

# A Guide to Regulations for Overseas Employees Working in the Maldives

Nasheed & Co | February 2021

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## Introduction

This guide aims to provide an overview of the new government regulations regarding overseas persons employed in the Maldives (**the Regulations**) scheduled to take effect on 15 February 2021.

For the purposes of this guide, we have opted to use the term '**overseas employee**' to refer to foreign and/or expatriate workers in the Maldives. Unless specified otherwise, the term '**the Ministry**' in this guide refers to the Ministry of Economic Development, the line ministry for employment affairs.

The Regulations cover detailed guidance in areas such as:

- Commencement and termination of employment, including repatriation;
- Registration with and use of the online expatriate registration system;
- Quotas and payment of fees;
- Work permits, deposits and refunds;
- Accommodation requirements and standards;
- Regularization of undocumented employees and other regulatory processes; and
- Penalties for breach of the Regulations.

## Disclaimer

This guide is only intended to be an overview of the Regulations 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 employment agency on how the Regulations may affect you. You may also contact us for more focused advice.

Much of the detail from the Regulations has been omitted for this guide. While we have tried to present the information as accurately as possible, we do not represent that there may not be errors.

# RESPONSIBILITIES OF THE EMPLOYER

## Pre-Arrival of Overseas Employees

### XPAT SYSTEM REGISTRATION

The key step in commencing an employment relationship with an overseas employee is to register the employer on the **Xpat Online System** which can be accessed [here](#).

Registration is **mandatory** to acquire the necessary quotas, work permits and approvals for the overseas employee's arrival, discussed below.

#### *Who is eligible for registration?*

There are **five categories** of persons or entities that are eligible for registration:

1. Employers hiring overseas employees
2. Employers' representatives who make submissions on their behalf
3. Businesses providing commercial accommodation services for overseas employees
4. Medical service providers (for work permit purposes)
5. Work permit health cover or insurance providers

Regarding the first category, **employers** can be:

- **Private individuals:** Maldivians or sole proprietorships.
- **Government authorities and entities** including judicial bodies.
- **Corporate personalities:** political parties, organisations, or other corporate/legal personalities.
- **Business entities or personalities:** private or public companies, state-owned enterprises, re-registered companies, local authority companies, general partnerships, and limited liability partnerships.

#### *What documents should be submitted for registration?*

Documents that must be submitted by different categories of persons or entities are listed below.

**Employment agencies** must submit:

- Board resolution; and
- Work Site Declaration form of the agency

**Government authorities and entities** must submit:

- Letter of intent or board resolution.

**Political parties** must submit:

- Certificate of registration (attested in colour).

**Organisations** must submit:

- Document authorizing the registration (attested colour copy).

**Business entities or personalities** must submit:

- Board resolution resolving to register with the Xpat Online System.

**Businesses providing accommodation** services must submit:

- Accommodation Registration form.

**Medical service providers** must submit:

- Form for registration as a medical service provider for work permit; and
- Medical service registration certificate.

**Work permit health cover or insurance providers** must submit:

- Form for registration as a work permit insurance provider; and
- License for insurance providers.

### *Appointment and registration of representatives*

Representatives are individuals appointed by an employer to act and interact with the Xpat Online System on their behalf.

Only the following persons may be appointed as **representatives** by employers:

- Private individuals who are Maldivian;
- Maldivian employees hired by the employer; and
- Agents appointed by the employer.

**Representatives** must submit the following for registration:

- Passport sized photo;
- ID card copy (scanned in colour);
- Agreement of the Xpat Online System (executed copy); and
- Verified phone number and email address.

An additional step in registering representatives is to establish a '**relationship**' between the representative and employer. The following documents must be submitted for this purpose:

- Form for the request of a relationship; and
  - Form for employment agencies
  - Form for private individuals
- If the employer is a **business entity**, a board resolution passed by the entity on the entity's letterhead;
- If the employer is a **government authority**, a letter of appointment for the representative (colour copy);
- If the representative is an **employee of the employer**, documentation showing the employment and the pension registration number.

Employers who have registered representatives should note that the **employer takes responsibility for all requests** submitted on the system using the **employer's credentials**.

The authority granted to the representative can only be revoked when the employer submits and Account Activation/Deactivation form to the Ministry.

### *Using the account*

Employers registered with the Xpat Online System can only use it for the duration noted on their approval which is received after registration. The duration of approval can be extended by request and the account will be reactivated.

To edit or change any information on the account, an Account Modification form must be submitted to the Ministry.

## LETTERS OF APPOINTMENT

In order to commence an employment relationship with an overseas employee, a **letter of appointment** must first be delivered to the overseas employee prior to their arrival in the Maldives.

This document will be considered the interim employment contract until the overseas employee's arrival in the Maldives and a formal employment contract is executed.

### *What should be included in a letter of appointment?*

- **Details of the employer**
  - Name;
  - Address;
  - Contact details / email address;
  - Country; and
  - Registration number / ID card number.
- **Details of the employee**
  - Name;
  - Permanent address;
  - Nationality;
  - Date of birth;
  - Passport number; and
  - Emergency contact details.
- **Details of employment**
  - Job title and description;
  - Work type and work site;
  - Basic salary and date of payment;
  - Date of commencement;
  - Working hours;
  - Work status (permanent / contract); and
  - Contract duration (if applicable).



- **Details of the signatory**
  - Name;
  - Designation;
  - Signature;
  - Date; and
  - Company seal.

## QUOTAS

No overseas employee may be allowed to enter the Maldives for work unless the employer has first obtained a quota from the Ministry.

### *Who may apply?*

Every business registered in the Maldives, local nationals, government agencies and any other legal persons or corporate entities may apply for a quota. However, except for overseas employees in the domestic category, employers must first register themselves on the [National Job Centre portal](#).

The next step is to submit a '**new quota request**' via the Xpat Online System. Quotas are granted subject to satisfying certain criteria, the submission of relevant documentation via the Xpat Online System and the payment of fees – more detailed guidance on the issuance of quotas is provided in Schedule 2.

### *How is a quota determined?*

Except for the domestic category of overseas employees, quotas are based on the nature of the business activity which may differ across various industries and sectors.

Typically, quotas are determined at the lowest number of overseas employees required to carry out the business activity. The precise amount is determined by considering:

- The number of employees required to carry out the business activity based on the manpower plan provided by the employer;

- The extent of availability of locals for the business activity from the domestic job market; and
- The extent of locals already employed in the business activity for which the quota is being sought.

### *Who may not be issued a quota?*

The Ministry is set to publish a Quota Requirement List within 30 days of the release of the Regulations, that is, by the end of February 2021.

Quotas will **not** be issued for the following business activities:

- Taxi drivers;
- First officers and co-pilots;
- Captains of seagoing vessels;
- Fisheries vessels engaging in fishing activities;
- Photographers and videographers;
- Entertainers; and
- Cashiers at outlets selling fruits and vegetables.

### *Paying quota fees*

From 1 July 2021, a non-refundable **quota fee** of MVR 2000 must be paid every 12 months as a lumpsum. The fee is payable in **12-month cycles**, from the quotas' date of issue – each payment must be made before the new cycle begins. Employers may opt to pay the fee up to a maximum period of 36 months, with a payment of MVR 6000.

The quota fee must be paid through the Xpat Online System to the Maldives Inland Revenue Authority.

For every quota request made after the Regulations come into effect, they will only be issued if the quota fee is paid. All existing quota holders must pay this fee **within three months** from the date of the Regulations.

Even if a quota is approved, it is only **granted** when there has been a notification to pay, when the payment is made and the system transfers it to '**approved status**'.

Employers can apply to the Ministry to establish an installment plan for the quota fee payment. Crucially, installment plans are only established at the Ministry's discretion.

If the employer fails to pay the quota fee within the notified time period or according to the installment plan agreed with the Ministry, the following may occur:

- If part of the quota has been utilized, the Ministry will reduce and limit the size of the quota to work permits already issued.
- If, under the quota, no work permits or employment approval have been given, the quota will be cancelled altogether.
- Commencement of litigation to recover the money in civil court.

### *What happens to existing quotas?*

All existing quotas (which have not been cancelled) will be deemed as valid quotas under these Regulations once they take effect.

### *Renewal, change and cancellation of quotas*

A quota may be renewed by submitting a request on the Xpat Online System. However, quotas will not be renewed in order to replace an overseas employee who has fled or absconded.

Existing quotas can be transferred to a new employer if the new employer follows the same process of applying for a quota and pays the quota fee. However, if the transfer is instructed by a court order, no payment of the quota fee is required.

Once a quota has been issued, the business activity for which it was granted can only be changed after six months subject to a fee of MVR 200. If an employer had applied for a change of business activity prior to these Regulations, the quota may be updated accordingly without paying this fee. Any subsequent change will require the fee payment.

An employer must cancel any unused quotas through the Xpat Online System.

### *Other rules on quotas*

Quotas are valid for a period determined by the detailed guidance set out in Schedule 2.

Engaging an overseas employee without a quota or in excess of an existing quota (and outside of it) is not permitted.

An overseas employee entering the Maldives under a quota given to an employer may not be transferred, seconded or assigned to work for a different employer except as provided in the Regulations. Any breach will be dealt with according to the relevant provisions in Schedule 7.

## **WORK PERMITS, DEPOSITS AND ENTRY PASSES**

The key document required for an overseas employee to enter, remain and be employed in the Maldives is a **work permit**, which is issued to persons who satisfy the criteria set out in Schedule 4, section 7.

Engaging or making an overseas employee work without a work permit (or in contravention of any provision of the Regulations) is not permitted.

There are **three categories** of work permits:

1. Professional or managerial;
2. Non-professional; and
3. Domestic.

To qualify for the **professional or managerial** category, the employee should have completed studies to successfully obtain a certificate level 7 or higher as determined by the Maldives Qualifications Authority.

The **non-professional** category captures jobs filled by employees who have:

- Studied up to certificate level 6 as determined by the Maldives Qualifications Authority;
- Gained sufficient experience to undertake a job at the required level; or
- Obtained on-the-job training and experience.

The **domestic** category relates to household affairs.

The Ministry is set to publish a list of jobs that fall into each category within 90 days of the Regulations – that is, by the end of April 2021.

In addition to qualifying under one of the broad categories above, the overseas employee must also meet specific criteria on obtaining a work permit provided in section 7, Schedule 4.

### *Application and issuance of work permits*

An application for a work permit must be made **prior** to the overseas employee's arrival in the Maldives. It is made via the Xpat Online System, and the documentation that needs to accompany an application is set out in section 9, Schedule 4.

On a successful application, a notification is sent to make a **deposit**. This payment will be kept with the government to meet repatriation and related expenses. If there is any shortfall, the additional cost must be borne by the employer – those refusing to meet these expenses will be dealt with according to Schedule 7. More detail on deposits and its refund process is set out in Schedule 5.

The application will be cancelled if the deposit is not paid **within 60 days** of its notification.

Once the deposit is paid, a **work permit entry pass** is granted to the qualifying candidate and the system records that the work permit is pending arrival.

### *Action to be taken on-arrival*

The overseas employee for whom the entry pass is granted must enter the Maldives **within 90 days of its issue** and obtain the work permit **within 15 days of entry into the country**.

Completing a work permit application includes a detailed verification process of the overseas employee conducted by interview at the Ministry.

If the work permit is not obtained within 15 days of entry into the Maldives, an additional 15 days is provided to complete the process subject to payment of a fine. The overseas employee's entry pass will be revoked if no work permit is obtained within these 30 days.

### *Payment of work permit fees*

The employer alone must bear responsibility for payment of the **work permit fee** at the increased rate of MVR 350 per month, as well as all payments in respect of the work permit. The employer shall not collect any payment from the overseas employee directly or indirectly. Further details on the manner of payment are provided in Schedule 4, section 23.

The employer of a work permit holder cannot be changed except according to the process set out in Schedule 4 after obtaining a new work permit. Similarly, changes to work site or job will be permitted only after obtaining approval under the process in Schedule 4.

### *What if employment approval was granted prior to the Regulations coming into force?*

A person who has an **employment approval** under the previous regulations but had not yet entered the country will be treated as possessing an entry pass for the purposes of these Regulations.

They may enter the country with an employment approval but must then apply for a work permit as provided in the guidelines in Schedule 4.

### *Duration of work permits*

The duration of the work permits differs depending on its category.

- Professional: one to three years
- Non-professional: up to one year
- Domestic: one to two years

If the overseas employee is to continue working in the Maldives beyond these dates, they will have to extend the work permit.

For the non-professional category, the overseas employee may only stay in the Maldives **up to five years**. If they wish to re-enter the country for work, they must leave the Maldives for a two-year period and then re-apply to enter the country.

For the purposes of this rule, the five-year limit will only commence from the date of these Regulations coming into force. The period already stayed in the country will not be taken into account.

### *Cancellation of work permits*

Work permits may be cancelled where:

- The overseas employee resigns or is terminated from employment and leaves the country;
- The overseas employee is transferred to another employer;
- The overseas employee has fled or is reported to have absconded by the employer;
- The overseas employee has left the country or is not reporting to work;
- The overseas employee is detained for a criminal offence for a period of more than three months;
- A government agency requests cancellation;
- A court order is made to that effect; or
- The permit is reclassified to another visa category.

If an overseas employee's work permit is cancelled on an employer's request due to the employee fleeing the country or not reporting for work, a work permit may only be granted to the same individual after six months or if the previous employer does not object to an earlier work permit. However, a court may impose a restriction period longer than six months in respect of a specific employee.

## Post-Arrival of Overseas Employees

### **MEET AND GREET**

When the overseas employee first arrives in the Maldives, they must be met and received at the port of arrival (by sea or air) by the employer's representative or an agency that facilitates overseas employee integration.

### **REGISTRATION ON HARAHERI PORTAL**

On the overseas employee's arrival in the Maldives, the employer must register the details of the employee on the online portal, *Haraheri*.

This portal is maintained by the Labour Relations Authority and can be accessed [here](#).

### **WELLBEING AND ACCOMMODATION**

It is for the employer to arrange accommodation for the overseas employee. The accommodation must be in a facility registered with the government. Such facilities may be operated by a commercial service provider or by the employer themselves.

If the overseas employee falls within the 'professional' category of employees, the employee may choose their own accommodation.

#### *Accommodation facility standards*

These accommodation facilities must strictly adhere to standards provided in the Regulation on General Standards of Accommodation Premises for Overseas Employees (Accommodation Standards Regulations). Some key standards are described below.

#### **Construction of the facility**

- The facility must be constructed with proper and adequate materials in a manner that protects the facility from sun, wind and rain.
- The facility must adhere to specific physical measurements such as room sizes, distance between beds, height between the floor and ceiling, stairways and



walkways, kitchen and food preparation areas, waste collection and disposal, ventilation and pest control.

### **Water and sanitation standards**

- Quality of and access to drinking water and bathing water must adhere to international guidelines.
- Bathroom and laundry facilities must be segregated for both sexes and established according to accepted health and safety standards. One toilet facility may be used by 10 employees.
- Sewage and plumbing systems must be constructed according to the Building Code (Reg No. 2019/R-1020).
- Accommodation facilities on sea vessels are exempt from the physical requirements such as the room measurements, bathroom, water and sewerage rules.

### **Emergency protocols**

- All safety protocols for fire hazards and/or other emergencies are to be displayed in a visible space in writing.
- Employers must conduct fire drills twice a year to ensure the overseas employees are familiar with the evacuation protocols.

### **Health protocols**

- Employers must notify relevant government health agencies where an employee shows symptoms of any contagious disease or infection.
- Employers must implement any protocols issued by the Health Protection Agency or other government authority during a public health emergency or mass spread of a contagious disease or infection within the general population.

### **Special rules for facilities on construction sites**

- The construction site and accommodation facility must be physically demarcated with a minimum distance of 1.5 metres between the sites. The accommodation facility must be kept clean and protected from any wastage.
- Cooking and dining services on construction sites are strictly prohibited.

- Where the construction site is located on an uninhabited island with over 1000 overseas employees, a doctor must be stationed on the island. If there are less than 1000 overseas employees, access to a doctor or medical practitioner must be arranged.

#### **Other rules**

- Where an accommodation facility is not located on an inhabited island, or is located in a secluded area, employees must have access to a convenience store for daily use items. They must also be provided with designated spaces for storage of valuable personal items.
- A government-approved designated prayer area must be provided.

The Ministry is empowered to monitor and inspect an overseas employee's place of work or accommodation. If any accommodation facility falls below the required standards, the Ministry may instruct remedial action be taken within a specified time period. If the issue is not remedied as instructed, the facility may be penalized under the Accommodation Standards Regulations.

### **TERMINATION OF EMPLOYMENT AND REPATRIATION**

If the employment relationship is to be terminated, this must be carried out in line with the Employment Act.

The employer must arrange repatriation of an overseas employee upon:

- Expiry or termination of employment;
- Expiry of the overseas employee's work permit; and/or
- Direction by a government agency.

### **SPECIAL CIRCUMSTANCES**

#### *What if an overseas employee dies?*

Where an unfortunate death occurs, the employer must carry out the protocols agreed upon in the employment agreement.

The employer must also notify the deceased's family and the representative diplomatic mission or consulate.

The employer must take up all arrangements for the burial of the deceased and bear all the associated costs. This includes arranging for the deceased's body to be repatriated to their home country where this has been requested by the deceased's family.

### *What if an overseas employee absconds?*

If the overseas employee flees their employment, absconds or the employer is otherwise unable to locate them, the employer must promptly file a '**missing report request**' via the Xpat Online System. Employers who fail to do so may incur a fine capped at MVR 2000.

When filing this request, the employer must submit:

1. A valid employment contract; and
2. Bank documents indicating the deposit of salary to the missing employee's account (including for the month the employee went missing).

Once the request has been processed, the Ministry will record the employee as '**reported missing**'.

The Ministry will also investigate whether the employee went missing due to the employer's negligence. This process will be followed for any overseas employees reported missing prior to these Regulations as well.

In its investigation, the Ministry will consider:

- **Documents** submitted to the Xpat Online System when filing the missing report request.
- **Complaints** filed at or **investigations** conducted by the Labour Relations Authority, Maldives Police Service, Maldives Immigration or any other government institution.
- The **number of overseas employees** working for the employer who have been reported to be **missing**.

If the employer is found to be negligent, the Ministry may:

- Suspend all of the Ministry's services to the employer, overseas employee and other related parties;
- Cancel the overseas employee's entry pass (if the employee has not yet entered the Maldives);
- Fine the employer MVR 2000;
- Refuse to refund the deposit paid for the overseas employee; and/or
- Refuse to release the quota and permit tied to the overseas employee back to the employer.

In this case, the overseas employees may return home using their deposit or their own money. Alternatively, they may change their employer via the regularization process, discussed below. If they cannot be regularized within 60 days, they will be repatriated.

If the employer is not found to be negligent, or it has not been determined, the Ministry may:

- Cancel the work permit or entry pass of the overseas employee;
- Suspend the overseas employee; and/or
- Refuse to refund the deposit paid by the employer.

Regardless of the employer's negligence, if over 100 overseas employees are reported missing by the same employer, they may face the following penalties:

- Suspension of all of the Ministry's services to the employer, overseas employee and other related parties;
- Cancellation of entry passes and work permits already issued;
- Repatriation of overseas employees; and
- Fine of MVR 2000 for every overseas employee reported as missing.

## **REGULARIZATION**

This process enables an overseas employee who entered the Maldives with an employment approval but continues to live and work in Maldives without valid or expired permits to

obtain the necessary and valid permits under these Regulations and be reintegrated into the regulatory framework.

### *Applying for regularization of an overseas employee*

An application for regularization of an overseas employee must be made directly to the Ministry. Only employers can apply for regularization of an individual overseas employee – but this cannot be pursued by the employer who previously employed the overseas employee. That is, only a different employer can apply for regularization of the overseas employee.

The employer must also ensure that the overseas employee is separately registered with the Ministry under their registry for irregular or undocumented overseas employees.

The employer must also ensure that the application is submitted under the correct quota system.

- Employers who have obtained quotas for specific works for which the overseas employee is required may apply under that quota.
- Employers who do not possess such a quota may apply for a regularization quota which must be obtained separately. The regularization application can only be made once this quota is obtained.

### *What is the process for regularization?*

Firstly, the application will be processed by the Ministry to ensure all the relevant documentation has been submitted.

The Ministry will then arrange to acquire the biometric data and verify the information of the overseas employee. Instructions for this process will be provided to the employer via the Xpat Online System.

Once the Ministry is satisfied that the overseas employee is eligible for a work permit and their identity is verified, the employer will receive instructions to pay a deposit through the

Xpat Online System. Once paid, a work permit will be provided to the overseas employee, completing the regularization process.

However, the Ministry may reject the regularization application if the:

- Overseas employee's identity cannot be verified; or
- Employer is or has been penalized under the Regulations.

The Ministry may also halt regularization if the overseas employee's passport has expired. In this case, a **conditional work permit** may be issued until the passport is renewed.

## Information for Overseas Employees

During the course of their employment in the Maldives, overseas employees must comply with and obey all laws and regulations of the country.

If these are breached, legal action will be taken against the offending overseas employee under the relevant laws.

### **DISPUTE RESOLUTION**

To resolve any dispute between overseas employees and their employer, both parties must first follow the processes or terms set out in the employment agreement.

If the dispute cannot be resolved in this manner, either party can [submit a complaint](#) to the Labour Relations Authority or [file a claim](#) at the Employment Tribunal.

### **NOTIFYING AUTHORITIES**

Overseas employees must notify the Labour Relations Authority if they do not possess the required approvals under the Regulations.

If an overseas employee's accommodation facility falls below the standards in the Accommodation Standards Regulations, they may report the matter to the Ministry for an inspection.

## Penalties

The Regulations impose **four types of penalties** on those who violate its provisions.

1. Termination of various permits;
2. Fines (capped at MVR 2000);
3. Suspension of services (ranging from 60 days to 10 years); and
4. Blacklisting.

### **VIOLATIONS ATTRACTING PENALTIES**

There are three main types of violations that attract penalties under these Regulations.

#### *Criminal offences*

- Suspicion or allegation of human trafficking in any related transaction;
- Suspicion or allegation of a criminal offence in any related transaction; and
- Allegation or conviction of any criminal offence.

#### *Information-related offences*

- Submission of invalid information; and
- Submission of suspicious information.

#### *Non-compliance*

- Non-compliance with the Ministry and/or instructions issued by the Ministry.
- Failure to pay any fees due under these Regulations by the employer to any government institution;
- Non-compliance with a suspension imposed by another government institution based on an ongoing investigation; and
- Misuse of the Xpat Online System.

The penalties are applicable to:

- The employer;
- The overseas employee;
- Employer's representative;
- Commercial accommodation providers; and
- Medical service and insurance providers.



## Notes

The official title of these Regulations is "**Regulations on Employment of Foreigners in the Maldives**" (Reg No. 2021/R-16). It was published on 31 January 2021 and comes into effect on 15 February 2021.

The Regulations clarify that the rules under the Employment Act ([Law No. 2/2008](#)) and Maldives Immigration Act ([Law No. 1/2007](#)) apply to overseas employees during their employment and stay in the country. The Regulations offer detailed guidance on how the provisions of the Employment Act (as recently amended) affect overseas employees.

The Regulations also repeal the previous regulations on this matter published in 2020 (Reg No. 2020/R-62). Quotas and employment approvals issued under the previous regulations remain valid for the durations specified in them.

## Acknowledgement

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