

# AN OVERVIEW OF PUBLIC HEALTH EMERGENCY ACT 2020

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Law no. 20/2020 (Public Health Emergency Act) (the “Act”) came into force on 22 September 2020. The Act addresses various issues which have arisen due to the global Covid-19 pandemic and the state of public health emergency announced in the Maldives in relation to the same.

The Act will remain in force for a period of 60 days, from the date on which a state of public health emergency announced relating to Covid-19 is lifted.

## MATTERS RELATING TO EMPLOYMENT

### General

- The following actions can only be taken by employers where the employer’s business has been negatively impacted in relation to Covid-19, resulting in loss of income, to the point where the employer is unable to pay the wages previously paid to employees:
  - reducing the wages paid to employees;
  - postponing the date on which wages must be paid to employees as per the contract of employment;
  - sending employees on unpaid leave; and
  - dismissal of employees.
- Employers must notify employees before taking any action specified above, as provided for in the contract of employment. Payment in lieu of notice must be paid where notice cannot be given.
- The Act does not prohibit employers from taking action against employees in accordance with Law No. 2/2008 (Employment Act).
- The regulation on principles regarding assessing the negative impacts on businesses shall be published in the Gazette within 14 days from the date on which this Act came into force.

### Leave

- Employees in quarantine, isolation, being treated for Covid-19 or who, due to travel restrictions, are unable to travel to the island where their place of work is, must be granted special paid leave by the employer, where a document issued by the Director General of Public Health or their delegate, affirms the status of the employee.
- Employees who, due to travel restrictions are unable to travel to the island where their place of work is, must inform their employers of their status.
- For employees that have tested positive and have been treated for Covid-19, a document issued by a health facility affirming their status will also suffice.
- Employees who are directly responsible for a family member that needs to be treated for Covid-19 at home or who need to accompany such a family member at an isolation or health facility, shall be granted

special paid family obligations leave with the requirement of submitting to the employer, a document issued by the Director General of Public Health, affirming the employee's status.

### Wages

Any changes in wages and unpaid leave may only be allowed where the employer and the employee are able to come to a mutual agreement.

### Dismissal

- Employees may only be dismissed by way of redundancy and where both of the following have occurred: -
  - the employer's business has been impacted negatively due to Covid-19, resulting in loss of income, to the point where the employer is unable to pay the wages previously paid to employees; and
  - the structure of employees needs to be revised.
- In such instances, in addition to giving notice to employees, employers must inform employees of the guidelines which will be followed in deciding which employees will be made redundant.
- Where an employee is made redundant and the employer hires a new employee to fill the same position, grounds for redundancy will not be accepted as reasonable.

### Employment disputes

- An employee has the right to file a claim at the Employment Tribunal where their employer has acted in contravention of this Act, in making changes to the wages, sending the employee on unpaid leave or in dismissing the employee.
- A claim can be filed before the 90th day from the day on which the action was taken or before the 30th day from the day on which the state of public health emergency is lifted, whichever occurs later.

## PROVISION OF TREATMENT & HEALTH INSURANCE

### Maldivians

All treatments for Maldivian citizens who have tested positive for Covid-19 shall be covered under the National Health Insurance Scheme or a special scheme or fund allocated for Covid-19.

### Expatriates

- All treatments for expatriates who have tested positive for Covid-19, must be covered under a health insurance scheme which they have been enrolled in. Expenses incurred in relation to treatment not covered under such insurance scheme shall be borne by the employer.
- Where expatriates have not been enrolled in a health insurance scheme, employers of those expatriates shall be responsible for the cost of all treatments.
- Where expatriates are under the custody of the Government due to expiry of the approval granted to them, the Government shall facilitate all Covid-19 related treatments for such expatriates.
- Expatriates shall bear the costs of treatment for Covid-19 not covered under the situations detailed above.

## HOUSING & PROTECTIVE STEPS ON FUNDAMENTAL SERVICES

- Notice clauses in pre-existing residential tenancy agreements are to be overridden and even if there is no such written agreement, landlords will be required to give a 60-day written notice to evict any tenant and/or terminate such an agreement.
- During the notice period, landlords are barred from taking any actions to obstruct tenants from enjoying the full benefits of the premises or evicting tenants, which further includes petitioning to any relevant court.
- Even where a landlord has served an eviction notice to a tenant, both parties must continue to fulfil their other obligations under the tenancy agreement.
- A fine of MVR 5,000/- is to be imposed where it is found that a landlord or anyone representing them has engaged in any activity detailed below, within the duration in which this Act remains in force:
  - discontinuation of water, electricity and telecommunications services;
  - doing anything which obstructs the tenant from residing freely at the premises.
- Where any party has acted in contravention of the above, the victim of such action may file a complaint to the Ministry of National Planning, Housing and Infrastructure.

## MORTGAGES

- For the duration the Act remains in force:
  - initiation of mortgage enforcement proceedings of any residential mortgages is to be prohibited; and
  - enforcement proceedings initiated before the Act came into force must be halted temporarily

## SOCIAL WELFARE

- Government is to ensure that people who are facing financial difficulties due to Covid-19, and either have or may become homeless at the time or after the Act came into force, are provided temporary shelter for the duration in which this Act remains in force.
- Government is also required to ensure that people faced with food insecurity are either provided food directly, through a third party or provided with financial assistance to achieve food security.

## TAX RELIEF

- The Government may temporarily extend deadlines for tax payments to be made to the Maldives Inland Revenue Authority (“MIRA”), at its discretion. Following such extension, MIRA must extend the deadline for submission of any related tax submissions or other documents.
- The period for which any such extension is granted and the new deadline shall be published in the Gazette.
- MIRA is required to publish the administrative arrangements relating to the extension of such deadlines within 14 days of this Act coming into force.

## ACCESS TO JUSTICE

- Where the state of public health emergency announced relating to Covid-19 subsists, courts and tribunals are required to:
  - make arrangements to conduct open hearings where required, with the appropriate safety measures in place (any such principles decided by the courts must be openly published);
  - make arrangements to conduct remote hearings in order to facilitate access to justice;
  - make arrangements for submission of claims, exchange of statements or documents related to the proceedings to be done electronically.
- Where hearings are conducted via audio/video link, courts and tribunals must make audio/visual arrangements to conduct these hearings openly. This does not apply to situations where exclusion of the public from the trial is permitted under the Constitution of the Republic of Maldives or any other law.
- Where a deadline of less than 10 days has been given under the law to submit a claim, 10 extra days are to be granted, pursuant to changes brought to normal working hours or instructions given to stay home, relating to measures taken during the state of public health emergency. However, this extension of deadline is not applicable for remand hearings.

## ADMINISTRATIVE POWERS OF THE STATE

- Documents to be issued by or submitted to ministries and other state institutions are to be issued or submitted electronically.
- Submission of annual reports and financial statements of State institutions, banks, any other financial institution or legal entity which became due from 12 March 2020 onwards, shall be deemed suspended from thereon, until the date on which the state of public health emergency is lifted.
- If such suspension concerns a particular act, the new deadline to complete such action shall be the 30th day from the date on which the state of public health emergency is lifted.
- If the deadline has been extended for an audit, the new deadline shall be the 90th day from the date on which the state of public health emergency is lifted.

## SPECIAL POWERS TO ENFORCE THE ACT

- During the subsistence of a state of public health emergency announced related to Covid-19, the Director General of Public Health may order the Police to enforce the following penalties against those who violate orders from the Director General of Public Health:
  - a fine between MVR 1,000/- and MVR 10,000/- for individual citizens;
  - a fine between MVR 5,000/- and MVR 100,000/- for a legal entity.

*The Act also includes special provisions relating to health practitioners, details of which have not been included in this overview.*

### **Disclaimer:**

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