

Public Health Emergency Act 2020

Areas Addressed



Employment



Housing



Social Welfare



Tax



Courts & Tribunals



Other Matters

Introduction

The Act sets out special procedures needed to implement temporary measures and to facilitate smooth functioning of the state authorities in order to provide safety and assistance to the individuals, families and businesses during the period of state of public health emergency declared as a result of the ongoing coronavirus COVID-19 pandemic.

This legislative initiation is intended to:

- △ Assist families who are deprived of their essential needs;
- △ Ensure housing protection for all and provide a mechanism to grant employees special leaves during this period, and to delineate measures that can be taken against an employee – salary reduction, forced leave, termination;
- △ Provide financial assistance to destitute and at-risk businesses and provide tax relief for businesses– during this period,

The Act came into effect on 22nd September 2020 and sunsets on the 60th day after the end of Public Health Emergency or any other emergency declared due to pandemic.

This overview provides a summary of the key provisions of the Act.

Employment



Special Paid Leave (Sections 4 to 7)

Employers are required to provide special paid leaves in the following instances.



Case



Required Proof



Leave Duration

Employee is under quarantine, or is a suspected case of COVID-19

Document issued by DG of Public Health

Until end of quarantine or cleared as a suspect

Employee is placed under isolation after being tested positive for COVID-19

Document issued by DG of Public Health, or document issued by a medical facility

Until end of isolation

Employee cannot attend work because the employee has to stay out of the island where they usually reside due to travel restrictions imposed by the DG of Public Health.

Due communication of the situation to the employer and the travel restriction order issued by the DG of Public Health

Until the end of such situation



Case



Required Proof



Leave Duration

<ul style="list-style-type: none">△ a family member of the employee is tested positive for COVID-19△ the employee is directly responsible for taking care of that family member△ a family member is required to carry out medication at home or the employee has to stay with the family member in a designated facility.	Document issued by DG of Public Health	Duration of the treatment
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Key considerations (Section 8):

- △ If an employee is entitled to more than one type of Special Leave, all those leaves should be afforded to the employee.
- △ The employee's leave entitlements under the Employment Act or any other regulation will not be affected due to the Special Leaves under the Act. For example, the 30-day paid sick leave should not be considered as utilised even if the employee has been granted special leave for being infected or tested positive for COVID-19.

Reduction or Delaying Payment of Remuneration, Layoff & Termination (Section 9)

Reduction or Delaying Payment of Remuneration

Laying off

Termination

All conditions must be fulfilled:

- △ Employer's business has been affected adversely due to the pandemic, and
- △ Employer's revenue has declined due to such adverse effect, and
- △ Such adverse effect has affected the business of the employer to the extent that, the employer cannot remunerate its staffs with original remuneration.
- △ Adverse effects are to be determined according to the policy published by the Ministry of Economic Development within 14 days from the enactment of the Act.

Employee consultation
and consent

Workforce required
to be reduced

Inform the employee:

- * that the employee has to be terminated due to the financial circumstances.
- * procedures and policies on selecting the employees to be terminated

Serve a reasonable notice, or pay money in lieu of notice in accordance with employment agreement.

Final settlement should be made, including annual leave encashment, overtime payments, etc.



Dispute Resolution (Section 10)



- △ Employee has the right to lodge a case at the Employment Tribunal if any of the prohibited actions are taken against the employee.
- △ Such action should be brought against the Employer within 90 days of such action or within 30 days of the end of emergency declared due to COVID-19, whichever comes later.

Housing



Moratorium on Evictions (Section 20)



- △ Landlord of leased residential property is prohibited from evicting the lessees unless a 60-day prior written notice is served.
- △ Landlord is barred from taking any action, including filing a case at the courts, to evict the lessees during this period.

Moratorium on Enforcement of Mortgage (Section 22)



- △ Mortgagor or any other party must not take any action, including instigating procedures in Mortgage Act or filing a case at the court, to enforce such mortgage during this period.
- △ In the instance where enforcement actions have already been instigated, such action should be frozen.

Prohibited Actions (Section 21)



- △ During the effective period of the Act, Landlord is prohibited from carrying out following actions:
 - * Disconnecting utilities, including electricity, water supply and telecommunication;
 - * Any action which disrupts the peaceful enjoyment of the lessee
- △ Anyone who breaches these provisions will face a fine of MVR 5,000.

Dispute Resolution (Section 20(h))



If any party acts in contravention to the provisions regarding leased residential properties, the affected party may lodge a complaint with the Ministry of National Planning, Housing and Infrastructure.

Social Welfare



Treating COVID-19 Patients



Insurance for Maldivians (Section 11)

- △ State should provide insurance for the treatment expenses of COVID-19, either under the National Health Insurance Scheme or any other scheme or fund.
- △ Should cover all in-patient and out-patient treatments including expenses for consultation, testing and medication.



Medical Treatment Costs of Foreigners (Section 12)

- △ Foreigners infected by COVID-19 are covered under the Health Insurance Policy that they have taken.
- △ If the foreign employee has not been insured, or the treatments are not covered by the insurance scheme taken by the foreign employee, treatment costs should be borne by the employer.
- △ If a foreign worker's visa has expired and is under the custody of relevant government authority, healthcare should be provided by the government.

Assistance to Affected Persons



Temporary Shelter (Section 23)

- △ Government must provide temporary shelter for the people who have lost their shelter due to adverse effects on income caused by COVID-19.
- △ This should be provided until the end of 60-days from the end of emergencies declared due to COVID-19.
- △ The shelter should be provided without discrimination, and should have amenities for proper sanitation, sleeping and having food.



Providing food (Section 24)

- △ Government must provide food for the people who are in dire condition due to the adverse effect on income caused by COVID-19.
- △ This assistance should be provided until the end of 60-days from the end of emergencies.
- △ Government has discretion to provide food through third parties or to support eligible parties financially.
- △ The assistance should be provided without discrimination.
- △ Reasonable steps to stop the spread of COVID-19 should be taken while providing food.

Tax



Postponements in Income Tax (Section 31)



- △ The government has the discretion to postpone any tax amount that is due to be paid under a tax law to a later date which the government determines.
- △ The government must gazette any such postponement and should publish the postponement period, and the new date the tax payments are due.
- △ Upon the postponement of any tax payments, the Maldives Inland Revenue Authority must delay the filing of the tax returns, and other documents. The new administrative changes should be published.

Courts & Tribunals



Online Filing (Section 36)



- △ Courts and tribunals should make arrangements so that cases can be filed electronically, and the documents which need to be delivered to the parties and others can be delivered electronically.

Hearings (Sections 34 & 35)



- △ The courts and tribunals are to facilitate open hearings with safety precautions in place and the policy to be followed should be published.
- △ Courts and tribunals should make arrangements to carry out the trials and hearings through audio or video link, after considering the following:
 - * Type of the case.
 - * The threat level of COVID-19 determined by relevant authorities.
 - * Steps taken to stop the spread of COVID-19 by relevant authorities.
 - * Ability of the parties to participate in the hearing via audio/video.

Extension of Deadlines (Section 37)



- △ If the law requires a case to be filed in 10 days or less, deadlines are extended for further 10 days (does not apply to remand hearings).
- △ If the law requires a case to be filed in more than 10 days, deadline may be extended by authorities with approval from the Court.

Other Matters



Electronic Documents (Section 40)



- △ Document which is required to be issued by state authorities can be issued electronically.
- △ Where laws or agreements require certain documents to be hand-delivered or delivered via post, during the effective period of this act such document can be delivered electronically.

Financial Statements & Annual Reports (Section 42)



- △ Submission of Financial Statements and Annual Reports by a State institution, bank, non-financial institution or a company which became due after 12 March 2020 are suspended.
- △ New deadlines for submission:
 - * If the submission period is prescribed in a law, that period would not be counted during the public health emergency and would only resume when the public health emergency ends.
 - * If the deadline is for a particular date, the new deadline would be 30 days from the end of the public health emergency.

Additional Powers to DG of Public Health (Section 44)



- △ If an order issued by DG is violated by an individual, DG may impose a fine between MVR 1,000 and MVR 10,000.
- △ If an order issued by DG is violated by a legal entity, DG may impose a fine between MVR 5,000 and MVR 100,000.

Special Enforcement Powers (Section 45)



- △ In enforcing orders issued pursuant to this Act, Maldives Police Service is vested with the following powers:
 - * Ordering violators to follow the orders and arresting any person who fails to comply with such orders.
 - * Dispersing the crowd if it was assembled violating orders.
 - * Fining the violators on the spot.

Registration of Healthcare Professionals (Sections 13 to 19)



- △ The relevant council may issue a temporary license to the healthcare professionals, if the Council is of the opinion that the professional is competent and
 - * Where Healthcare Professional has obtained a certificate required to be licensed in the field, however, has not obtained a license under the normal rules because he has not undergone training or an exam.
 - * Where the license has been temporarily suspended.
- △ Such a decision made by the Council to license or to revoke a license of healthcare professionals cannot be challenged.

Temporary Treatment for Drug Addicts (Sections 25 to 30)



- △ National Drug Agency should provide temporary detoxification treatments to the drug addicts who are brought into the custody of the Maldives Police Service, and to those addicts who are quarantined or isolated at a facility.
- △ The treatment should be carried out with the consent of the patient and if the patient is a minor, apart from the patient, consent of the parents should also be sought.

For additional information with respect to the Public Health Emergency Act 2020, please contact the following members of our team:



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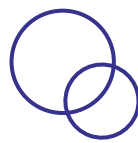
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ABOUT US

CTL Strategies is a multi-disciplinary law firm registered in the Maldives, specialised in tax advisory services. We advise international hotel chains, multinational companies, some of the big four audit firms, and a number of the world's largest companies as well as high net-worth individuals on commercial transactions, tax compliance, planning and tax disputes.

We are ranked by the Asia Law Profiles as a Highly Recommended tax disputes firm in the Maldives in addition to being recognised as a leading law firm in the Maldives from 2017.

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This publication is intended to provide an overview of the Public Health Emergency Act 2020. It should not be taken as legal or tax advice of any nature, nor should be regarded as offering detailed explanation of all the matters addressed in the Bill. Readers are advised to seek professional advice specifically to their particular circumstances.