



Last revision: March 2021

**Procedure for Submission of Applications for a Permit for Dismissal or Reduction of Working Hours or Income of Employees Protected by Virtue of the Employment of Women Law, 5714-1954**

1. **Definitions**

In this document (hereinafter: "**the Procedure**"), the following terms shall have the meaning ascribed to them in this section, unless expressly stated otherwise in the Procedure.

The Procedure is worded in the masculine gender for the sake of convenience, but refers to both genders.

1.1 **"the Office"**

The Regulation Division of the Regulation and Enforcement Administration.

1.2 **"the Empowered Person"**

The person to whom the Minister delegates his powers under s. 22 of the Law, to issue permits under ss. 9 and 9A of the Law.

1.3 **"the Inspector"**

An employee of the Regulation Division of the Regulation and Enforcement Administration, who handles applications for permits, examines documents and is charged with the investigation of the facts of the case.

1.4 **"the Law"**

The Employment of Women Law, 5714-1954.

1.5 **"Actual Employer" and "Manpower Contractor"**

As defined in the Employment of Employees by Manpower Contractors Law, 5756-1996.

1.6 **"Reduction of Working Hours"**

Excluding a temporary change in the scope of employment upon a request initiated by the employee as a result of his medical condition and according to a written certificate by a physician.

1.7 **"Reduction of Income"**

Except:

1.7.1 A reduction of income applicable at the workplace by virtue of law or a collective agreement.

1.7.2 A reduction of a wage component payable to the employee based on the productivity of his work, provided that the reduction in the employee's productivity is caused by reasons independent of the employee.

- 1.8 **"Dismissal" – including:**
- 1.8.1 Non-renewal of a fixed-term employment contract for a period of at least 12 months.
  - 1.8.2 Non-renewal of a fixed-term employment contract for a period of less than 12 months, which extended or renewed a previous term of employment, so that the total term of employment exceeds 12 months.
  - 1.8.3 In regard to a pregnant employee employed through a Manpower Contractor – also a temporary discontinuance of employment.

## 2. **General**

- 2.1 Ss. 9 and 9A of the Employment of Women Law stipulate that if any of the circumstances listed in s. 3 below hold true, the dismissal of an employee and/or any reduction of her working hours or income without a permit issued by the Empowered Person in accordance with the provisions of the Law, are prohibited.

## 3. **The circumstances in which a permit for dismissal or reduction of the working hours or income of a protected employee should be obtained:**

- 3.1 A permanent, casual or temporary pregnant employee, who has worked for the same employer or at the same workplace for at least six months (s. 9(a) of the Law).

- 3.2 An employee who is within a period of 60 days after the end of the birth and parenting period, or the end of the 60 days of absence resulting from her medical condition in consequence of childbirth (s. 7(c)(2)) or absence of an employee under s. 7(c2) – a shared maternity leave/sole custody.

\*A permit in such case may only be issued if both of the following conditions are met: (a) the absence of a connection between the dismissal and the birth, the birth and parenting period or the absence; and (b) the employer's business had ceased to operate/had been declared bankrupt/a dissolution order has been issued against it (s. 9(c)(1a) of the Law).

- 3.3 During the days of absence of an employee who is breastfeeding (if her employment is prohibited under the provisions of the Law) and who gave her employer a notification to that effect, and for 60 days after the end of such days of absence, all in accordance with ss. 7(c)(1c) and 9(c)(2) of the Law.

- 3.4 During the days of absence of an employee under ss. 7(d)(1) and 7(d1) – unpaid leave, commencing on the end of the birth and parenting period, for a period not exceeding one quarter of the period during which she was employed prior to the birth and parenting period, and provided that the entire period of absence does not exceed 12 months from the date of the birth (s. 9(c)(2)), and for 60 days after the end of such days of absence.

- 3.5 An employee undergoing fertility treatments, during her absence from work under s. 7(c)(4) of the Law, and during a period of 150 days after the end of such days of absence. Such provisions shall be applicable to an employee **who is absent as a result of such treatment**, commencing from the first day of her employment, with respect to treatments for the achievement of up to two births during her employment by the same employer or the same workplace, and also two additional births with her present spouse, all in accordance with s. 9(e)(1). Such provisions shall not be applicable to an employer, where two years have elapsed from the first day of the absence of the employee from her work for the employer or at the same workplace.
- 3.6 An employee undergoing fertility treatments, **who was not absent** from work during the period of the treatments. The prohibition on dismissal is applicable throughout the period of the treatments as stated in ss. 9(e)(1) and 9(e)(3) of the Law, or for a period of 150 days after the date of commencement of the treatments (fertility treatments or IVF treatments), whichever is later, as certified by the attending physician in writing, all in accordance with the conditions set out in s. 9(e)(3). Such provisions are applicable to any permanent, casual or temporary employee, provided that she has been working for the same employer or at the same workplace for at least 6 months.
- 3.7 The absence of an employee who is staying at a battered women's shelter, during the period of such absence and for a period of 150 days thereafter, in accordance with the conditions set out in s. 9(d) of the Law.

The Minister is absolutely prohibited from and does not have the power to permit any dismissal during the following periods:

- The birth and parenting period;
- The period of absence of an employee, as a result of her medical condition, commencing from the end of the birth and parenting period and ending up to 6 months from such date, provided that a physician certifies that her condition requires such absence;
- The period of absence of a male employee under s. 7(c2) – a shared maternity leave/sole custody;
- The period of absence of an employee following a miscarriage, under ss. 9(f) and 7(a) of the Law.

In the following cases, the Employment of Women Law does not apply and there is no need for a permit for dismissal:

- If the employee is employed under a fixed-term employment contract for a period of less than 12 months, which has not been extended – and continued employment of the employee is neither practicable nor expected by the employee;
- If the pregnant employee has been employed by the employee or at the workplace for less than 6 months;
- If the employee is undergoing fertility treatments, **has not been absent as a result thereof**, and is employed by the employee or at the workplace for less than 6 months;
- Where the employee has resigned.

**\*This is not a closed list, and additional cases may exist, depending on the circumstances and the provisions of the Employment of Women Law.**

#### 4. Submission of the application

- 4.1 An employer who seeks to dismiss an employee or reduce their working hours or income, where one of the circumstances described in s. 3 above exist, shall submit an application to the Empowered Person on the application form available at the Office's website, stating all the particulars of the employer and employee.
- 4.2 The employer shall attach to the application a document giving reasons for its application, setting out any claim relating to the dismissal or the reduction of working hours or income of the employee and specifying the employment relationship and the circumstances of the process or procedure leading to and preceding the decision to submit the application. **Such document shall not exceed 5 pages, and the text shall be in the David 12 font, with 1.5 line spacing and 2.5 margins.** The said page limit shall not include any documents in support of such claims, if any exist (in accordance with Appendix A of the Procedure). The application letter shall make reference to the relevant attached documents.
- 4.3 It should be emphasized that if the employer has any recordings in its possession, in support of its application, transcripts of conversations, made by a transcription company authorized to do so, must be delivered upon submission of the application, or, at the latest, two days before the employee states its version of events (**no transcripts made independently shall be accepted**).
- 4.4 The employer shall deliver to the employee a copy of the permit application, including all the appendices thereof, **prior to the submission of the application**. On submission of the application to the Office, the employer shall deliver a confirmation signed by the employee, stating that she has received the employer's application, including its appendices. If the employee refuses to accept the documents from the employer, or to declare that she has received the application documents, the employer shall attach a certificate or confirmation stating that it has sent the documents to the employee by registered mail or email.

- 4.5 If the employer is a Manpower Contractor, it shall be responsible for filling out and sending the application form, including its appendices. If the employee has been employed by an Actual Employer for at least 6 months, it shall also be responsible, as aforesaid, for filling out and sending such form. In such case, the employer (the Manpower Contractor) must ensure that the Actual Employer fills out the application form and its appendices, attaches a document giving reasons for the application, and returns it to the Manpower Contractor, with all the required particulars filled in. The employer (the Manpower Contractor) shall deliver the application form to the Empowered Person, after having made sure that all the required particulars have been filled in.
- 4.6 If the application for a dismissal permit is made with respect to the sale of the business or the transfer thereof to a new franchisee or operator, or in the case of a project that has been performed at the relevant workplace and is being transferred to another entity, the employer and the purchaser or new operator must deliver a joint permit application. The employer must attach an undertaking by the new operator or the purchaser to continue to employ the protected employee, or an explanation for the discontinuation of her employment.  
**In addition, the employer must attach:** relevant documents, a list of dismissed employees (including their position and the date of commencement of their employment), and a list of employees who are to continue being employed, through the new operator or the purchaser.
- 4.7 If the employee submits an application without delivering all the documents or details required according to the grounds protected by the Law, as listed in the table attached hereto as Appendix A, then it shall be required to complete the missing documents, with a copy to the employee, within 2 days from the date on which it is requested to complete such missing documents.
- 4.7.1 If the employer fails to deliver the missing documents by 2 days prior to the date fixed for stating its version of events at the Office, the decision shall be made by the Empowered Person based on the evidence and documents before her.
- 4.7.2 Upon submission of the missing documents, the employer shall deliver, in addition, a confirmation signed by the employee, stating that she has received the missing/relevant documents. If the employee refuses to accept the documents from the employer, or to declare that she has received the application documents, the employer shall attach a certificate or confirmation stating that it has sent the documents to the employee by registered mail or email.

**It should be emphasized that this procedure is a 'transparent procedure', i.e., whenever any party submits a document, at any stage of the process, it must deliver it to the other party.**

## 5. Summons to provide a statement

- 5.1 When an application is submitted, and after an examination of the matter it is decided to open a file, a date shall be fixed for taking the statements of the employer, the employee, and any other relevant person, as the case may be and at the discretion of the Inspector handling the file, at the Office.
- 5.2 The summons shall be sent to the parties by the Office via email or fax, in accordance with the details provided by them.
- 5.3 The employer's statement shall be taken at the offices of the Regulation Division or via the telephone, from one representative only on behalf of the employer. Other representatives on behalf of the employer shall be summoned to provide statements at the discretion of the Inspector handling the file, and according to the circumstances of the case.
- 5.4 If any of the parties wishes to postpone the date for providing the statement, its application shall be submitted in writing and sent in the speediest way (email or fax) to the Inspector handling the file, giving reasons for the application. If the application is approved, a new date shall be fixed for giving the statement. In no case shall the date fixed by the Inspector be postponed for more than one week.
- 5.5 No new date for giving the statement shall be fixed if the employer (or any person acting on its behalf), the Actual Employer (if any exists), the representative of the purchasing company, as the case may be, or the employee, fail to appear on the date fixed therefor without prior notification or a written explanation.
- 5.6 If any of the parties fails to appear on the date fixed by the Inspector handling the file in accordance with the foregoing provisions, such failure shall be deemed to be a waiver of its right to provide a statement. In such case, the Empowered Person may make a decision based on the material before them, even in the absence of a statement by one of the parties.
- 5.7 The employer and the employee shall indicate, in their confirmation of appearance for the provision of a statement, whether or not they are interested in translation services for translation into a foreign language during the statement provision process, and the desired language.
- 5.8 The employer and the employee shall indicate, in their confirmation of appearance for the provision of a statement, whether or not they are represented by an attorney, and if they are so represented, they shall attach a power of attorney to such confirmation.

## 6. The employee's written response to the claims contained in the permit application

- 6.1 An employee with respect to which an application is submitted shall be required to respond in writing to the employer's claims.

- 6.2 The employee's response shall be sent to the Regulation Division, together with the confirmation of appearance forms, via email, **within 12 days from the date on which she is requested to respond**, and no later than one day prior to the date fixed for taking the statement at the Regulation Division, as said in s. 5 above, and it shall include all of the following:
- 6.2.1 The employee's response shall make reference to all the employer's claims, shall not exceed 5 pages, and its text shall be in the David 12 font, with 1.5 line spacing and 2.5 margins. The said page limit shall not include any documents in support of the employee's claims, if any exist. The response shall make reference to the relevant attached documents.
- 6.2.2 If the employee has any documents in her possession, in support of her claims, they must be attached (in the case of any recordings, transcripts thereof must be made by an authorized entity as aforesaid in s. 4.3 above, and a notification of the intention to submit such transcripts must be delivered to the Inspector handling the file approximately one week before the date fixed for the provision of the statement).
- 6.2.3 If the employee acknowledges and confirms the employer's claims or waives her right to provide a statement, she must indicate this expressly in the response.
- 6.3 The employee must attach certification or confirmation that a copy of her response and the documents attached thereto have been sent to the employer and the Actual Employer (if any exists) by email or fax.
- 6.4 If all or some of the parties waive their right to provide a statement orally before the Inspector handling the file, and provide their statements in writing, the decision of the Empowered Person shall be given based on the written statements submitted, and all the material before her.

## 7. **The procedure for taking statements from the employer and the employee**

- 7.1 The provision of statements before the Inspector handling the file shall be done based on the claims and grounds set out in the permit application, and responded to by the parties.
- 7.2 The employer and the employee may be accompanied by an attorney or a representative of a workers' organization/organizations dealing with labor rights or any employers' association in the industry ("**Organization/Association Representative**"), while providing the statement. If any of the parties wishes to be accompanied by an attorney, it shall deliver a power of attorney as to their being represented by the attorney, who shall present an attorney certificate to the Inspector.
- However, the Inspector handling the file may prohibit the attorney or the Organization/Association Representative from being present when the statement is taken, if he concludes that their presence prejudices his ability to investigate the facts of the matter.

- 7.3 It should be clarified that if the employer or the employee, in providing the statement, are accompanied by an attorney or an Organization/Association Representative, such attorney or representative may not provide any statement and/or answer any questions instead of the person providing the statement, and/or give any advice to the person they are accompanying as to any answer that is required to be given to the Inspector handling the file, **instead** of the person providing the statement.
- 7.4 The statement of an employee or employer who are not Hebrew speakers shall be taken through an authorized interpreter on behalf of the Office, in accordance with the application of the employee or the employer as referred to in s. 5.7 above. The particulars (name and identity number) of the interpreter shall be stated in the record.
- 7.5 The statements of the employer and the employee shall be taken separately, as follows:
- 7.5.1 First, the employer's statement shall be taken, and then the employee's, except in unusual cases where the employer postpones the date of the investigation and inquiry (the date of provision of the statement), on condition that the employee agrees to provide her statement before the employer.
- 7.6 In the case of an employee employed by a Manpower Contractor, the statement of the Actual Employer shall be taken after the provision of the Manpower Contractor's statement.
- 7.7 The Inspector handling the file shall make a record of the process of the provision of the statement. At the end of such process, the Inspector handling the file shall allow the providers of statements to add to the record any detail which, in their opinion, has weight in making the decision.
- 7.8 During the provision of the statement, the Inspector handling the file shall be the one asking questions, based on the documents of the application and its grounds. The person providing the statement shall not be allowed to raise any new claims not written in the application and supported by documents, except in unusual cases where prior to the provision of the statement any events have occurred, requiring such additions, all at the Inspector's discretion.
- 7.9 The person providing the statement must limit his answers to the questions asked by the Inspector handling the file.
- 7.10 Upon completion of the taking of the statement, the person providing it shall read it, and confirm by his signature the contents of the record.
- 7.11 Each party shall receive a copy of its statement. In addition, the record of the employee's statement shall be sent to the employer by email or fax, after it is taken. The record of the employer's statement shall be delivered to the employee for her response, during the taking of her statement.

- 7.12 If any new claims or evidence are contained in the employer's statement, which can affect the decision, the employee shall be afforded an opportunity to respond to the employer's statement within two days from the date of provision of her statement.

## 8. Completion of the investigation and inquiry

- 8.1 The Inspector handling the file shall be authorized to take additional measures of investigation and inquiry, even after the provision of the statements, including requesting the parties to deliver additional documents, to the extent required for making the decision.
- 8.2 Any additional documents, if requested, shall be delivered to the Inspector handling the file, within one day from such request (a time extension for the delivery of such documents may be granted, upon the parties' request, depending on the type and extent of the requested documents, all at the discretion of the Inspector handling the file). Each party shall also deliver such documents to the other party, via email or fax.
- 8.3 The other party shall be afforded an opportunity to deliver a response to such documents, within one day from the receipt thereof.
- 8.4 Failure to deliver such documents shall be deemed to be a waiver of any claim based on such documents.

## 9. Decision of the Empowered Person

- 9.1 The decision of the Empowered Person on the permit application shall be given, to the extent possible, within 20 work days from the completion of the delivery of documents and the opening of the application file. In unusual cases, the decision shall be given within 30 work days.
- 9.2 If the parties concerned waive their right to provide their statement orally before the Inspector handling the file, the decision of the Empowered Person shall be given within 7 work days from the completion of the delivery of the required documents.
- 9.3 After the decision of the Empowered Person is given, each party may photocopy all the material relevant to it. For this purpose, any such party should schedule a date for photocopying the file, by calling one of the telephone numbers appearing on the Office's website.

## 10. Summary procedure

- 10.1 The decision of the Empowered Person shall be given by summary procedure – without taking statements from the parties, and after receiving the employee's response in writing or via the telephone, within 7 work days from receipt of the employee's response.

10.2 **The summary procedure shall be held if one or more of the following holds true:**

- a. No connection is found between the grounds protected by the Law, and the decision to dismiss the employee or reduce her working hours or income;
- b. The employee agrees with the employer's claims as to the grounds for such termination of employment or reduction;
- c. The employee agrees to the termination of the employment relationship or the reduction of her working hours or income;
- d. In the event of cessation of operation or a closing of a business – the appropriate certification (such as certification by an auditor) has been delivered.

11. **Appeal**

Under s. 13D of the Law, any person who considers itself injured by the decision of the Empowered Person may appeal against the decision at the Labor Court, within 45 days from the date on which the decision comes to its notice.