



EMPLOYMENT (AMENDMENT) ACT, 2016

(Act 24 of 2016)



I assent

A handwritten signature in black ink, appearing to read 'Danny Faure'.

Danny Faure
President

29th December, 2016

AN ACT to amend the Employment Act (Cap 69).

ENACTED by the President and the National Assembly.

1. This Act may be cited as the Employment (Amendment) Act, 2016 Short title

Amendment
of Cap 69
as last
amended by
Act 18 of 2010

2. The Employment Act is hereby amended as follows —

(a) by adding after section 46B the following section —

Thirteenth
month pay “46C.(1) For the purpose of this section —

“corresponding year” means
the year for which the
thirteenth month pay is due;
and

“salary” shall have the same
meaning as wages.

(2) Every employer shall pay to
his, her or its workers a thirteenth month pay in
addition to their due salary.

(3) The payment under subsection
(2) shall become due on 31st December of
every year and it shall be made on or before
31st January of the following year.

(4) The amount of the thirteenth
month pay is equivalent to the monthly salary
of a worker excluding any allowance or other
monetary benefits forming part of the salary:

Provided that —

(a) a worker who has taken up
employment with an
employer for a period of
not less than twelve
months inclusive of the
probation period shall be
entitled to a thirteenth
month pay;

(b) this entitlement does not constitute a monthly salary and shall not be taken into account in the total salary per year for the purpose of calculation of any employment benefits; and

(c) this entitlement shall be independent from any bonus paid under an employer's scheme or any other payments made by the employer provided however that where the employer who is contractually obligated to pay a bonus as per the contract of employment and if the amount of bonus is higher than the thirteenth month pay, the employer may deduct the thirteenth month pay from the bonus, and the balance amount shall be paid to the employee.

(5) A worker who has been on overseas training for an aggregate period exceeding 14 weeks or on unpaid leave for more than one month in the corresponding year shall be paid in proportion to the period of service excluding the time spent on training or on unpaid leave.

(6) A worker who is in prison or otherwise detained in lawful custody for any

period in the corresponding year shall be eligible for pro-rata payment only.

(7) Where a worker is on unauthorised absence from work—

- (a) for the first day of absence, one day's pay shall be deducted from the 13th month pay; and
- (b) for the subsequent days of absence, 3 day's pay for each subsequent day shall be deducted from the 13th month pay.

(8) The following workers shall not be eligible to receive a thirteenth month pay under subsection (2)—

- (a) non-Seychellois workers;
- (b) workers who are on contract for skills development;
- (c) workers whose basic monthly salary is above an amount as may be prescribed by the Minister; and
- (d) any other category to be prescribed by the Minister.

(9) An employer who is unable to pay the thirteenth month pay

under subsection (2) shall make an application to the Thirteenth Month Pay Committee constituted by the Minister responsible for Finance in consultation with the Minister responsible for Employment within a period of three months from which the thirteenth month pay becomes due.

- (10) The Thirteenth Month Pay Committee shall consider the application submitted under subsection (9) within a period of one month and the decision taken by the Committee shall be communicated to the employer concerned in writing.
- (11) In considering an application received under subsection (9), the Thirteenth Month Pay Committee shall take into consideration such factors and adopt such procedures as may be prescribed.
- (12) An employer shall not be entitled to submit an application under subsection (9) after 2 years from the date of coming into operation of the Employment (Amendment) Act, 2016.

(b) by inserting after paragraph 76(2)(d), the following paragraph—

“(dd) fails to pay the thirteenth month pay under section 46C.”

Transitional
provision

3. Notwithstanding section 46C (3) of the Act, the payment of thirteenth month pay for the year 2016 shall be made on or before the 31st March, 2017.

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 27th December, 2016.



Ms. Jutta Alexis
Acting Clerk to the National Assembly