

Seychelles

Employment Act

Employment (Thirteenth Month Pay Committee) Regulations, 2017 Statutory Instrument 13 of 2017

Legislation as at 1 June 2020

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Employment (Thirteenth Month Pay Committee) Regulations, 2017
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Seychelles

Employment Act

Employment (Thirteenth Month Pay Committee) Regulations, 2017 Statutory Instrument 13 of 2017

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[SI. 13 of 2017]

1.

These Regulations may be cited as the Employment (Thirteenth Month Pay Committee) Regulations, 2017.

2.

In these Regulations “Committee” means the Thirteenth Month Pay Committee constituted under regulation 3.

3.

- (1) The Thirteenth Month Pay Committee constituted by the Minister for Finance in consultation with the Minister for Employment shall consist of the following members—
 - (a) 2 representatives from the Ministry responsible for Employment;
 - (b) 2 representatives from the Ministry responsible for Finance;
 - (c) a representative from the Ministry responsible for Entrepreneurship Development; and
 - (d) a representative from the Seychelles Revenue Commission.
- (2) The Minister shall designate one of the representatives from the Ministry responsible for Finance to be the Chairman of the Committee.
- (3) The Committee may invite representatives from relevant sectors to assist the Committee in the determination of the application.
- (4) The Minister may designate an officer from the Finance Department to be the Secretary of the Committee.
- (5) The Secretary shall be responsible for processing applications and maintaining statistics and records.

4.

- (1) An employer who is unable to pay the thirteenth month pay may make an application to the Committee in the Form set out in the First Schedule.

- (2) Where an application is filed by the employer under subregulation (1) it shall be made known by issuing a notice in writing by the employer to all employees who are eligible to receive thirteenth month pay.
- (3) Application in respect of the thirteenth month pay for the year 2016 shall be made no later than 31st March 2017 and for the year 2017 shall be made no later than 31st January 2018.
- (4) The application shall be accompanied by the required supporting documents as specified in the application form.
- (5) The Committee shall make a determination of the application filed under subregulation (1) within a period of one month from the date of receipt of the application.
- (6) The Committee may formulate general procedural guidelines and qualifying factors for the evaluation of the applications.
- (7) The Committee may regulate its own proceedings.
- (8) Where the application has been approved by the Committee, the financial assistance shall be processed by the Financial Planning and Control Division of the Ministry of Finance, Trade and Economic Planning and the grant of financial assistance shall be published twice in a local newspaper having wide circulation on two occasions and there shall be a gap of not less than 5 days from the first publication.
- (9) The decision taken to grant or not to grant the financial assistance shall be communicated by the Committee in writing to the employer.
- (10) Where the Committee decides to refuse the grant of financial assistance the reasons shall also be notified to the applicant.
- (11) Where the Committee grants the financial assistance, the Secretary shall forward the letter of agreement in duplicate in the Form set out in the Second Schedule, requesting the applicant to return the original duly signed within three days of its receipt.
- (12) Where the financial assistance is granted, it shall credit the amount in the employer's bank account.
- (13) Where the employer has received financial assistance it shall effect the payment of the thirteenth month pay to the eligible employees.
- (14) The proof of payments of the thirteenth month pay shall be kept by the employer and shall be made available to the Committee within 15 working days after the date on which the financial assistance was provided.

5.

- (1) The employer may, if aggrieved by the decision of the Committee file an appeal before the Tribunal within 30 days from the date of receipt of the decision.
- (2) An appeal filed under subregulation (1) shall be decided by the Tribunal within 3 months from the date of filing the appeal.

First Schedule (Regulation 4(1))

MINISTRY OF FINANCE, TRADE AND ECONOMIC PLANNING 13TH MONTH PAY FINANCIAL ASSISTANCE APPLICATION FORM YEAR ENDED:.....														
A Business Information														
<input type="checkbox"/> Company <input type="checkbox"/> Sole trader <input type="checkbox"/> Partnership <input type="checkbox"/> Trust <input type="checkbox"/> Cottage Industry <input type="checkbox"/> Individual Employer <input type="checkbox"/> Others Specify.....														
TAXPAYER IDENTIFICATION NUMBER (TIN)	<table border="1" style="width: 100%; height: 20px;"> <tr> <td style="width: 10%;"></td><td style="width: 10%;"></td> </tr> </table>													
NAME OF BUSINESS														
FULL NAME OF CONTACT PERSON														
National Identity Number of Contact Person	<table border="1" style="width: 100%; height: 20px;"> <tr> <td style="width: 10%;"></td><td style="width: 10%;"></td> </tr> </table>													
Postal Address for service of notices (Use Block Letters)														
<input type="checkbox"/> (Please tick if address has changed)														
Address where business is conducted														
Full Details of Nature of Business														
<small>(E.g. the kind of manufacturer, retailer, hotel, etc)</small>														
Business Telephone Number														
E-Mail Address:														
B Employees Information														
<input type="checkbox"/> Number of Seychellois employees <input type="checkbox"/> Number of Non-Seychellois employees <input type="checkbox"/> Total number of employees														
C Financial Assistance Details														

Sum of money applying for	
Justification for applying for requesting financial assistance	
<input type="checkbox"/> Number of employees being 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 (please attach all relevant documentation)	
<input type="checkbox"/> Number of employees who are in prison or otherwise detained in lawful custody for any period in the corresponding year being paid on a pro-rated basis (please attach all relevant documentation)	
<input type="checkbox"/> Number of employees on unauthorised absence from work (please attach all relevant documentation)	
D Supporting Documents	
<input type="checkbox"/>	Profit and Loss statement as at last accounting year (can be provisional)
<input type="checkbox"/>	Latest Payroll/Payslip
<input type="checkbox"/>	Letter of appointment and/or confirmation in post for all employees
<input type="checkbox"/>	Business Tax Return/Presumptive Tax Return Statement
<input type="checkbox"/>	Latest monthly Income Tax Clearance certificate or Summary of Income Tax remitted to SRC
<input type="checkbox"/>	Certified copy of an Audited account statement/report for Companies
<input type="checkbox"/>	Certified copy of Bank Statement by the Bank as at 31st December for which the 13th month is due
<input type="checkbox"/>	Cash-flow statement and/or income and expenditure forecast
By submission of this application, you certify that all information is true and correct and that in accordance with section 46C of the Employment Act, the employee for whom the assistance is being applied for is entitled to the 13th month pay	
Signature: Date:	

Second Schedule (Regulation 4(11))**Ministry of Finance, Trade and Economic Planning****13th month pay financial assistance - Letter of agreement**

[Applicants address]

Dear Mr/Mrs _____

13th Month Pay Financial Assistance - Letter of Agreement

This letter confirms that in accordance with the section 46C of the Employment Act, the 13th Month Pay Committee assessed the application you made on the _____ to request for assistance with regards to payment of 13th month pay for the following employees—

-

-

-

-

We would/like to hereby inform you that your application has been approved and that financial assistance for the payment of 13th month pay for the above mentioned employee will be made to your bank account within 10 days from the date the 13th Month Committee/officially receives a duly signed original copy of this letter.

Whereas you reaffirm that all information provided in your application was true and correct, you also agree with the terms and conditions attached to the disbursement of funds necessary to assist you comply with your legal obligations.

The terms and conditions are as follows—

1. An amount of SR _____ has been approved as financial assistance for 13th month pay to your employees for the year _____.
2. The payment of this amount shall be effective on the bank: account number xxxxxxxxxx within 10 days from the date a copy of this letter duly signed is remitted to the 13th Month Pay Committee;
3. Each of your Seychellois employee for whom application has been approved shall receive payment of the 13th month pay within 5 working days from the date the financial assistance has been credited on your bank account.
4. You are required to submit proof of payment made to the above mentioned employees (either by cash payment, cheques or bank: transfers) within 15 working days after the 13th month pay has been received by the employee to the Chairperson of the 13th Month Pay Committee.
5. The 13th Month Pay Committee is allowed to request any information in relation to the claim you have made even after the time approval has been granted and you should produce the information requested within 7 working days from the day of the request.
6. Any false information you may provide and leading to the undue granting of the financial assistance will annul the approval from the 13th Month Pay Committee and you will have to refund the integral amount

that was not due to you within 30 working days from the time the 13th month committee notifies you of the annulment of the approval.

7. In addition to paragraph 6, further legal action may be taken.

Signed in one original and a duplicate on this _____ day of _____.

Applicant (Employer)

Chairperson of the 13th Month Pay Committee