties and responsibilities related to the proper functioning of his place of work; even after measures have been taken to discipline the employee or upgrade skill deficiencies.

(b) The following shall not be deemed reasonable cause that the employee is failing to maintain work ethics or in dismissing him from employment:-

(1) the employee's race, colour, nationality, social standing, religion, political opinion, affiliations with any political party, sex, marital status, familial responsibilities or any disability;

(2) pregnancy or any pregnancy related cause;

(3) the employee's exercise of a right conferred by this Act;

(4) temporary failure to report to work for a period of time due to illness or injury;

(5) exercising or attempting to exercise any right of the employee to stay away from the work environment based on a reasonable belief that the same is directly and indirectly hazardous to the employee's life or health;

(6) membership of a workers association or involvement in any lawful activity conducted by such association; or

(7) submission of a complaint against the employer alleging contravention of the law or being involved in any capacity in any proceedings involving such a complaint.

Notice prior to dismissal

22. (a) Except in the circumstances specified in Section 23 of this Act, employment agreements of indefinite term shall only be terminated after giving the minimum notice specified below:-

- (1) two week's notice for any person in employment for more than six months but less than one year;
- (2) one month's notice for any person in employment for more than one year but less than five years;
- (3) two months notice for any person in employment for more than five years.

(b) The notice periods specified in sub-section (a) shall not be served on the employee while he is on leave taken pursuant to this Chapter such that the leave and notice period are counted together.

(c) This Section does not prevent the variation of the notice period to a greater extent as agreed between the employer and the employee in the employment agreement or the waiver by the employee for the time being of his rights to be given notice prior to a specific period.

(d) Notice given pursuant to this Section must be given in writing.

Dismissal without notice

23. (a) An employee shall be dismissed without notice only when an employee's work ethic is deemed unacceptable and further continuation of employment is on reasonable grounds seen by the employer as unworkable.

(b) An employee's work ethic shall be deemed unacceptable as specified in sub-section (a) if:-

- (1) any further continuation of employment is likely to be detrimental to the employer or to the work place; or
- (2) the employee has committed fraud.

(c) "Dismissal without notice" shall mean termination of the employment agreement by the employer without the requisite notice as provided in law or the employment agreement or a notice of a lesser period than specified.

- Performance record
24. (a) A written performance record of employment based on the following shall be provided to the employee by the employer if such a request is made within six months of the termination of the employment agreement and the employee being informed of the termination:-
- (1) name and address of the employer;
 - (2) nature of employer's business;
 - (3) period of continuous employment by the employee;
 - (4) place of employment;
 - (5) designation of the employee prior to termination of employment; and
 - (6) wages and benefits up to the date of termination of employment.
- (b) The reason for termination of employment or the employers' views on the employee's performance must not be included in the performance record unless requested by the employee.
- Payment in lieu of notice
25. Employment can be terminated without notice provided that the employee's wages and other benefits for the required notice period (from the date of commencement of the notice period to the date of termination of the notice period) has been paid in lieu of notice.
- Resignation
26. (a) The employee shall be afforded the opportunity to bring to the notice of the employer any contraventions of this Act or the employment agreement by the employer. Where the matters specified in such notice for amendment are not complied with in accordance with the employment agreement and within the period specified in such notice, the employee

may resign from employment after giving notice as provided for in the employment agreement.

(b) A termination of the employment agreement by the employee pursuant to sub-section (a) shall be deemed as dismissal by the employer without reasonable cause.

Establishing cause for dismissal 27. Except in the circumstances specified in Section 29, it is an obligation of the employer, in any complaint submitted by or proceedings filed by the employee pursuant to dismissal from employment, to prove that dismissal was for cause. Where the employer is unable to prove that dismissal of the employee was for cause, it shall be deemed that dismissal was without cause.

Complaints relating to dismissal 28. (a) The employee has the right to submit a complaint relating to his dismissal from employment, to the Tribunal within three months of dismissal where he is of the opinion that he was dismissed without cause regardless of whether notice was given or not. This Section does not prevent the employee filing a complaint with the Tribunal from the date of receiving notice.
(b) An employee dismissed during the probationary period, or due to retirement age or any other reason requiring resignation from office, does not have the right as provided in sub-section (a) to file a complaint with the Tribunal.

Legal redress for any employee dismissed without cause 29. (a) If the Tribunal is of the opinion that the employee was dismissed without reasonable cause, the Tribunal can issue any of the following orders:-
(1) an order requiring re-instatement of the employee in the same post and that the dismissal of the employee be struck off the record;

(2) an order requiring re-instatement of the employee in a post similar to or appropriate to the post filled by the employee prior to dismissal, compliance with any conditions stipulated in the order or agreed between the employer or the employee and re-instatement to be made on a specific date; or

(3) an order requiring compensation as provided in sub-section (d).

(b) The Tribunal shall in issuing an order firstly seek to re-instate the employee to the post held when dismissed or to a similar post or to a post appropriate to the employee. The Tribunal shall have due regard to the circumstances for dismissal and also to the extent of the employee's involvement in such act if the dismissal was due to any act on the part of the employee.

(c) If in the opinion of the tribunal, the dismissal of the employee was in some measure attributable to the employee's fault or facilitated by the employee, the order for re-instatement of the employee may also provide for the imposition of a penalty.

(d) In issuing an order for compensation, the measure of compensation shall be decided based on what in the opinion of the Tribunal is reasonable and just. In determining the measure of compensation due regard must be had of detriment directly suffered by the employee due to the employer's actions during dismissal of the employee, and the extent of contributory factors directly attributable to the employee. If dismissal of the employee was pursuant to any of the matters specified in Section 23(b) of this Act, the Tribunal may order further damages to be payable to the employee.

Death of the employer 30. If the employment agreement is based on the employer in his individual capacity, the employment agreement, if not terminated pursuant to Section 22(a) of this Act within one month of the employer's demise, shall stand terminated at the expiry of such period.

Bankruptcy of the employer 31. (a) If the employer goes bankrupt or ceases to carry on the business, the employment agreement, if not terminated pursuant to Section 22(a) of this Act, within one month of such event, shall stand terminated at the expiry of such period.

(b) Despite the bankruptcy of the employer, if the business continues to operate or if the business is transferred to a third party, the employment agreement shall not be deemed terminated as provided herein.

(c) If upon termination of an employment agreement due to bankruptcy of the employer or the cessation of the business, an employee or his representative initiates proceedings for recovery of any unpaid wages and other dues, precedence shall be given over recovery of debts due to the government (if any) and other creditors to recovery of any monies owed to the employee. Such recovery shall be based on the following order:-

(1) payment of wages, over time, commission, service charge and any other monetary benefits due to employees in the twenty seven weeks immediately preceding the bankruptcy or cessation of business;

(2) payment for days worked by employees who during the two years immediately preceding the bankruptcy or cessation of business, worked without taking leave;

(3) payment due to employees for paid leave during

the twelve months immediately preceding the bankruptcy or cessation of business; and

(4) compensation due to any employee dismissed without reasonable cause and any other payments due when the employment was terminated.

WORKING HOURS

Working hours

32. (a) No employee shall be required to work more than forty-eight hours a week. This principle does not include overtime carried out in accordance with this Act.

(b) No employee shall be required to work more than six consecutive days a week (on a day that is normally a day off or has been agreed as a day off), without being provided with twenty-four consecutive hours of leave.

(c) Sub-section (b) does not prevent an employment agreement between an employer and a person or persons employed at tourist resorts, tourist vessels or uninhabited islands designated for industrial projects from providing that the leave entitlement of one day after working for six consecutive days a week shall be accumulated and taken by way of one day for every six consecutive days worked.

(d) This Section does not prevent a person or persons employed at tourist resorts, tourist vessels or uninhabited islands designated for industrial projects from working an additional two hours a day. However, such additional hours must be paid for by way of overtime as provided in Section 37 of this Act.

Determination of maximum working

33. The Minister has the discretion to make regulations determining the maximum number of working hours per

- Meal time
35. (a) No employer shall require or authorise an employee to carry out the following:-
- (1) work consecutively for more than five hours without allowing at least a thirty minute break for meal times; or
 - (2) require an employee to work during meal times.
- (b) Despite the provisions of sub-section (a), the meal times of employees exempted pursuant to Section 34(a) of this Act, shall be determined in agreement with the employer.
- Time for prayer and break time
36. (a) Every employee shall be allowed fifteen minutes to pray during each prayer period in such a manner that it does not disrupt work.
- (b) In the event that a fifteen minute break for prayer as specified in sub-section (a), is not allowed a fifteen minute break shall be allowed for four consecutive hours of work.
- Over time
37. (a) Employees shall not be required to work over time except unless this has been agreed in the employment agreement. Any work carried out over time shall be subject to the requirements of sub-section (b) and Section 38 of this Act.
- (b) An employee working overtime shall be paid 1 ¼ times his hourly working wage as over time, and if working over time on a Friday or a public holiday shall be paid 1 ½ times his hourly working wage as over time.
- Working on a public holiday
38. An employee required to work normal hours on a public holiday shall be paid at least an amount equivalent to half of the minimum wages earned on a normal day of work in addition to over time.

LEAVE ENTITLEMENT

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| Annual leave | 39. Unless otherwise provided herein, upon completion of one year of employment, an employee is entitled to thirty days of paid annual leave. |
| No work when on leave | 40. An employer shall not require an employee to carry out any work whilst the employee is on paid leave pursuant to Section 39 of this Act. Nor shall the employer authorise work in this manner. |
| Dates of leave | 41. (a) Annual leave specified in Section 39 of this Act shall be provided in the following manner:-
<ul style="list-style-type: none">(1) the employer shall decide the date of commencement of leave after consultation with the relevant employee. Such commencement date shall fall no later than within twelve months from the expiry of the year in which the leave was acquired;(2) annual leave shall not be given such that it includes sick leave granted pursuant to Section 42, maternity leave granted pursuant to Section 43, or notice period prior to termination of employment;(3) the employee shall be entitled to an extra day of leave for every working day in the normal course of events which is declared a public holiday while the employee is on annual leave. <p>(b) The employer shall pay the employee no later than the last working day prior to commencement of his annual leave, his wages for the days that he is going to be on leave.</p> <p>(c) Any unused annual leave entitlement for which the employee has not been paid by the employer shall be paid to</p> |

the employee prior to dismissal from employment.

(d) Any determinations in connection with payments to be made to the employee pursuant to this Section shall be made based on the wage that the employee was receiving prior to commencement of his leave or dismissal.

(e) The employer shall not give the employee salary in lieu of any leave entitled to an employee pursuant to Section 39 of this Act, except in the circumstances specified in sub-section (c).

(f) Any agreements made by an employee agreeing to forego or forfeit any leave entitled to an employee pursuant to Section 39 of this Act shall be void.

Sick leave

42. (a) The employer is required to grant thirty days of paid sick leave to the employee during every year of employment.

(b) The employer is not required to grant sick leave for two consecutive days unless a medical certificate specifying the nature of the employee's illness and recommended duration of sick leave issued by a licensed medical practitioner is submitted on the first day back at work.

Maternity leave

43. (a) Female employees shall be granted sixty days maternity leave based on a medical certificate specifying the estimated date of giving birth issued by a licensed medical practitioner. Such leave shall not commence thirty days prior to the estimated date of giving birth. This section does not prevent the employee from returning to work prior to expiry of the duration of her maternity leave.

(b) Maternity leave pursuant to this Act or an agreement is a leave granted to female employees in addition to other forms of leave.

(c) Female employees on maternity leave are also entitled to

all the rights and benefits granted under the employment agreement such as the right to a promotion. No employee on maternity leave shall be subject to any lessening of rights conferred by the employment agreement or in calculating the duration of employment for due promotion. Nor shall the period of maternity leave be deemed a stoppage, suspension or shortening of duration of work.

(d) A female employee shall be duly paid her wages on the same day salary payments are made in the normal course of business even while the employee is on maternity leave.

(e) A further leave of twenty eight days (in addition to the maternity leave specified in sub-section (a)) shall be granted to an employee where a licensed medical practitioner certifies of the employee's inability to return to work either due to the ill-health of the mother or the baby. Such leave can be granted prior to the estimated date of delivery or after delivery. The employer has the discretion not to pay the employee for the duration of any such leave.

Right to return to work

44. (a) Except in any of the circumstances specified below, the employee has the right to return to work to the same position held with the attendant rights and benefits upon expiry of her maternity leave:-

(1) the position no longer exists at the work place due to economic, professional or organisational purposes;
or

(2) incapacity of the employee to continue working in the same job.

(b) In the event of the occurrence of any of the circumstances specified in sub-section (a), the employer shall take reasonable steps to find suitable alternative employment for the employee in place of the extinguished job or that which

the employee is incapacitated to perform.

(c) In the event that suitable alternative employment as required pursuant to sub-section (b) is not found or the employee without reasonable cause declines to take such employment, the employer may give notice to the employee pursuant to Section 22 of this Act and terminate the employment agreement.

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| Break to attend to child | 45. Upon return to work after completion of maternity leave, the employee shall be entitled to two daily breaks of thirty minutes each to attend to the needs of the child. No deductions from pay shall be made for such breaks and an employee is entitled to such breaks until the child is of one year of age. |
| Leave for mothers and fathers | 46. (a) Upon expiry of a female employee's maternity leave, the mother or father of the newborn child may take unpaid leave for a maximum period of one year.

(b) Such leave may be allocated between the mother and father of the new born child subject to their preference where both parents are employed by the same employer. |
| Leave to take care of family responsibilities | 47. Each employee is entitled to ten days paid leave in a year to attend to important obligations such as tending to family members during illness. |
| Leave granted on birth of a child | 48. Male employees are entitled to three days of paid leave on the occasion of the birth of a child. Such leave shall commence from the date of the birth of the child. |
| Circumcision leave | 49. Each employee is entitled to five days of paid leave on the occasion of the circumcision of a child. Such leave shall |

commence from the date of the circumcision of the child.

REMUNERATION

- Payment of wages
50. (a) Except for wages to be paid to a temporary employee, all other employees shall be paid at least on a monthly basis.
- (b) Temporary employees shall be paid on a daily basis in general. However the employer and the temporary employee can agree that such payments shall be made on a weekly, bi-weekly or monthly basis.
- (c) Wage payments to an employee shall be made:-
- (1) to the employee in person or to a person nominated by the employee;
 - (2) by legal tender or by a cheque issued by a bank in the Maldives; and
 - (3) if in cash, then payment shall be made on a working day, from the place of employment or a place nearby.
- (d) Non-monetary payments paid as wages in full or in part, for industrial work or work of a nature such that it is usual to give non-monetary payments, shall only be allowed if they meet the following criteria:-
- (1) is not within the category of alcohol or narcotic substances;
 - (2) can be utilised by or of benefit to the employee or his family;
 - (3) the value allocated to the product is a reasonable value; and
 - (4) it is not something that is prohibited or from use or retention.

- Ramadan bonus 51. Each employee is entitled to a sum of money no less than one third of his monthly salary as a Ramadan bonus, payable before the beginning of Ramadan.
- Service charge 51. (a) Where a service charge is levied on customers by the employer, the previous month's service charge shall be distributed to employees before the end of the current month after deduction of any administrative fee due to the employer in accordance with sub-section (b).
(b) The employer may deduct not more than one percent of the total amount received as service charge by way of an administrative fee.
- Statement of wages 52. The employer shall provide a statement including the following information when making wage payments to employees:-
(1) the total wage paid to the employee for the specific period for which being paid;
(2) details of any deductions from the total wages and the reason for the deductions; and
(3) the wages payable to the employee for the specific period for which being paid.
(b) The employer can instead of providing a written statement as required pursuant to sub-section (a), include the information specified in sub-section (a) in a register which shall be signed by employees when being paid.
(c) Employees requesting a copy of the relevant page of the register specified in sub-section (b) shall be provided with a copy of such page without the imposition of any fee or payment.
(d) An employee who has not been provided with a statement of wages by the employee when being paid, or has not been

provided with access to the register of wage payments as required pursuant to this Section, may file a complaint with the Tribunal.

Prohibited actions in connection with salaries

53. No employer shall:-

(1) require any employee to return or pay back to the employer any wages paid or payable pursuant to this Act;

(2) do anything which may prove a direct or indirect obstacle to any benefit accruable to the employee from wages paid or payable to the employee or any part of such wage;

(3) require or authorise an employee to sign a receipt to the effect that he has received a sum of money that is in excess of what he has actually been paid; or

(4) do anything which is an obstacle to the employees freedom of action in connection with his wages.

(b) An employer can make deductions from employee salary or wage payments only in the following circumstances:-

(1) deductions in accordance with law or a court order;

(2) deductions made from an employee's salary payments, with the employee's written permission, in connection with payments due to the employer from the employee with respect to the provision of a residence or rental of a residence, merchandise sold to an employee, a loan given or a loan sourced with the employer's guarantee, or an agreed amount deducted as part-payment for advances made. Such deductions shall not exceed the amount agreed by the employee or one third of the employee's wage; or

(3) deductions made in connection with the

employees leave, medical expenses, or payments to an insurance fund or provident fund.

- Providing employees with a retail outlet 54. (a) Goods provided to employees through a retail-outlet operated by the employer or access to services provided by the employer on a commercial basis, shall be priced in a manner that is reasonable.
- (b) The employer shall not compulsorily require any employee to purchase goods from a shop or obtain services provided by the employer as specified in sub-section (b).
- Remuneration paid upon dismissal 55. The employer shall settle all payments due to an employee within seven days of the employee being dismissed from employment or expiry of his employment period.
- Salary Advisory Board 56. (a) A Salary Advisory Board shall be established which will review and ascertain the manner of employment of employees in commercial ventures and other places and shall advise the Minister on minimum wages payable for all such employment.
- (b) Any order issued pursuant to Section 59 of this Act establishing a minimum wage for employees must be reviewed by the Board once every two years.
- (c) The Minister shall enact a regulation pursuant to this Act specifying the powers, responsibilities and administrative procedures of the Board.
- Composition of the Board 57. (a) The Board shall be composed of five members appointed by the President.
- (b) Persons appointed to the Board shall have the competence and experience necessary to discharge the functions of the Board.

(c) The Board shall be chaired by a member determined as the chairperson by the President.

- Meetings of the board 58. (a) The member chairing the Board may, if the Board so wishes, request any person to attend and speak at a meeting of the Board in connection with a matter being investigated.
- (b) Any person can request the Board for an opportunity to submit to the Board a matter relating to his remuneration. If in the opinion of the member chairing the Board, such person is associated with a matter being investigated by the Board or if the matter falls within the mandate of the Board, he shall be afforded the opportunity to attend a meeting of the Board.
- (c) Any person refused an opportunity to attend and speak at a meeting of the Board by the chairperson, as provided in sub-section (b) may appeal the matter to the Tribunal.

- Order establishing minimum wage or remuneration 59. (a) The Minister may, after review of the advice of the Board, issue an order to establish, amend or terminate a minimum wage or remuneration in respect of certain types of employment.
- (b) The Minister may, when issuing an order with respect to the minimum wage or remuneration, specify the hourly wage, the payment apportioned to part of the work and the amount of overtime.

- Display of notice 60. (a) An employer who receives an order of the Minister establishing a minimum wage shall display the information contained within such order at the work place such that employees can view the information.
- (b) Any contravention of this Section by an employer is an offence. Such offence if proven is liable to a fine of not more than Mrf 1,000.

- Denial of minimum wage 61. Any employer who pays an employee less than the minimum wage commits an offence. The employer shall be fined Mrf 1,000 the first time such offence is committed and shall be fined a sum that is not less than Mrf 1,000 and is not more than Mrf 3,000 the second time such offence is committed.
- (b) The Tribunal shall order any employer who pays less than the minimum wage to an employee to make up the shortfall.
- (c) Where the employer has paid an employee less than the minimum wage and the employee has consequently filed a complaint, the onus of proving that a minimum wage order issued by the Minister has not been contravened shall be on the employer.

CHAPTER FIVE

FOREIGNERS IN EMPLOYMENT

- Regulations relating to the employment of foreigners 62. The Minister shall within six months of the coming into force of this Act, enact and publish regulations to govern the employment of foreigners in the Maldives, carrying out of employment by foreigners, employment and dismissal of foreigners and other related matters.
- Complaints 63. Complaints may be lodged at the Tribunal, by or on behalf of a foreigner in employment alleging breaches of the provisions of his employment agreement.

CHAPTER 6

EMPLOYMENT AGENCIES

- Employment agency 64. "Employment agency" means a commercial venture which provides the service of or assisting with the procurement of employment for those persons seeking to be employed or procuring employees for those persons seeking to provide employment.
- Registration and management 65. (a) An employment agency shall not commence its operations without it being registered at the Ministry.
(b) The Minister has power to make regulations governing the registration and the provision of services by employment agencies.
- Confidentiality 66. (a) An employment agency shall not request or keep on record any information of a personal nature relating to a prospective employee except such information as is required to ensure that the person has the competence to discharge the employment sought.
(b) Information of a personal nature that is obtained pursuant to sub-section (a) shall be disclosed by an employment agency only to employers that have expressed interest in employing a person with certain abilities.
- Fees 67. The employment agency may charge a fee as is agreed with the employer. However no fee shall be taken directly or indirectly from a prospective employee.
- Complaints 68. (a) Any complaints in connection with an employment agency may be submitted to the Minister.
(b) Upon review of any complaint submitted to the Minister against an employment agency, if in his opinion such complaint is proven to be based on valid grounds, the licence issued to such agency may be withheld for such period of

time as he deems reasonable as well as imposing a fine of not more than Mrf 5,000 on such agency.

(c) A decision of the Minister if not acceptable, may be appealed to the Tribunal within sixty days of such decision.

(d) Sub-section (a) does not prevent the submission of a complaint relating to an employment agency to the Tribunal.

CHAPTER 7

TRAINING AND ON-THE-JOB TRAINING

- Agreement for training 69. (a) An agreement must be entered into between the employer and employee, prior to the commencement of any formal training or training programme or participation in a course for the purpose of training an employee in relation to his employment or job.
- (b) Any such training agreement shall include:-
- (1) name and address of the employer;
 - (2) name, permanent address, current address and identity card number of the employee;
 - (3) details of the training to be provided to the employee;
 - (4) training period;
 - (5) cost incurred by the employee in connection with such training; and
 - (6) rights and obligations of each party in the event that the training is not completed.
- (c) The employer shall not charge any fee in excess of the amount spent on training pursuant to the training agreement specified in sub-section (a), either directly or indirectly to the employee in connection with taking part in the training.

- On-the-job-training
70. (a) Prior to the commencement of any on-the-job training for the purpose of providing specific skills related to a specific kind of work to an employee, the employee and employer must enter into an agreement relating to such training or include the provisions of this Section in the employment agreement.
- (b) Any such training agreement shall include the:-
- (1) name and address of the employer;
 - (2) name, permanent address, current address and identity card number of the employee;
 - (3) details of the training to be provided to the employee;
 - (4) training period; and
 - (5) the terms and conditions of employment, salary and benefits to the employee from such employment.
- (c) Regulations enacted pursuant to this Act shall specify the minimum salary payable to any employee undergoing on-the-job training.
- (d) The wage for employees receiving on-the-job training shall be seventy percent of the wages specified for such employment or work in any order issued by the Minister pursuant to Section 59 of this Act.
- (e) The period of employment during which the employee receives on-the-job training shall not exceed six months.
- (f) The employer shall not charge any fee either directly or indirectly to the employee for providing him with employment and the opportunity to receive on-the-job training.
- (g) Regulations enacted pursuant to this Act may specify certain areas of employment which are deemed as barred from providing on-the-job training.

- Contravention of agreement 71. Contraventions of the employment agreement pursuant to which employment for on-the-job training is being provided or the agreement relating to on-the-job training may be submitted to the Tribunal.

CHAPTER 8

WORK PLACE SAFETY AND EMPLOYEE HEALTH

- Duties of employer 72. The employer shall implement measures for the safety and protection of employees at the work place without charging any fee from employees. Such measures shall include:-
- (1) implementation of a safe work place and procedures, procurement of secure tools and machinery for carrying out work, and ensuring the continued safety of the same;
 - (2) provide safe materials to work with;
 - (3) provide protective equipment and safety equipment in the event that the nature of work is such that it is not possible to eliminate or control health hazards arising out of the work;
 - (4) provide education and training to employees on the use of protective gear and safety equipment, and disseminate to employees information on all issues of related concern;
 - (5) conduct regular health checks for employees engaged in work involving chemical or biological materials that may cause a hazard to physical health or employees involved in any work that may cause physical ill health;
 - (6) provide or arrange for appropriate medical care for employees injured while carrying out

employment; and

(7) arrange the facilitation of first aid to employees in emergencies or accidents.

Obligations of employees

73. The following are duties imperative upon every employee:-

(a) maintenance of safe work practices at work to avoid danger to the safety and well being of the employee and co-workers which may be caused by inattentiveness to safety and security measures;

(b) assist the employer and co-workers in maintenance of measures designed to ensure health and safety in the work place;

(c) use safety equipment and protective gear as instructed in accordance with the training and education provided for use of such equipment and gear;

(d) report to the employer any damage, loss of or destruction of protective gear or safety equipment;

(e) inform the employer or his designated supervisor immediately of the occurrence of any incident which the employee believes may cause danger and which the employee is unable to resolve;

(f) inform the employer or his designated supervisor of any accidents or damage sustained occurring at work or related to work.

Right to abstain from work

74. The employer has the right to abstain from work if he believes that reasonable grounds exist of serious hazard to health or life.

Notification

75. The Minister shall be notified within forty eight hours in the event of death of an employee or the occurrence of an injury

requiring medical care in excess of first aid care to an employee.

CHAPTER 9

LABOUR RELATIONS AUTHORITY

- Labour Relations Authority
76. (a) The Minister shall establish a Labour Relations Authority to attain the following objectives:-
- (1) to observe compliance with this Act and regulations enacted hereunder and to implement the administrative steps required for adherence to the same;
 - (2) to facilitate creation of awareness for the purpose of ensuring the proper observation of this Act and regulations enacted hereunder and to provide technical information and advise required by employers and employees;
 - (3) to inform the Minister of any issues arising due to matters that have not been provided for in this Act and regulations made herunder and any unfair advantage utilised from this; and
 - (4) to issue regulations governing employer and employee relations.
- Checking and inspection
77. In order to ensure compliance with this Act and regulations enacted hereunder, officials of the Labour Relations Authority must inspect work places from time to time.
- Powers of employment officials
78. (a) Employment officials have the following powers:-
- (1) except in the circumstance specified in sub-section (3), employment officials have the power to enter and

check the work place without any prior notice;

(2) except in the circumstance specified in sub-section (3), enter into and check during daylight hours, any place which there are reasonable grounds to believe is a work place;

(3) if the work place is the employer's dwelling place, enter such place with the employer's permission or the Minister's consent in writing;

(4) inspection of the work place and questioning of employees and to specifically carry out the following to ensure that this Act and regulations enacted hereunder are being complied with:-

(i) require submission of records, books, registers and other documents required to be maintained in relation to employment and related matters pursuant to law to ensure that they are being maintained as required and upon submission make copies of the same and collect information;

(ii) order the display of any notices required by law to be displayed, if such notices are not already displayed;

(iii) take samples of different materials from the workplace for testing, after informing the employer or his designated representative;

(iv) obtain information about employee working conditions, salary and working hours;

(v) inspect records of accidents and illnesses required to be maintained by statute or regulations and obtain information or ascertain how, or the circumstances under

which such accident or illness occurred while carrying out employment;

(vi) implement steps to alleviate any situation which there are reasonable grounds to believe may cause a threat to employee health or safety arising out of the use of equipment at work or conditions of work.

(b) Employment officials have the power to issue orders relating to the following in order to facilitate the carrying out of sub-section (a) (4) (vi). Any employer dissatisfied with such an order has the right to submit the matter to the Tribunal:-

(1) an order to make changes, within a specified time, to the machinery or the manner in which work equipment is set up; such changes being ordered to ensure health and safety standards of employees stipulated to be maintained by law are adhered to;

(2) an order to take certain urgent steps to eliminate danger to health and lives of employees if grounds for certainty of such danger exist.

Notification

79. Upon arrival at a work place for an inspection, employment officials must notify the employer or his representative of the presence of the employment official at the work place if such notification would not prove to be an obstacle to the employment official's work.

Opportunity to interact

80. (a) Employers should facilitate free and unfettered access to employment officials by his employees.
(b) No employer shall take improper measures against an employee as a consequence of the employees' actions with respect to the provisions of this Section.

- Prohibitions on disclosure
81. (a) Except in the circumstance specified in sub-section (b), the confidentiality of information gathered by employment officials in the course of carrying out their duties, relating to business secrets, productivity and the like, of commercial ventures shall be maintained both during the currency of their employment and after dismissal.
- (b) The relevant government authorities shall be notified if a thing which may pose a risk to the lives or health of employees is being utilised at any stage of the work.
- (c) No disclosure must be made to an employer of the details of any employee who submits a complaint to the Minister or the Tribunal alleging contravention of law and regulations at the work place. Nor shall any employment officer conducting an inspection of a work place disclose that the visit is due to a complaint from a particular employee.
- (d) Employment officials are barred from forming any liaisons with any person which may produce either a direct or indirect benefit out of work place inspections conducted.
- Report
82. Employment officials shall submit reports, prepared after review of employment practices at work places visited, to the Minister, in the manner specified.
- Offences and penalties
83. Any person who carries out any of the following commits an offence. The penalty for such offence based on the extent of the offence is a fine of not less than Mrf 500 and not more than Mrf 50,000 or a one year jail term and a fine of not more than Mrf 25,000:-
- (1) contravention of Section 80 and Section 81 of this Act;
- (2) obstructing the duties or the activities of an employment official;

- (3) non-compliance with orders issued by employment officials in the course of their duties or pursuant to the powers they have to carry out their duties;
- (4) to wilfully provide an employment official with false or misleading information;
- (5) to obstruct or hinder a person from presenting themselves in front of an employment official or to obstruct or hinder the questioning of such person or to attempt any such act; or
- (6) falsely represent one self to be an employment official.

CHAPTER 10

EMPLOYMENT TRIBUNAL

- Establishing Tribunal
84. (a) There shall be an Employment Tribunal established pursuant to this Act and which operates in accordance with this Act.
- (b) The Tribunal has full powers to review and deliberate as it deems appropriate on matters determined by this Act or any other law to be adjudicated by the Tribunal.
- (c) The Tribunal has the power to summon persons, elicit witness statements, obtain proof and evidence or do anything necessary to verify and elicit the truth of a matter submitted to it.
- Appeal
85. (a) Except in the circumstance specified in sub-section (b), the decisions of the Tribunal shall be final and not subject to any further appeal.
- (b) A decision of the Tribunal if in ultra vires of its powers, or

in contravention of *sharuee* principles or law, can be appealed as of right to the High Court within sixty days of such decision being made.

(c) Decisions of the Tribunal must be complied with, unless the court has specifically ordered that the decision of the Tribunal not be enforced.

Composition

86. (a) The Tribunal is composed of seven members appointed by the President. The president shall appoint a chairperson and a deputy chairperson from among the members.

Term of membership

(b)

(1) Members appointed to the Tribunal shall serve a term of 5 (five) years from the date of appointment.

(2) A Member of the Tribunal can be re-appointed for an additional term of 5 (five) years except for a member removed pursuant to sub-section (h). Members re-appointed in this manner can be subsequently re-appointed for additional terms of 5 (five) years.

(c) The members of the Tribunal shall possess the following qualifications:-

(1) not have been convicted of an offence for which a *hadd* is prescribed in Islam during the last 5 (five) years;

(2) not have been convicted of the offence of corruption;

(3) not carrying out any elected or appointed political post pursuant to the Constitution of the Republic of Maldives or any statute;

(4) not be a member of any political party or active in the activities of any political party; and

(5) be possessed of the educational qualifications or

experience to comprehend and resolve employment related issues.

Appointment of members full time or part-time Chairperson and Vice-Chairperson of the Tribunal

(d) This Act does not prevent the appointment of members to the Tribunal on either a full time or a part time basis.

(e)

(1) The President shall appoint a Chairperson and a Vice-Chairperson of the Tribunal from among the members appointed to the Tribunal.

(2) The Chairperson shall be the highest authority on the Tribunal charged with administering the Tribunal in accordance with regulations enacted hereunder.

(3) In the event of the incapacity or inability of the Chairperson to carry out his duties of office, or vacancy of office of the Chairperson, his duties of office shall be temporarily performed by the Vice-Chairperson. In addition to the above the Vice-Chairperson shall also perform such additional duties as are assigned to him by the Chairperson.

(4) The office of the Chairperson or the Vice-Chairperson shall be deemed vacant upon the same circumstances pursuant to which a vacancy of membership is deemed to have arisen.

Assumption of membership

(f) A member shall take the following oath of office in front of the President before assuming office.

"I, , do swear in the name of Almighty Allah that I will respect the religion of Islam, that I will respect the Constitution of the Republic of Maldives and the fundamental rights of the Maldivian citizens and will discharge the duties and responsibilities of membership of the Employment Tribunal independently, fairly, justly, faithfully without bias or prejudice.

Vacancy in office

(g) The following shall be deemed vacancies in office of membership of the Tribunal:-

- (1) expiry of the term of membership;
- (2) resignation;
- (3) removal from the Tribunal pursuant to subsection (h);
- (4) death;
- (5) no longer possessing a qualification specified in this Act for membership of the Tribunal.

Removal from membership

(h) A member of the Tribunal shall be removed from office, upon the occurrence of any of the circumstances specified herein and by writing under the hand of the President:-

- (1) declared a bankrupt by a judgement of the court;
- (2) incapacity to perform the responsibilities required as a member of the Tribunal or circumstances existing where there is a personal interest or benefit or gain or role which conflicts with the performance of the duties of a member of the Tribunal
- (3) contravening the oath of office;
- (4) to be found (in the opinion of the President) lacking in the good standing required of a member of the Tribunal due to being convicted of an offence;
- (5) being found negligent or careless in the performance of the responsibilities of a member of the Tribunal.

Resignation

(i)

(1) The Chairperson, Vice-Chairperson or a member of the Tribunal may resign from office by writing under his hand specifying the reason and addressed to the President. However, such member shall continue in office until informed by the President of acceptance of the resignation or the lapse of 30

(thirty) days from the date of submitting the resignation.

(2) Resignation as Chairperson or Vice-Chairperson of the Tribunal shall not be deemed as resignation from membership of the Tribunal.

Salary and allowances

(j)

(1) The Chairperson, Vice-Chairperson and the members of the Tribunal shall be paid such salary and allowances as determined by the President. In determining the salary and allowances payable to members of the Tribunal, due cognisance shall be had to whether a member is a full time or a part-time member of the Tribunal.

(2) The salary and allowances payable to the Chairperson and the Vice-Chairperson shall not be diminished during their term of membership. Nor shall the salary and allowances payable to members of the Tribunal be diminished during their term of membership.

Appointing employees to the Tribunal

(k) The Chairperson of the Tribunal shall on behalf of the members of the Tribunal, appoint, transfer and remove employees from the Tribunal in accordance with the regulations enacted by the Tribunal.

Employee salary and allowances

(l) The salary and allowances payable to members of the Tribunal shall be determined by the Chairperson after consultation with the Ministry of Finance and Treasury.

Financial matters

(m)

(1) The funds required for the Tribunal to carry out its responsibilities shall be provided by the Treasury every year in accordance with the Budget approved by the People's Majlis.

(2) The Tribunal shall, in accordance with the advice

of the Auditor General and the regulations of the Tribunal, maintain and prepare its audited financial statements relating to its revenue, expenditure, property and liabilities and shall submit the same to the President and the People’s Majlis before the 28th day of February each year.

Exemption from the Civil Service (n) The members of the Tribunal and its employees shall not be members of the Civil Service.

Regulation relating to the Tribunal 87. Regulations governing the administration of the Tribunal, principles to be adhered to in review and consideration of matters before it and other matters relating to the Tribunal, shall be enacted and published within three months of the coming into force of this Act.

CHAPTER 11

MISCELLANEOUS MATTERS

Enactment of regulations 88. Unless otherwise provided in this Act, regulations required to administer this Act shall be made by the Minister.

Interpretation 89. In this Act:-
 “**public holiday**” shall mean Fridays, Day of Commemoration of the Birth of Prophet Mohamed, Day of Commemoration of the Maldives converting to Islam, Independence Day, First Day of Ramazan, Day of Eid-ul-Fitr, Victory Day, Republic Day, Hajj Day and Day of Eid-ul-Ad’ha;
 “**licensed medical practitioner**” shall mean persons who are authorized by the Ministry of Health to issue medical certificates;

“**salary**” shall mean payments made to the employee by the employer as wages, other benefits, allowances and other financial benefits relating to the employment, either in cash or other valuable consideration,

“**temporary employee**” shall mean employees working on a day to day basis with no prospect of being made permanent employees;

“**employer**” shall mean any person, company, government or association of persons providing employment pursuant to an employment agreement, and includes the use of the services of non-independent contractors, successors and assigns of such employers, and any person to whom the rights of such employers are transferred by operation of law;

“**employee**” shall mean an employee and any person seeking employment;

“**Minister**” shall mean the Minister appointed to oversee the responsibilities of the Ministry mandated with responsibility for matters relating to employment and shall include his representative;

“**Ministry**” shall mean the Ministry mandated with responsibility for matters relating to employment;

“**permanent employee**” or “**permanence of employment**” shall mean employment carried out on an uninterrupted basis;

“**service charge**” shall mean service charge imposed if any, in excess of the price imposed for the service provided;

“**Tribunal**” shall mean the tribunal established pursuant to Chapter 10 of this Act to review all employment related matters;

“**tourist resorts**” shall mean resorts at which tourists spend their vacations and picnic islands

“**persons in senior management posts**” shall mean persons

who are members of the management committee, other employees of equivalent level and the senior most employees in management.

Commencement of
this Act

90. This Act shall come into force on the 45th day following its enactment by the President. Any government structures that require amendment or consolidation pursuant to this Act must be settled within ninety days of the enactment of this Act by the President.