

Service Charge Regulations

**Regulations Number: 2021/R-41
16 March 2021**

A summarized and functional translation

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Introduction

These are the regulations made under section 52 (e) and (h) of the Employment Act in respect of collection of service charge, distribution of service charge among employees, guidelines on submission of requisite information to the Maldives Inland Authority and Labor Relations Authority.

These regulations would be called the Service Charge Regulations.

Objectives of the Regulations

The purpose of these Regulations is to:

- ensure that the employers (liable to collect service charge) do so as required by law;
- determine how service charge is distributed among employees;
- verify equal distribution of service charge among employees;
- provide for the submission of requisite information by employers as regards collection and distribution of service charge; and
- specify actions to be taken against defaulters.

Tourism Sector Businesses

The following establishments and facilities are to collect service charge at the rate of at least 10% from each of the services provided by them.

Tourism Establishments

Tourist resorts, tourist hotels, guesthouses, training resorts, transit hotels, city hotels, tourist vessels, yacht marinas, integrated tourism resorts and private islands.

Facilities on Tourism Establishments

Diving schools, diving centers, spas, watersports facilities, excursion events, cafes, restaurants, canteens, and like facilities established to provide services on tourism establishments.

Facilities on tourism establishments which are outsourced to third party service providers shall also collect service charge.

Staff Facilities

Cafes, restaurants and canteens on tourism establishments dedicated to their staff are not required to collect service charge.

Shop Outlets

Outlets selling goods on tourism facilities need not collect service charge on sale of goods provided that the sole or main activity carried out by them is simply the sale of goods and not the provision of any (other) service.

Unregistered Facilities

A facility operating without proper registration (as required by law), should also be liable to collect service charge for any service(s) it may provide from 1 January 2021.

How collected

Price of Service

Service charge must be collected by every business operating within the tourism sector. It is levied at the rate of at least 10% on the price of each of the services provided by the business.

Every transaction that is liable to collect service charge must specify the amount collected as service charge.

Long leases

Where any tourist resort, tourist hotel, guesthouse, training resort, transit hotel, city hotel, integrated tourism resort, or private island or a part of it, (including a room, set of rooms, or bungalow) is provided to a third party for a certain period for a specific value, service charge is to be collected on the total value for which it is given for the entire period.

Vessel Charter

If a tourist vessel is given on charter, the service charge is levied on the total charter value.

Excluded transactions

It is not necessary to levy service charge on the lease revenue collected from a room or villa given on long lease on strata basis under the Tourism Act.

It is also not required to levy service charge on the value of transfer of business interests from one business to the other.

Distribution and reporting rules

All tourism sector businesses must follow the rules provided in these regulations on distribution of service charge and submission of requisite information to relevant authorities.

Even if a non-tourism sector business decides to collect service charge, it must thereafter follow the same rules on distribution of service charge and submission of requisite information to relevant authorities.

Time of levy

Where a client or customer has paid in advance (whether in full or in part for a service), before actually receiving the service, the time at which the service charge is levied on the transaction is when service is actually rendered to or received by the client or customer.

Similarly, where a client or customer is to pay in future or in installments for a service, the time the time at which the service charge is levied on the transaction is when service is actually rendered to or received by the client or customer.

Businesses within a business

If an employer carries out more than one business at its place of business, service charge collected by individual businesses shall be assessed together and distributed as a whole.

If an employer carries out different businesses at different locations, service charge collected at each of those individual locations shall be assessed and distributed separately.

Where in a place of business belonging to the employer, a third party carries out certain business activity (whether outsourced to it or in any other arrangement), service charge collected by the employer and the third party shall not be assessed or distributed together.

The service charge is to be distributed equally among employees who take part directly or indirectly in the provision of services. Also, no person except an employee shall be included by an employer in the distribution of service charge.

Administrative Fee

An amount equivalent to 1% of the total receipts of money collected as service charge may be retained by the employer of the business. No employer shall retain an amount beyond that.

Monthly Entitlements

Amount due to an employee as service charge for a given month shall be decided based on the division of the total receipts by the number of days of the month multiplied by the number of days worked by the employee.

Daily amount due for an employee is assessed by dividing the total amount to be distributed as service charge by the total number of days worked by employees in that month.

In an assessing the days worked by an employee, their paid leave and off days should not be counted out and shall be included.

Receipts of service charge for the previous month shall be distributed to employees before the end of the current month.

Arrangements shall be made by employers to inform and advise their employees of total receipts for the previous month as service charge and distribution due for an employee who worked during that month. This should be advised before the end of the current month.

Record keeping

The following details must be kept and maintained by every employer liable to collect service charge for a service provided by it.

- Total revenue received as service charge for the month
- Amount deducted as administrative fee, if deducted
- Amount due to as distributions

- Details of employees who worked during the month (including name, designation and identity (passport) details)
- Days each employee reported to work
- Distribution due to an employee who worked during the month
- Amount given to each employee during the month as service charge

These records are to be maintained in either Dhivehi or English language.

If an employment officer involved in an inspection conducted by the Labor Relations Authority asks for any of the details required to be maintained under these regulations, it must be provided immediately. If it is asked outside of an inspection but in relation to a matter investigated by the Labor Relations Authority, it must be provided in the manner requested by the Authority.

Registration of employers

All employers collecting service charge shall register with the Labor Relations Authority in a manner that they may require to facilitate submission of requisite information.

Where any information provided at registration changes, the information is to be updated within seven days.

Delivery of any demand or notice made or given to the employers under these regulations will be considered as sufficient delivery.

Reporting requirements

Requisite information as regards service charge for the first half of the year shall be submitted to the Maldives Inland Revenue Authority and Labor Relations Authority by 1 October of the same year.

Requisite information on service charge for the second half of the year shall be submitted to the Maldives Inland Revenue Authority and Labor Relations Authority by 1 April of the next following year.

Information submitted must be so organized to identify requisite details in respect of each of the months within the reporting period.

There is no bar for an employer to provide information on a preceding month by the end of a current month.

The Labor Relations Authority may ask Maldives Inland Revenue Authority to assist in verification of information submitted by an employer (if the employer is a registered taxpayer at MIRA for income tax purposes).

Penalties and fines

If service charge is not collected by a tourism sector business according to law or if an employer fails to distribute service charge as required by law, a fine not exceeding MVR100,000 would be levied.

If requisite information on service charge collection and distribution is not maintained according to these regulations by a business that collects service charge, or if an employer does not abide by a directive issued by the Labor Relations Authority, a fine not exceeding MVR10,000 may be levied at the first instance, and a fine not exceeding MVR 50,000 may be levied at every repetition.

Where requisite information on service charge collection or distribution is not filed within deadline, a grace period of 7 days would be provided to file the overdue information, and any failure to do so would invite a fine not exceeding MVR 25,000 at the first instance, and MVR50,000 for every repetition.

All fines would be levied by the Labor Relations Authority and payable to the Maldives Inland Revenue Authority unless the earlier has designated a different address for payment.

Definitions

An employee is one who performs work for a salary or remuneration.

An employer is one who procures work for a salary or remuneration.

Tourism sector is a collective reference to tourist resorts, tourist hotels, guesthouses, training resorts, transit hotels, city hotels, tourist vessels, yacht marinas, integrated tourism resorts and private islands operated (after obtaining a license) under the Tourism Act.

Public Holiday is every holiday so described in the Employment Act.

Effective Date

These regulations come into effect from the date of publication (16 March 2021).

Disclaimer Notice

The information contained in this document is a summarized and functional translation of the Service Charge Regulations published on 16 March 2021.

This work is developed internally by this Firm and provided for informative and educational purposes. It is not meant to be taken as legal advice or be relied upon by itself.

If you require specific advice on a matter, please consult your lawyers or advisors on how the Regulations may affect you. You may also contact us for more focused advice.

While we have tried to present the information as accurately as possible, and capture as much as possible in this functional translation, we do not represent that there may not be errors or lapses.

