

THE WORKERS' RIGHTS ACT 2019

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INTRODUCTION

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- Proclaimed in Government Gazette on 24 Oct 2019.
- Portable Retirement Gratuity Fund effective as from 1st January 2020
- Repealed the Employment Rights Act 2008

WORKERS RIGHTS' ACT 2019 ("WRA")

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- WRA englobes larger set of workers than ERA
- Threshold basic wage increased from MUR 360,000 to MUR 600,000 per annum
- For the purposes of this presentation:

Title	Monthly Basic Wage
Workers	≤ MUR 50,000
Employees	Irrespective of salary

EMPLOYEES

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- S.5 Discrimination in employment & occupation
- S.26 Equal remuneration for work of equal value
- S.32 Payment of remuneration in other specific circumstances (now apply to all employees)
- S.33 Payment of additional remuneration (New)
- S.34 Restriction on deductions (Now apply to all employees)
- S.49 Juror's leave (New)
- S.50 Leave to participate in international sport events (New)
- S.52 & s.53 Maternity & Paternity leave
- S.54 End of year bonus (Now apply to all employees)

EMPLOYEES

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- Part VI Termination of agreement
- Part VI Reduction of workforce (New regime)
- Part VII Workfare Programme Fund
- Part XI Violence at work

PROMOTION (s.7 – workers)

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- Consideration shall be given as far as practicable to:
 - Qualifications.
 - Merits.
 - Seniority.



- Notice of vacancy posted in visible place to all workers at least 5 days before promotion or selection.

CONTRACT OF DETERMINATE DURATION (s.13 – workers)

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- Contract of Determinate Duration is not possible anymore if the Worker is employed in a position of permanent nature.
- Not Applicable to Migrant Worker.

Transitional Provision (s.127)

- ✓ Where before the commencement of this Act, a worker has entered into one or more determinate agreements for a total period of **12 months** and where the worker was employed in a position of **permanent nature**, the agreement shall on commencement of the WRA be deemed to be an indeterminate agreement immediately after the twelfth month of employment.

CONTRACT OF DETERMINATE DURATION (s.13 – workers)

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- Exceptions
- ✓ Performance & completion of a specific piece of temporary & non-recurring work.
- ✓ Temporary, seasonal or short-term project related work.
- ✓ Replacement of a worker on leave or suspended.
- ✓ Purposes of providing training to workforce.
- ✓ Specific training contract.
- ✓ Specific work or training scheme set up by the Govt. or a statutory body for a determinate duration.

CONTRACT OF DETERMINATE DURATION (s.13 – workers)

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- Conditions for a contract of determinate duration:
 - ✓ Employer shall inform worker in writing of specific skills required, the specific tasks to be carried out & the duration.
 - ✓ Conditions of employment of a worker on fixed term contract **shall not be less favourable than a worker employed on an indeterminate contract performing similar work.**

CONTRACT OF DETERMINATE DURATION (s.13 – workers)

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- Continuous employment if the break between 2 fixed term contracts is less than 28 days.
- Employer shall inform worker employed on fixed term contract of any vacancy of a permanent nature in the same category and grade to his current employment.

COMPROMISE AGREEMENT (s.16 – workers)

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- Worker may make compromise agreement for dispute concerning termination of employment or short payment or non-payment of wages.



- For compromise agreement to be valid, relevant agreement need to be vetted by an independent adviser and the independent adviser shall not be a party to the matter for the employer.

COMPROMISE AGREEMENT (s.16 – workers)

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- An independent adviser means:
 - ✓ A qualified law practitioner.
 - ✓ An officer or a member of a registered trade union.
 - ✓ An officer of the Ministry.

HOURS OF WORK (s.20 – workers)

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- 45 hours per week, excluding meal & tea breaks.

Working days per week	Hours of actual work
5 days	9 hours
6 days	8 hours on weekdays + 5 hours on the remaining day

FLEXITIME (s.22 – workers)

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- Employer may request worker to work on flexitime- No mandatory obligation for employee to accept.
- Worker may request to work on flexitime to care for a child below school age (4 years old) or a child who has an impairment.
- Employer shall inform worker in writing if his request to work for flexitime has been granted or not within 21 days of the date of the said request.
- Employer shall grant request unless there are reasonable business grounds to refuse.
- Where worker entitled to work on flexitime, employer shall establish a core period of the day during which the worker shall be at work and a period of time within which work shall be performed.

END OF YEAR BONUS (s.54 – employees)

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- All employees entitled to end of year bonus.
- Calculation:

$$1/12 \times \text{Earnings}$$



- Earnings – basic wage, overtime and any sum of money by whatever name called including commission and which is related to productivity.
- The End of Year Gratuity Act has NOT been repealed and is still in force. If the amount is higher under the end of year gratuity, the employee should be paid the higher amount.

LEAVES

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- Annual leave (20+2) (s.45 – workers)
- Sick leave (15) (s.46 – workers)
- Maternity leave (s.52 – employees)
- Paternity leave (s.53 – employees)



INTRODUCTION OF NEW TYPES OF LEAVES

- Vacation leave (s.47 – workers)
- Special leave (s.48 – workers)
- Juror's leave (s.49 – employees)
- Leave to participate in international sport events (s.50 – employees)
- Leave to attend Court (s.51 – workers)

WAGE GUARANTEE FUND ACCOUNT (s.40 – workers)

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- Workfare Programme Fund shall hold an acc (The Wage Guarantee Fund Account)
- Purpose:
- ✓ Where an enterprise is considered insolvent by the Supreme Court, the Wage Guarantee Fund Account shall be to pay remuneration due to a worker up to an amount of MUR 50,000 and any amount due as prescribed w.r.t PRGF where contributions not made.
- For s.40, remuneration = basic wage for not more than 3 preceding months, wages as indemnity in lieu of notice and end of year gratuity or bonus paid in accordance with the End of Year Gratuity Act or any other relevant enactment.

TRANSFER OF UNDERTAKING

(s.67 – workers)

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- Continuous employment if following a transfer or taking over of a trade or business by a new employer, worker is offered employment on terms not less favourable than his previous agreement.
- If worker refuses offer, he may not claim that agreement has been terminated without justification.
- If new working conditions are substantially changed, worker may claim that agreement has been terminated without justification.

TRANSFER OF UNDERTAKING

(s.67 – workers)

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- Transfer of taking over of trade occurs if;
- ✓ Employer dies & business being taken over by a personal representative or heir of employer after the death.
- ✓ A partnership ceases & business is being taken over by a member of the dissolved partnership or new partnership after dissolution.
- ✓ A body corporate is dissolved & business is being taken over by another body corporate with a scheme of reconstructing after dissolution.
- ✓ Goodwill of the whole or part of the business is disposed of & taken over by another person.

TRANSFER OF UNDERTAKING

(s.67 – workers)

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- ✓ Owner of a leased undertaking takes over management following breach of lease by lessee.
- ✓ Business disposed of as an ongoing concern and its activities are continued by a new employer with same or similar activities.
- ✓ Company of an employer is merged with that of another employer.

TERMINATION & DISCIPLINARY HEARINGS (part VI – employees)

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- Investigation procedures have been codified.
- Employees shall have access to information relevant to the charge against them.
- An employer shall provide a worker with a copy of the minutes of proceedings of the disciplinary hearing within 7 days of such request.
- Time frame for completion of disciplinary hearing: Completed within 30 days of first oral hearing [EXCEPTIONS].

SEVERANCE ALLOWANCE (part VI – employees)

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- Payable if worker in continuous employment for at least 12 months if:
 - ✓ Contract of indeterminate duration terminated by employer.
 - ✓ One or more contracts of determinate duration in respect of a position of a permanent nature terminated by employer (not applicable to migrant worker – s.69(2)).
 - ✓ Have we introduced the concept of hire and fire for migrant workers?

REDUCTION OF WORKFORCE & REDUNDANCY BOARD (part VI – employees)

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- Applies to employers with at least 15 employees or having an annual turnover of minimum MUR 25 million.
- Duty of negotiation to find a solution to prevent the reduction.
- If no negotiation reached, redundancy board shall be notified.
- Redundancy board must be notified 30 days before reduction of workforce.



PORTABLE RETIREMENT GRATUITY FUND (PRGF) (part VIII)

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- Introduction of Portable Retirement Gratuity Fund.
- Applicable as from 01 January 2020.
- Regulations for PRGF have been published on 19 February 2020.
- Employer required to make a contribution to the fund in accordance with the prescribed formula.
- Not applicable to all employees.

REMUNERATION ORDERS

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- The remuneration orders which were applicable prior to the WRA have been repealed and replaced with new remuneration orders.
- The main terms and conditions have been aligned with the WRA instead of 2 different regimes in terms of conditions of employment.

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