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EMPLOYMENT (AMENDMENT) ACT, 2022

(Act 22 of 2022)

ARRANGEMENT OF SECTIONS

Sections

1. Short title
2. Insertion of new section 46D



EMPLOYMENT (AMENDMENT) ACT, 2022

(Act 22 of 2022)



I assent

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

Wavel Ramkalawan
President

12th October, 2022

AN ACT TO AMEND THE EMPLOYMENT ACT, (CAP. 69) TO PROVIDE FOR SPECIAL PROVISIONS FOR THE PAYMENT OF THIRTEENTH MONTH PAY TO WORKERS FOR THE YEAR 2022; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

ENACTED by the President and the National Assembly.

Short title

1. This Act may be cited as the Employment (Amendment) Act, 2022, amending the Employment Act, (Cap 69) (hereinafter the “principal Act”).

Insertion of new section 46D

2. The principal act is hereby amended by inserting after section 46C the following section —

“Thirteenth month pay for the year 2022

46D.(1) Notwithstanding section 46C(4) of the principal Act, the amount of thirteenth month pay payable by an employer under section 46C of the principal Act in respect of the period from 1st January 2022 to 31st December 2022, due on the 31st December 2022 and payable on or before 31st January 2023 shall be payable to a worker in accordance with the provisions of this section.

(2) Except for the calculation of thirteenth month pay under subsection (4), section 46C shall apply to thirteenth month pay under this Act.

(3) In this section —

- (a) “performance appraisal” means the assessment of the performance or productivity of a worker during the year by the worker’s employer according to the employer’s performance appraisal system; and
- (b) “performance appraisal system” means criteria and ratings used by the employer for the performance appraisal of a worker.

(4) For the purpose of calculating the amount of the thirteenth month pay payable under subsection (1), an employer —

- (a) shall, make all applicable deductions as set out under section 46C of the Act from the worker’s monthly salary referred to in section 46C(4) of the principal Act;

(b) after the deductions under paragraph (a) have been made —

(i) shall pay 50% of such amount to the worker; and

(ii) may make such deductions from the remaining 50% of such amount in accordance with the performance appraisal of the worker.

(5) Absence of a worker from work in respect of any leave to which the worker is entitled under the principal Act shall not be used as a criterion or a factor in assessing performance or productivity under a performance appraisal system.

(6) Except where an employer agrees in writing to pay or pays a worker thirteenth month pay equal to the monthly salary of the worker referred to in section 46C of the principal Act, an employer shall in writing notify the worker of the amount due and payable to the worker under subsection (4)(b)(ii).

(7) An employer who does not have a performance appraisal system in place before the 31st December, 2022, or who fails to conduct performance appraisal of the worker on or before the 31st January, 2023, shall be liable to pay the worker thirteenth month pay equal to the monthly salary of the worker referred to in section 46C of the principal Act.

(8) Notwithstanding subsection (4) and anything to the contrary under this subsection, an employer may pay a worker thirteenth month pay equal to the monthly salary of the worker referred to under section 46C(4) of the principal Act without conducting a performance appraisal.

(9) Notwithstanding anything to the contrary in section 46C and subsections (1) to (8), an employer may pay to the employer's Seychellois worker whose monthly salary is less than

the amount prescribed by the Minister under Employment (Thirteenth month pay fixing of eligibility limit) Regulations, 2017 (S.I. 3 of 2017) and who does not qualify for a thirteenth month pay under this Act, a thirteenth month pay in respect of the year 2022 in accordance with subsections (2), (3), (4), (5), (6), (7) and (8).

(10) The thirteenth month pay payable under this section shall be exempt emolument under the Income and Non-Monetary Benefits Tax Act (Cap 273).”.

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 5th October, 2022.



Mrs. Tania Isaac
Clerk to the National Assembly