

**18 GCA BUSINESS STRUCTURE & FUNCTION**  
**CH. 55 SERVICE WITH EMPLOYMENT**

**PART 6**  
**SERVICE**

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**CHAPTER 55**  
**SERVICE WITH EMPLOYMENT**

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- Article 2. Obligations of Employer.
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**ARTICLE 1**  
**DEFINITION OF EMPLOYMENT**

**§ 55101. Employment, What.**

The *contract of employment* is a contract by which one, who is called the employer, engages another, who is called the employee, to do something for the benefit of the employer, or of a third person.

**SOURCE:** CC § 1965.

**NOTE:** No 1970 Civil Code §§ 1966-1968 existed.

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**ARTICLE 2**  
**OBLIGATIONS OF THE EMPLOYER**

- § 55201. Indemnification of Employee.
- § 55202. When Indemnification not required.
- § 55203. Employer Liable for Own Negligence.

**§ 55201. Indemnification of Employee.**

An employer must indemnify his employee, except as prescribed in the next section, for all that he necessarily expends or loses in direct consequence of the discharge of his duties as such, or of his obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying such directions, believed them to be unlawful.

SOURCE: CC § 1969.

**§ 55202. When Indemnification not Required.**

An employer is not bound to indemnify his employee for losses suffered by the latter in consequence of the ordinary risks of the business in which he is employed, nor in consequence of the negligence of another person employed by the same employer in the same general business, unless the negligence causing the injury was committed in the performance of a duty the employer owes by law to the employee, or unless the employer has neglected to use ordinary care in the selection of the culpable employee.

SOURCE: CC § 1970.

**§ 55203. Employer Liable for Own Negligence.**

An employer must in all cases indemnify his employee for losses caused by the former's want of ordinary care.

SOURCE: CC § 1971.

NOTE: No 1970 Civil Code §§ 1972-1974 existed.

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**ARTICLE 3  
OBLIGATIONS OF THE EMPLOYEE**

- § 55301. Duties of Gratuitous Employee.
- § 55302. Employment at Employee's Request.
- § 55303. Gratuitous Power of Attorney.
- § 55304. Employee for Reward.
- § 55305. Same, own Benefit.
- § 55306. Service, Contracts Limited to 5 years.
- § 55307. Employee must Obey Employer.

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- § 55308. To Conform to Usage.
- § 55309. Degree of Skill Required.
- § 55310. Must use all His Skill.
- § 55311. Property Belonging to Employer.
- § 55312. Duty to Account.
- § 55313. No Delivery without Demand.
- § 55314. Preference Given Employer's Business.
- § 55315. Substitute, who is Liable.
- § 55316. Negligence.
- § 55317. Surviving Employee.
- § 55318. Confidential Employment.

**§ 55301. Duties of Gratuitous Employee.**

One who, without consideration, undertakes to do a service for another, is not bound to perform the same, but if he actually enters upon its performance, he must use at least slight care and diligence therein.

**SOURCE:** CC § 1975.

**§ 55302. Employment at Employee's Request.**

One who, by his own special request, induces another to entrust him with the performance of a service, must perform the same fully. In other cases, one who undertakes a gratuitous service may relinquish it at any time.

**SOURCE:** CC § 1976.

**§ 55303. Gratuitous Power of Attorney.**

A gratuitous employee who accepts a written power of attorney must act under it so long as it remains in force, or until he gives notice to his employer that he will not do so.

**SOURCE:** CC § 1977.

**§ 55304. Employee for Reward.**

One who, for a good consideration, agrees to serve another, must perform the service and must use ordinary care and diligence therein, so long as he is thus employed.

**SOURCE:** CC § 1978.

**§ 55305. Same, Own Benefit.**

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One who is employed at his own request to do that which is more for his own advantage than for that of his employer, must use great care and diligence therein to protect the interest of the latter.

**SOURCE:** CC § 1979.

**§ 55306. Service, Contracts Limited to Five Years.**

A contract to render personal service, other than a contract of apprenticeship, as provided in the Chapter on master and servant, cannot be enforced against the employee beyond the term of five (5) years from the commencement of service under it; but if the employee voluntarily continues his service under it beyond that time, the contract may be referred to as affording a presumptive measure of the compensation.

**SOURCE:** CC § 1980.

**§ 55307. Employee Must Obey Employer.**

An employee must substantially comply with all the directions of his employer concerning the service on which he is engaged, except where such obedience is impossible or unlawful, or would impose new and unreasonable burdens upon the employee.

**SOURCE:** CC § 1981.

**§ 55308. To Conform to Usage.**

An employee must perform his service in conformity to the usage of the place of performance, unless otherwise directed by his employer, or unless it is impracticable, or manifestly injurious to his employer to do so.

**SOURCE:** CC § 1982.

**§ 55309. Degree of Skill Required.**

An employee is bound to exercise a reasonable degree of skill, unless his employer has notice, before employing him, of his want of skill.

**SOURCE:** CC § 1983.

**§ 55310. Must use all His skill.**

An employee is always bound to use such skill as he possesses, so far as the same is required, for the service specified.

**SOURCE:** CC § 1984.

**§ 55311. Property Belonging to Employer.**

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Everything which an employee acquires by virtue of his employment, except the compensation, if any, which is due to him from his employer, belongs to the latter whether acquired lawfully or unlawfully, or during or after the expiration of the term of his employment.

**SOURCE:** CC § 1985.

**§ 55312. Duty to Account.**

An employee must, on demand, render to his employer just accounts of all his transactions in the course of his service, as often as may be reasonable, and must, without demand, give prompt notice to his employer of everything which he receives for his account.

**SOURCE:** CC § 1986.

**§ 55313. No Delivery without Demand.**

An employee who receives anything on account of his employer, in any capacity other than that of a mere servant, is not bound to deliver it to him until demanded, and is not at liberty to send it to him from a distance, without demand, in any mode involving greater risk than its retention by the employee himself.

**SOURCE:** CC § 1987.

**§ 55314. Preference Given Employer's Business.**

An employee who has any business to transact on his own account, similar to that entrusted to him by his employer, must always give the latter the preference.

**SOURCE:** CC § 1988.

**§ 55315. Substitute, Who is Liable.**

An employee who is expressly authorized to employ a substitute is liable to his principal only for want of ordinary care in his selection. The substitute is directly responsible to the principal.

**SOURCE:** CC § 1989.

**§ 55316. Negligence.**

An employee who is guilty of a culpable degree of negligence is liable to his employer for the damage thereby caused to the latter; and the employer is liable to him, if the service is not gratuitous, for the value of such services only as are properly rendered.

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**SOURCE:** CC § 1990.

**§ 55317. Surviving Employee.**

Where service is to be rendered by two or more persons jointly, and one of them dies, the survivor must act alone, if the service to be rendered is such as he can rightly perform without the aid of the deceased person, but not otherwise.

**SOURCE:** CC § 1991.

**§ 55318. Confidential Employment.**

The obligations peculiar to confidential employments are defined in the Part on trusts.

**SOURCE:** CC § 1992.

**NOTE:** No 1970 Civil Code §§ 1993-1995 existed.

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**ARTICLE 4**  
**TERMINATION OF EMPLOYMENT**

- § 55401. Termination by Death, etc.
- § 55402. How Employment is Terminated.
- § 55403. Continuous in Certain Cases.
- § 55404. Terms of Employment.
- § 55405. Termination by Employer.
- § 55406. Termination by Employee.
- § 55407. Compensation Due on Dismissal, Cause.
- § 55408. Compensation, Leaving.
- § 55409. Deduction for Tardiness.

**§ 55401. Termination by Death, etc.**

Every employment in which the power of the employee is not coupled with an interest in its subject is terminated by notice to him of:

1. The death of the employer; or
2. His legal incapacity to contract.

SOURCE: CC § 1996.

**§ 55402. How Employment is Terminated.**

Every employment is terminated:

1. By the expiration of its appointed term;
2. By the extinction of its subject;
3. By the death of the employee; or
4. By his legal incapacity to act as such.

SOURCE: CC § 1997.

**§ 55403. Continuous in Certain Cases.**

An employee, unless his term of service has expired, or unless he has a right to discontinue it at any time without notice, must continue his service after notice of the death or incapacity of his employer, so far as is necessary to protect from serious injury the interests of his employer's successor in interest, until a reasonable time after notice of the facts has been communicated to each successor. The successor must compensate the employee for such service according to the terms of the contract of employment.

SOURCE: CC § 1998.

**§ 55404. Terms of Employment.**

An employment, having no specified term, may be terminated at the will of either party, on notice to the other. Employment for a specified term shall mean an employment for a period greater than one month.

SOURCE: CC § 1999.

**§ 55405. Termination by Employer.**

An employment, for a specified term, may be terminated at any time by the employer, in case of any willful breach of duty by the employee in the course of his employment, or in case of his habitual neglect of his duty or continued incapacity to perform it.

SOURCE: CC § 2000.

**§ 55406. Termination by Employee.**

An employment, for a specified term, may be terminated by the employee at any time, in case of any willful or permanent breach of the obligation of his employer to as an employee.

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**SOURCE:** CC § 2001.

**§ 55407. Compensation Due on Dismissal, Cause.**

An employee who is not employed for a specified term, dismissed by his employer, is entitled to compensation for services rendered up to the time of such dismissal.

**SOURCE:** CC § 2002.

**§ 55408. Compensation, Leaving.**

An employee who is not employed for a specified term and who quits the service of his employer, is entitled to compensation for services rendered up to the time of such quitting.

**SOURCE:** CC § 2003.

**§ 55409. Deduction for Tardiness.**

There shall not be deducted from the wages of an employee on account of the employee's coming late to work, a sum in excess of the proportionate wage which would have been earned during the time actually lost; provided, that for a loss of time less than 30 minutes a half hour's wage may be deducted.

**SOURCE:** CC § 2004.

**NOTE:** No 1970 Civil Code §§ 2005-2008 existed.

**CROSS-REFERENCES:** For the Fair Labor Standards Act, the Child Labor Law, Workers' Compensation Law and other laws regulating business activities, see Title 20 of this Code.

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