

# **EMPLOYMENT ORDINANCE, 2022**

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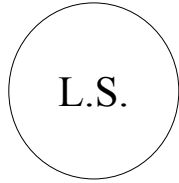
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AA7

Philip Rushbrook  
Governor



**ASCENSION  
No. 3 of 2022**

Enacted.....17 June 2022  
Date of Commencement.....20 June 2022  
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**AN ORDINANCE**

**To regulate employment in Ascension; and for connected or incidental matters.**

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Enacted by the Governor of Ascension after consultation with the Island Council of Ascension.

**PART 1  
PRELIMINARY**

**Short title and commencement**

1. (1) This Ordinance may be cited as the Employment Ordinance, 2022.
- (2) The provisions of this Ordinance come into force on 20th June 2022.

**Interpretation**

2. In this Ordinance—  
“**contractor**” means an individual engaged directly or indirectly by an individual or organisation in Ascension, other than under a contract of employment, and includes any sub-contractor engaged by a contractor to assist in the provision of those services;  
“**dependant**” means—
  - (a) a spouse or civil partner of an employee, or a person with whom the employee is in a subsisting relationship akin to marriage or civil partnership;
  - (b) any child for whom the employee or their spouse/partner has parental responsibility, whether under the law of Ascension or otherwise;

“**employee**” means, subject as prescribed, a person who provides services to an employer under a contract of employment;

“**employer**” means, subject as prescribed, a person who employs a person pursuant to a contract of employment, or engages a contractor;

“**prescribed**” means specified in, or determined in accordance with, regulations;

“**statement of particulars**” means the particulars prescribed to be provided in respect of employment as part of the settling of a contract of employment.

### **Minimum age of employment**

3. (1) The minimum age of employment is 14 years of age.

(2) Notwithstanding subsection (1) a person who is between 14 and 18 years of age must not be employed—

(a) in any capacity other than that prescribed; and

(b) without the written permission of a parent or guardian consenting to—

(i) the employment of the person; and

(ii) the terms and conditions of the employment.

### **Exempted persons**

4. (1) A person specified in the Schedule is exempt from the application of this Ordinance.

(2) The Schedule may be amended by Order published in the *Gazette* by the Governor after consultation with the Island Council.

### **Contracts of employment**

5. (1) Any employer, employee or contractor is, unless exempted—

(a) entitled to the benefits specified under this Ordinance; and

(b) required to satisfy the obligations specified under this Ordinance.

(2) A contract of employment is required to include the mandatory provisions prescribed unless the contract was executed or completed prior to the commencement of this Ordinance.

(3) Subsection (2) does not prevent an employer, employee, or contractor from settling the terms and conditions of a contract of employment but an employer, employee or contractor must not settle such terms and conditions that would or would have the effect of negating or nullifying a prescribed obligation or benefit to which an employer, employee or contractor is entitled pursuant to this Ordinance.

(4) Different types of contracts of employment may be prescribed in regulations and such regulations may specify the obligations and benefits in respect of such contracts of employment.

**PART 2**  
**OBLIGATIONS AND BENEFITS**

**Obligations**

**6. (1)** Unless otherwise prescribed, an employer must, at the employer's expense and in the manner prescribed, make provision and payment for—

- (a) the transportation of an employee or contractor to Ascension at the commencement of a term of employment;
- (b) transport of an employee or contractor from Ascension at the end of the term of employment;
- (c) transport of an employee or contractor from, and their return to, Ascension before the end of the term of employment, if the employee is entitled to off island leave and as agreed between the employer and employee;
- (d) medical and dental care of an employee or contractor;
- (e) accommodation and utilities for an employee or contractor; and
- (f) food and messing facilities for an employee or contractor.

**(2)** In addition to the obligations specified in subsection (1) an employer may, at the employer's expense and in the manner prescribed, make provision and payment for—

- (a) annual leave and leave in respect of the performance of public duties for an employee;
- (b) the payment of gratuity to an employee; and
- (c) establish employment or place of employment policies

**(3)** Where any employee or contractor in Ascension has a contractual entitlement to be accompanied by their dependants the obligations of the employer specified in subsection (1) applies to those dependants, unless otherwise prescribed.

**(4)** Subject to section 5(4), the obligations of the employer specified in subsection (1) are considered to be mandatory obligations that an employer is required to perform in respect of an employee.

**Statement of particulars**

**7. (1)** An employer must, in respect of a position of employment offered by the employer, provide in respect of each position offered, a statement of particulars.

**(2)** A statement of particulars provided by an employer must be prepared in the manner prescribed and contain the particulars prescribed.

**Annual leave**

**8.** An employee is entitled to a minimum of 30 days paid annual leave per year, in addition to public holidays, which may be pro-rated if a period of employment is less than or exceeds 1 year.

### **Leave for public duties**

9. (1) In addition to the entitlement of annual leave an employee is entitled to request leave to perform public duties.

(2) Leave pursuant to subsection (1) must be agreed between the employee and employer and prior to the approval of such leave the employer may have regard to the public duty to be performed and the employment duties of the employee.

(3) An employer is not entitled to make any deductions from the remuneration of an employee in respect of leave approved in accordance with this section.

### **Notice of termination**

10. (1) If a contract of employment is to be terminated, an employer must—
- (a) in respect of a contract of employment for which the employer is required to satisfy the obligations specified in section 6(1), provide an employee with not less than 2 months' notice of termination;
  - (b) in respect of the engagement of a contractor for which the employer is required to satisfy the obligations specified in section 6(1), provide a contractor with not less than 2 weeks' notice of termination; and
  - (c) in respect of a contract of employment for which the employer is not required to satisfy the obligations specified in section 6(1), provide an employee with not less than 2 weeks' notice of termination.

(2) Subsection (1) does not apply to the probationary period of a term of employment.

### **Gratuity and pension**

11. (1) Subject to subsection (4), an employee for whom an employer is required to satisfy the obligations specified in section 6(1), is entitled, in the manner prescribed, to be paid a gratuity on completion of the employee's term of employment.

(2) An employer may at the discretion of the employer pay a gratuity to an employee for whom the employer is not required to satisfy the obligations specified in section 6(1).

(3) If an employer is required to pay a gratuity to an employee the employer must, in the manner prescribed, establish a regime for the payment of such gratuity.

(4) An employer may, in lieu of the payments of a gratuity, make contributions to a prescribed pension scheme in the manner prescribed.

### **Policies**

12. An employer must establish policies to facilitate matters relating to or in respect of the management of issues arising from employment offered by the employer in the manner prescribed and which must be made available to an employee in the manner prescribed.

**Status**

**13. (1)** An employer must, as prescribed, pursuant to any Ordinance making provision for any permission required to be obtained or obligations to be satisfied in respect of offering employment to a person or employing a person, obtain all such prescribed permission or satisfy all such prescribed obligations.

**(2)** For the purpose of establishing compliance with subsection (1) the Administrator may in the manner prescribed—

- (a)** request any information from an employer relevant to the foregoing purpose and the employer must comply with such request; and
- (b)** impose any relevant conditions in respect of a contract of employment or term of employment.

**PART 3  
ENFORCEMENT**

**Offences**

**14. (1)** An employer who employs a person who is less than 14 years of age commits an offence.

Penalty: A fine of £5,000.

**(2)** An employer who employs a person who is between 14 and 18 years of age without complying as specified in section 3(2) commits an offence.

Penalty: A fine of £10,000.

**(3)** An employer who employs an employee pursuant to a contract of employment which is in contravention of this Ordinance commits an offence.

Penalty: A fine of £150,000.

**(4)** An employer who fails to satisfy an obligation specified in section 6(1) commits an offence.

Penalty: A fine of £150,000.

**(5)** An employer who is required to satisfy an obligation pursuant to section 6(2) and who fails to satisfy such obligation commits an offence.

Penalty: A fine of £150,000.

**(6)** An employer who is required to satisfy an obligation pursuant to section 11(1) and who fails to satisfy such obligation commits an offence.

Penalty: A fine of £150,000.

**(7)** An employer who is required to satisfy an obligation pursuant to section 11(3) and who fails to satisfy such obligation commits an offence.

Penalty: A fine of £150,000.

(8) An employer who offers employment to a person or who employs a person in contravention of section 13(1) or who fails to comply with section 13(2) commits an offence.

Penalty: A fine of £1,000 for each person to whom the offence relates.

(9) An employer who fails to comply with a request made pursuant to section 13(2) commits an offence.

Penalty: A fine of £150,000.

### **Appeal**

15. An employee may in the manner prescribed appeal any decision of an employer in respect of—

- (a) the performance of an obligation to be satisfied by the employer with regard to the employee; and
- (b) the termination of the employee.

### **Alternative dispute resolution**

16. Notwithstanding section 15, the parties to a contract of employment may agree to resolve any matter arising from a contract of employment in the manner and period prescribed.

## **PART 4 MISCELLANEOUS**

### **Regulations**

17. (1) The Governor may make regulations generally for carrying into effect the provisions of this Ordinance.

(2) Without prejudice to the generality of subsection (1), regulations may prescribe anything which may be prescribed under this Ordinance including any matter related to—

- (a) the employment of a person who is between 14 and 18 years of age;
- (b) a contract of employment;
- (c) an obligation to be performed or satisfied by an employer;
- (d) a benefit to be received by an employee;
- (e) the status of an employee;
- (f) information to be provided to the Administrator;
- (g) conditions to be imposed by the Administrator;
- (h) civil remedies against the employer;
- (i) appeal; and
- (j) alternative dispute resolution.

**Transition and repeal**

**18. (1)** A contract of employment entered into in accordance with the Workmen's Protection Ordinance, 1926 is not considered terminated upon the repeal of the Workmen's Protection Ordinance, 1926 and any responsibilities of an employer, obligations to be satisfied by an employer or benefits to which an employee is entitled continue until the completion or termination of such contract of employment.

**(2)** The Workmen's Protection Ordinance, 1926 is repealed.

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**SCHEDULE**

*Exempt persons*

**(Section 4(1))**

- (a)* a person employed directly by the government of the United Kingdom or the United States of America, including members of the armed forces of the government of the United Kingdom or the United States of America, who are posted to Ascension for a fixed period (including but not limited to the Foreign Commonwealth and Development Office, Ministry of Defence, Royal Air Force of the United Kingdom and the Space Force and Air Force personnel of the United States of America); and
- (b)* a person employed by any other government or by an international or intergovernmental organisation who is employed on a short-term basis (including but not limited to the St Helena Government, or the North Atlantic Treaty Organisation (NATO)).