



*Unofficial translation of the*

## **FIFTH AMENDMENT TO THE EMPLOYMENT**

## **ACT**

**22/2016**

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*In accordance with Article 92 of the Constitution, the "Fifth Amendment Bill to the Employment Act (Law Number 2/2008)" passed in the 17<sup>th</sup> sitting of the 2<sup>nd</sup> session of the People's Majlis held on Wednesday the 17<sup>th</sup> of August 2016, has become law and has been published in the Government Gazette upon its ratification by the President on Thursday the 25<sup>th</sup> of August 2016 (22 Zul-Qaidah 1437).*

### **DISCLAIMER OF LIABILITY**

*This is the unofficial translation of the original Act in Dhivehi. In the event of conflict between this translation and the Dhivehi version of this Act, the latter shall prevail. Therefore, it is advised that both the Dhivehi version of this Act and this translation be read concurrently.*

# FIFTH AMENDMENT TO THE EMPLOYMENT ACT

The Employment Act (Law Number 2/2008) shall be amended as follows.

1. Amend Section 50(c) of the aforementioned Act as follows:

50. (c) Except in the circumstances determined in this Act for the payment of salary being paid to persons carrying on their jobs in a specific manner, salary to an employee shall be given:

2. Insert the following section after Section 52 of the Act:

**Payment of  
salaries to  
foreign  
employees**

53. (a) Any money being paid by an employer as salary or service charge to foreign employees who hold a work visa under the Maldives Immigration Act (Law Number 1/2007) and to foreign employees who are not allowed to work in the Maldives without a work visa, shall be paid as follows:

- (1) Through a bank account opened in the name of the foreign employee at a registered bank operating in the Maldives; and
  - (2) By depositing cash in legal tender or a cheque from a bank operating in the Maldives, to the employee's account.
- (b) Notwithstanding subsection (a), employers shall open bank accounts for foreign employees in accordance with this section, within 3 (three) months from the commencement date of the Fifth Amendment to the Employment Act (Law Number 2/2008).
- (c) Employers shall not violate subsection (a).
- (d) The Ministry or parties determined by the Ministry shall have the discretion to impose a penalty between MVR 10,000 (ten thousand) and MVR 50,000 (fifty thousand) against employers who violate subsection (a).

3. Insert the following section after Section 56 of the aforementioned Act:

**Formulating regulations on taking administrative action and enforcing matters relating to salary on employers**

57. (a) Where an employer repeatedly violates Section 50, Section 51, Section 52, Section 53 and Section 57 of this Act, the Minister shall have the authority to notify State Institutions, as an administrative measure, to cease services provided to that employer until the employer rectifies the violation.
- (b) The Minister shall formulate regulations to enforce matters regarding salaries and benefits stipulated in this Act against employers who violate Section 50, Section 51, Section 52 and Section 53, in order to encourage the payment of salaries, service charge and allowances or other benefits given as part of the salary to employees.
- (c) The Regulation made in accordance with this Section shall be formulated and published within 3 (three) months from the commencement date of the Fifth Amendment to the Employment Act (Law Number 2/2008).

4. Amend Section 63 of the aforementioned Act as follows:

**Issuing employment approvals and maintaining a deposit**

63. (a) A permit to work in the Maldives or the “Employment Approval” shall be obtained pursuant to the relevant Act, prior to a foreign employee’s arrival in the Maldives.
- (b) Persons who bring in foreigners to work in the Maldives shall maintain a deposit at the relevant State Institution in accordance with the relevant laws and regulations.
- (c) The Minister shall formulate regulations with respect to the procedure for the employment of foreigners in the Maldives, carrying out employment by foreigners, employment and dismissal of foreigners and other relevant matters, and publish them within 3 (three) months from the commencement date of the Fifth Amendment to the Employment Act (Law Number 2/2008).

5. Amend subsection 66(b) of the aforementioned Act as follows:

66. (b) The Minister shall have the authority to formulate regulations with respect to the registration of an employment agency, the issuance, renewal, suspension,

and cancellation of the permit of an employment agency and the operation of and services provided by such agencies and the standard of services provided.

6. Insert the following subsection after subsection 66(b) of the aforementioned Act:

66. (c) The Ministry shall have the discretion to collect a fee for services provided by the Ministry to employment agencies under this Act. In this regard, the regulation with respect to the policy on and the amount of fees charged for such services shall be formulated and published within 3 (three) months from the commencement date of the Fifth Amendment to the Employment Act (Law Number 2/2008).

7. Amend subsection 69(b) of the aforementioned Act as follows:

69. (b) Where the Minister finds that a complaint filed with the Minister against an employment agency was based on true facts, the Minister shall have the authority to enforce any of the following actions against such agency, based on the severity of the act committed by the agency:

- (1) Suspending the permit issued to that agency for a duration deemed reasonable to the Minister;
- (2) Impose a penalty between MVR 5,000 (five thousand) and MVR 50,000 (fifty thousand);
- (3) Cancelling the permit issued to the agency;
- (4) Not issuing agency operating permit to a business whose shares are held by the responsible persons of the agency.

8. Insert the following subsection after subsection 69(b) of the aforementioned Act:

69. (c) The Minister shall formulate and publish regulations with respect to the procedure for reviewing complaints submitted to the Minister in accordance with subsection (a) with regard to employment agencies, within 3 (three) months from the commencement date of the Fifth Amendment to the Employment Act (Law Number 2/2008).

9. Insert the following Chapter and Sections as Chapter 11, after Section 88 of the aforementioned Act:

## **Chapter 11**

### **Remittance Tax**

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| <b>Charging<br/>Remittance Tax<br/>on money<br/>transferred out<br/>of Maldives by<br/>foreigners</b> | <p><b>89.</b> (a) 3% (Three Percent) of the money transferred out of the Maldives by foreigners employed in the Maldives shall be collected by the State as “Remittance Tax” from 1 October 2016 onwards.</p> <p>(b) For the purpose of this Section, “foreigners employed in the Maldives” refers to foreigners who have been issued a work visa pursuant to the Maldives Immigration Act (Law Number 1/2007) and foreigners who are not allowed to work in the Maldives without a work visa, even though such visa has not been issued or the visa has expired.</p> <p>(c) Remittance Tax shall be collected by the Maldives Inland Revenue Authority (MIRA) in accordance with the Tax Administration Act (Law Number 3/2010).</p> |
| <b>Collection of<br/>Remittance Tax<br/>and paying it to<br/>the State</b>                            | <p><b>90.</b> It is the responsibility of banks and non-bank financial institutions operating in the Maldives that provide the service of transferring in any manner money out of the Maldives, to collect the Remittance Tax specified in Section 89 of this Act from foreigners and to pay it to the State in accordance with this Chapter.</p>   |
| <b>Submission of<br/>Remittance Tax<br/>Return and<br/>payment of tax</b>                             | <p><b>91.</b> (a) Persons registered for Remittance Tax shall file a Remittance Tax Return after computing the amount of tax payable for each month, by the 15<sup>th</sup> of the following month, and pay the due amount of tax to MIRA by that date.</p> <p>(b) Remittance tax shall be paid to MIRA in Maldivian Rufiyaa.</p>   |
| <b>Taking action</b>  | <p><b>92.</b> (a) Where a person has not paid Remittance Tax within the due date for payment, or does not file the Remittance Tax Return within the due date for filing, or where a person who provides money transfer services does not fulfil any of his other obligations, action will be taken against such</p>   |

person in accordance with the Tax Administration Act (Law Number 3/2010).

- (b) Where a person takes measures to avoid payment of Remittance Tax, or assists in such avoidance, the person shall be fined an amount equal to the amount of money transferred abroad, in addition to the action taken in accordance with subsection (a). And where the measures were taken by a business, in addition to the fine, the relevant State institution shall have the discretion to suspend the operating license issued to such business for a specified period.

**Formulating the  
Remittance Tax  
regulation**

**93.** Notwithstanding any other provision in this Act, for the purpose of this Chapter, MIRA shall have the authority to formulate regulations on the following matters:

- (a) Registration of persons required to register for Remittance Tax;
- (b) The procedures to be followed by persons who provide money transfer service in collecting Remittance Tax from foreigners;
- (c) Defining what constitutes transfer of money out of the Maldives;
- (d) Other matters and procedures to be determined in implementing Remittance Tax.

**10.** Renumber the Sections of the aforementioned Act after incorporating the insertions referred to in this Act.

**11.** Amend the references made to Sections and subsections of the aforementioned Act in accordance with the amendments brought by this Act.

**12.** This Act shall commence upon it being published in the Gazette of the Government of Maldives.