



LEGAL HIGHLIGHTS

BUDGET 2024-2025

EDITORIAL

Tomorrow is ours ... or is it?

"Blessed is he who expects nothing, for he shall never be disappointed."

— Alexander Pope

Dr the Hon Renganaden Padayachy, Minister of Finance, Economic Planning and Development delivered his Budget Speech 2024/2025 on 7 June 2024.

Let's be candid: a Budget Speech during the last year of a governmental mandate was never going to unveil a ground-breaking strategy for the future growth and development of our country.

With that in mind, expectations had already been tepid – we had braced ourselves for a budget of consolidation, a few moderate feel-good measures and enhancement of social cohesion. In that sense, one can posit that expectations had been met.

So, why don't we look at the glass half full?

Some measures reflect the extension of objectives announced in prior years' Budget speeches, particularly in areas of energy, tackling climate change and encouraging a sustainable economy.

Amongst commendable socio-economic measures announced, we name a few:

- Increase in maternity and paternity leaves to 16 weeks and 4 weeks respectively (who knows, perchance parental leave will become a reality in the not-too-distant future);
- Increase in the revenue minimum garanti to Rs 20,000;
- Increase of the CSG income allowance to an amount ranging between Rs 1,500 to Rs 3,000 (depending on the salary of the individual);
- Increase of monthly basic retirement pension to Rs 14,000 (from 1 July to 31 December 2024) and Rs 15,000 (from 1 January 2025), with additional increases from the age of 65;
- Further enhancing support provided to athletes (we applaud the particular recognition of the exceptional athletes and para-athletes currently representing our country at international level);
- Reduction of the salary threshold for occupational permits for professionals from Rs 30,000 to Rs 22,500 as well as the grant of a temporary occupational permit of 3 months pending approval of the full permit for professionals with at least 10 years' experience;
- Increase in the eligibility age of the cancer scheme from 18 to 25 years; and
- Tax deduction of up to Rs 60,000 per annum for parents having children in full-time education in fee-paying private schools.

It is beyond the authors' expertise to comment on how those measures will be funded – although one cannot help but wonder.

As regards the financial services and global business sector, other than the increase in FSC annual and processing fees and introduction of post-licensing fees, we note a few interesting measures:

- Presumably in an effort to encourage the virtual assets industry following the enactment of the VAITOS Act, a tax exemption on any profits on the sale of virtual assets and virtual tokens;
- Extension of the so-called partial exemption regime to holders of a Payment Intermediary licence, a Robotic and Artificial Intelligence Enabled Advisory Services licence;
- Extension of the Tax Arrears Payment Scheme, which provides for a full waiver of penalties and interest outstanding under the Income Tax Act, the Value Added Tax Act and the Gambling Regulatory Authority Act for another year (provided the taxpayer registers by 31 December 2024 and pays the outstanding tax by 31 March 2025);
- Allowing a Global Business Company or an Authorised Company to comply with provisions of the Companies Act relating to prejudiced shareholders and amendments to their constitution (unless if otherwise provided in the constitution); and
- Application of the Insolvency Act to administrators appointed for the winding up of a limited life company.

In the context of dispute resolution, we note: the Competition Act to be amended to permit appeals before the Supreme Court against any decision or ruling of the Competition Commission, the announcement of modernisation of the framework for alternative dispute resolution in commercial disputes and provision for the Assessment Review Committee to determine cases within a specified time frame.

It would be remiss of us not to comment on measures "half-announced" such as the review of the funds regime, announcement of a future blueprint for the financial services sector and for Mauritius as a Fintech hub and ongoing discussions with the Indian authorities (we assume at least in part to deal with the fallout from the tax treaty protocol debacle).

That's all folks. At least we get to go home early this year.

TAX MATTERS

TAX COMMENTARY

- ❑ In an effort to maintain a status quo and avoid a major overhaul of the tax regime at a delicate and decisive political juncture, the 2024/2025 Budget Speech does not present significant tax measures, in comparison with the 2023/24 exercise.
- ❑ It is noted that a few amendments are brought to the partial exemption regime ("PER"), amongst which the PER has been extended to Payment Intermediary Services (PIS) licence holders.
- ❑ The popular Tax Arrears Settlement Scheme ("TASS") is set to be renewed for one additional year providing for full waiver of penalties and interest on arrears outstanding under the Income Tax Act, the Value Added Tax Act and the Gambling Regulatory Authority Act when paid in full by 31 March 2025, a welcome measure to taxpayers. This scheme shall be available upon mandatory registration by 31 December 2024.
- ❑ The Arrears Payment Scheme ("APS") will also be re-introduced for an additional year and will provide for waiver of penalties and interest for a debtor of the Registrar General Department for any debt amount settled on or before 31 March 2025. The APS will apply on tax arrears due as at 31 May 2024.
- ❑ In an effort to recognise the growing importance of digital assets and to align tax policy with modern investment practices, income derived from the sale of securities shall be extended to cover the sale of virtual assets and virtual tokens.
- ❑ The Budget Speech also proposes to classify management company services to non-resident trusts and foundations as zero-rated for VAT purposes, a step towards enhancing this sector's appeal and stimulating growth.

TAX MATTERS

INCOME TAX

Exemptions and Reliefs

- ❑ The exemption threshold for lump sums received as pension, retiring allowance or severance allowance will increase from MUR 2.5 million to MUR 3 million.
- ❑ Interest income from bonds issued by public sector companies for infrastructure projects will be exempt, subject to approval by the Minister of Finance, Economic Planning and Development.
- ❑ Compensation payable by the government or a public sector body for losses due to natural disasters will be exempt from tax as of 1 January, 2024.
- ❑ An allowance paid by the government to an individual under a financial assistance scheme will be tax-exempt.
- ❑ The exemption for income from the sale of securities will extend to cover the sale of virtual assets and virtual tokens.

Increased tax rate

- ❑ A rise from 3% to 15% on the tax rate on income derived from intellectual property assets by a manufacturing company involved in medical, biotech or pharmaceutical sector. This increase is brought about by the government with the aim to comply with international norms, presumably so that the existing framework is not perceived as constituting a harmful tax practice.

TAX MATTERS

VALUE ADDED TAX (VAT)

❑ Zero-rated supply

- The following categories of products shall now be classified as zero-rated: (i) vegetable seeds, fruit and flower seeds, bulbs and plants used for sowing or planting; (ii) seedling trays; (iii) plant pots; (iv) agricultural sprayers; (v) roasted coffee; and (vi) baby lotions.
- Services provided by management companies to non-resident trusts and foundations will be zero-rated for VAT.

❑ Exemptions

- Entrance fees to digital art galleries will be exempt from VAT.
- Diplomatic missions and agents will benefit from VAT exemption or refund on services.
- Extension of VAT exemption on construction of educational buildings to include pre-primary and Technical and Vocational Education and Training (TVET), with retrospective effect.
- Granting of VAT exemption on motor vehicles for approved contractors involved in the construction of social housing units under contracts with New Social Living Development Ltd (NSLD), with retrospective effect. This measure seeks to rectify with last year's incentive regarding tax exemption on VAT on procurement of goods generally, specifically excluding vehicles for such contractors.

❑ Donor-funded projects

- VAT, customs duty, and excise duty exemptions on procurement of goods and services for projects funded by donor organisations where funding is at least 50% grant or concessionary loan.

TAX MATTERS

PROPERTY TAXES

- ❑ The transfer of social housing units by NSLD will be exempted from registration duty, land transfer tax, and tax on transfer of leasehold rights in State land.

CUSTOMS DUTY

- ❑ Abolishment of the 15% customs duty on milk beverages obtained from nuts such as walnut and chestnut, aligning them with almond milk, oat milk, and soya milk. This measure is expected to have minimal impact on the overall market dynamics if consumption of such products is low.

EXCISE DUTY

- ❑ Introduction of a new category called "wine cooler" (alcoholic strength ranging from 1.2% to 8.5%) with specified excise duties ranging from MUR 31.00 to MUR 186.00 per litre depending on the type.
- ❑ MUR 2 excise duty per unit on cans applied to wine coolers.
- ❑ Introduction of a new Excise Licence for storage and maturation of alcoholic products intended for export or transfer, with a fee of MUR 25,000.
- ❑ Plastic bottles made from plant-based materials will be exempt from the MUR 2 excise duty per unit on plastic bottles used in the beverage industry.
- ❑ The current Excise/Customs Duty Rebate Scheme for motor vehicles will end on 30 June 2024. From 01 July 2024, rebate rates will be incorporated into the statutory excise and customs duty rates, effectively reducing these rates. This measure might create short term market disruptions as it is put in place.

TAX MATTERS

PASSENGER SOLIDARITY FEE

- ❑ From 01 January 2025, a Passenger Solidarity Fee will be levied on passengers departing from Mauritius and traveling by First Class and Business Class. The fee structure is as follows:

Destinations: Reunion, Madagascar, Seychelles, or Comoros:	Other Countries
Children 2-12 years: \$25	Children aged 2-12 years: \$50
Passengers aged 12 and above: \$50	Passengers aged 12 and above: \$100

SMART CITY SCHEME

- ❑ Contribution Increase: The contribution payable by a smart city company per residential property or per plot of serviced land will increase from MUR 25,000 to MUR 100,000. MUR 2 excise duty per unit on cans applied to wine coolers.
- ❑ Fund Allocation Change: The Smart City Social Fund will be removed from the list of Special Funds under the Finance and Audit Act. The contribution by smart city companies is now payable to the National Resilience Fund.

TAX MATTERS

TAX ADMINISTRATION (General)

❑ The Tax Arrears Settlement Scheme ("TASS")

The TASS will be extended for an additional year, providing for a full waiver of penalties and interest where tax due and payable under the Income Tax Act, Value Added Tax Act and the Gambling Regulatory Authority Act is paid (in full) before 31 March 2025, provided the taxpayers have applied prior to 31 December 2024.

❑ The Arrears Payment Scheme ("APS")

The APS under the Registrar General Department will be re-introduced for an additional year, providing for a full waiver of penalties and interest where for a debt which is paid (in full) before 31 March 2025. This scheme will be applicable to tax arrears due as at 31 May 2024.

❑ Statement of financial transactions

Banks must include information on deposits made by a bank account holder to credit or prepaid card accounts in statements submitted to the Mauritius Revenue Authority (MRA) enhancing monitoring and tracking of financial transactions.

❑ Captive insurance

The 8-year income tax holiday for captive insurers applies from the start date of the company's activities (it previously applied as from the start of the Captive Insurance Act).

❑ Assessment period

The MRA will now be empowered to make an assessment over a maximum of 4 years prior to the taxable period of submission as opposed to 4 years prior to the taxable period of liability. This will allow the MRA sufficient time to examine a late return.

TAX MATTERS

TAX ADMINISTRATION (Income Tax)

❑ Partial Exemption Regime

- Robotic and AI Enabled Advisory Services Licence: 80% exemption for companies holding relevant licenses, provided they meet substance requirements.
- Closed-end Funds: Extends 80% exemption to income from sale of money market instruments and debt instruments. This announcement is puzzling to say the least since such instruments should already fall within the definition of “securities” and income derived from the sale of such instruments therefore already exempt.
- CIS Administrators: Clarifies non-applicability of 80% exemption to income derived from the provision of administrative services by a management company to a CIS licence holder.

❑ E-Publication

Refinement of the timeframe for publishing names of companies that do not submit returns.

❑ Amended Returns

Taxpayers cannot submit amended returns if they have an objection with the MRA or representations before the Assessment Review Committee.

❑ Sharing of information

The MRA can share information on financial assistance schemes with the Ministry of Finance and anonymised data on emoluments and income with Maurice Stratégie for research on inequality and poverty.

TAX MATTERS

TAX ADMINISTRATION (Customs Act)

- ❑ Importers importing goods on behalf of another person entitled to tax exemption must submit required documents within a statutory timeframe or face taxes and penalties, except for reasonable delays.
- ❑ Penalty deferral for failure to submit a Bill of Entry for clearance of good or to amend same to make necessary amendments within 5 working days of aircraft landing or vessel berth, until 30 June 2026.

TAX ADMINISTRATION (Customs Tariff Act)

- ❑ Duty waiver for total loss vehicles: allows waiving remaining duties on duty-exempted vehicles declared total loss due to natural disasters.
- ❑ Duty exempt vehicle replacement: allows replacement of a duty-exempt vehicle with another exempted vehicle within the same exemption period if remaining proportionate duties on the current vehicle are reimbursed.

TAX MATTERS

TAX ADMINISTRATION (Excise Act)

❑ New legislative framework

- Anti-forestalling measures: introduction of measures to prevent tax avoidance through bulk clearing of excess quantities of cigarettes from customs before tax increases.
- Newly introduced definition of golden rum: rums defined as placed in wooden casks for a period of not less than 2 years.

❑ Other measures

Beverages

- Introduction of a definition for “can” to cover all metal cans in relation to the MUR 2 excise duty per unit.
- MRA to issue a Certificate of Age for imported matured rum that has undergone at least one year of local maturation.
- Elimination of the restriction that matured rum must be bottled in containers not exceeding one litre.
- Granting an allowance for a deficit of up to one percent during the bottling process of imported alcoholic products.

Electric vehicles

- Allowing refunds of MUR 200,000 for imported electric vehicles beyond the 30-day statutory period if the delay is due to a reasonable cause.

Remittance timeframe

- Aligning the remittance timeframe to 28 days for repayments of erroneous remissions, exemptions, refunds, or reductions of excise duty.

Physical stocktaking

- Manufacturers of alcoholic products and sugar-sweetened products must carry out physical stocktaking within one month after the end of a 12-month period and submit a certified statement to the MRA.

TAX MATTERS

TAX ADMINISTRATION (Mauritius Revenue Authority Act)

- ❑ Declaration by employees of MRA
 - Employees of MRA shall be required to make a number of declarations as part of their declaration of assets form.
- ❑ E-Tax account
 - Where a notice is sent by the MRA to the e-tax account of a taxpayer, the notice will be deemed served on the date it was sent, provided that the taxpayer is also informed of this notice through SMS and email.

TAX ADMINISTRATION (Registrar General Department)

- ❑ Registration duty levied on the registration of a power of attorney authorising the sale of a pleasure craft will be aligned with the rate applicable on transfer of ownership.
- ❑ An individual lender will be required to make a declaration in the formal deed of loan to the effect that he/she is not involved in the business of moneylending as regulated by the Financial Services Act.
- ❑ Clarification that the registration duty levied when immovable property is brought as equity participation in a company will be based on the difference between the value of the property (at transfer) and the value of the shares held.
- ❑ Explicitly allows the Registrar-General to inscribe a privilege on the immovable property of a debtor upon return as undelivered of a notice for additional duty.
- ❑ Clarification of the definition of effective change of ownership which will occur in the case of a change of more than 10% of shareholding.

GAMBLING

Gambling Regulatory Authority Act

❑ Quarterly payment facilities

- It is proposed that the Gambling Regulatory Authority Act be amended to provide for quarterly payment facilities to bookmaker licence and totalisator operator licence holders.

❑ Horseracing

- The Horse Racing Division will now be empowered to charge certain fees from trainers and jockeys for the purposes of conducting certain categories of testing.

❑ Gaming machine operators – continuous operations

- It will be made mandatory for gaming machine operators, limited payout operators and hotel casino operators to maintain all gaming, limited payout, jackpot system machines operating on a 24/7 basis for continuous online connection with the Central Electronic Monitoring System, except for pre-authorized maintenance periods.

CORPORATE MATTERS

COMMENTARY

- ❑ This Budget Speech, similar to last year's edition was moderate in terms of corporate and financial services matters.
- ❑ There are a few unexpected announcements nonetheless and some welcome ones.
- ❑ The extension of the protection afforded to prejudiced shareholders of domestic companies to global business corporations and authorised companies is a notable measure.
- ❑ In addition, the Government is continuing to promote the virtual assets sector with measures such as the exemption from tax on income from the sales of virtual assets and virtual tokens.
- ❑ The Government is also continuing its pathway towards the digitalisation of more services.
- ❑ We also note measures announced with a view to revitalise the financial services sector but again perhaps with more bark than bite.

COMPANIES ACT

The Companies Act ("CA") will be amended to cater for the following changes as set out below.

- ❑ Submission of a copy of the constitution as part of an application for incorporation for a company limited by guarantee.
- ❑ Clear provisions relating to the duties of a company secretary nominated by a one-person company.
- ❑ A requirement that the board of a company notifies the Registrar of Companies ("ROC") on the resignation of a director or of the company secretary – the text is not clear as section 142 of the CA in its current version already provides for such a requirement – the text of the Finance (Miscellaneous Provisions) Bill 2024 will hopefully shed more light on this proposed amendment.
- ❑ Ensuring that the administrator appointed for the winding up of a limited life company complies with the provisions of the Insolvency Act – currently, section 290 of the CA provides that in certain winding up scenarios for a limited life company, an administrator shall be appointed for the purposes of the winding up. Section 290 of the CA goes on to state that an administrator need not be a registered insolvency practitioner under the Insolvency Act, but shall be a natural person. Section 290 of the CA conflicts the provisions of the Insolvency Act on voluntary winding up of limited life companies since the appointment of a liquidator, who needs to be an insolvency practitioner is required.
- ❑ For an application for the removal of a global business corporation from the register of the ROC, the prior no objection of the Financial Services Commission will be required.
- ❑ Fees payable to the ROC shall be paid at the time of submission of any document or at the time of a request.
- ❑ Extending the protection regarding prejudiced shareholders and alteration to constitution (sections 178 and 179 of the CA) to global business corporations and authorised companies, unless the constitution of those companies provides otherwise – currently the protection under those sections are excluded for shareholders of global business corporations and authorised companies and this comes as a welcome amendment to protect investor rights.

FINANCIAL CRIMES COMMISSION

The Financial Crimes Commission Act will be amended as follows:

- ❑ The definition of “sporting event” will be extended to include a horse race or football match which takes place in Mauritius or outside Mauritius.
- ❑ The Financial Crimes Commission (“FCC”) can start new investigations in relation to an offence committed, under the Prevention of Corruption Act and the Financial Intelligence and Anti-Money Laundering Act, prior to the commencement of the Financial Crimes Commission Act.
- ❑ Only the Director of the Investigation Division will, in respect of a preliminary investigation, report to the FCC on the matter given that the Asset Recovery and Management Division does not investigate into offences falling within the ambit of the Financial Crimes Commission Act.
- ❑ Alignment of the Financial Crimes Commission Act with recommendation 38 of the Financial Action Task Force methodology, which requires confiscation of proceeds of crime and such property of corresponding value.

REGISTRATION OF ASSOCIATIONS ACT

- ❑ Domestic associations will have only members resident of Mauritius.
- ❑ Now a copy of the national identity card or passport and a copy of the certificate of character of not less than 3 months of each officer shall be submitted together with an application for registration of an association for AML/CFT purposes and to ensure that undischarged bankrupts or persons convicted for fraud or dishonesty cannot be officers of an association.
- ❑ An employee of an association, be it on full time or part time basis cannot also be an officer of an association. As per the current version of the Registration of Associations Act (the "RAA"), an officer of an association is a person forming part of a committee or is an auditor or secretary of an association.
- ❑ The RAA will be streamlined to facilitate health related NGOs.
- ❑ In view of decreasing administrative burden, the secretary of an association will no longer be required to deposit with the Registrar of Associations an original document of the security bond furnished by an officer since such document is already available in the database of the Registrar General's office.

VIRTUAL ASSETS AND INITIAL TOKEN OFFERING SERVICES

Taxation of virtual assets and tokens

- ❑ A welcome amendment under the Income Tax Act is the extension of the inclusion of income derived from the sale of securities to cover the sale of virtual assets and virtual tokens.

Senior executive

- ❑ The Virtual Assets and Initial Token Offering Services Act 2021 (“VAITOS”) is proposed to be amended to make it compulsory for a virtual asset service provider to appoint a senior executive at all times. Such senior executive shall be duly approved by the Financial Services Commission, Currently, there is no requirement to have such a person appointed.

Expert Occupation Permit

- ❑ A 10-year expert occupation permit will also be introduced to attract foreign talents in the sector of virtual assets and virtual tokens.

DOING BUSINESS IN MAURITIUS

Digitalisation of public services

- ❑ Onsite e-filing facilities during working hours will be offered by the Corporate and Business Registration Department
- ❑ Electronic payments for services will be accepted by local authorities
- ❑ Number of licenses to be delivered electronically to be doubled within the next 3 years
- ❑ Centralised e-KYC will be extended to the global business sector

Economic Development Board incentives

- ❑ Support for conferences and workshops attracting more than 12 countries and a minimum of 40 participants to increase visibility in Africa
- ❑ Investment Certificate will now include pre-primary schools in addition to primary, secondary and tertiary schools

NON-CITIZENS

Leasehold rights

- ❑ A foreign entity will now be allowed to hold an immovable property under a non-renewable lease agreement for industrial or commercial purposes for a term not exceeding 30 years.
- ❑ In its current iteration, the Non-Citizen (Property Restriction) Act allows for a foreign entity to hold a lease for a non-renewable lease agreement for industrial or commercial purposes for a term not exceeding 20 years .

Non-Citizen (Employment Restriction) Act

The Non-Citizen (Employment Restriction) Act will be amended to establish clear criteria in determining an application for work permit as complete. The Ministry of Labour, Human Resource Development and Training will further be able to issue work permit in different forms, including work permit card as may be required.

OTHERS

SMEs

The following measures have been announced for SMEs:

- ❑ Payment of full salary compensation of up to Rs.2,000 for SMEs up to December 2024
- ❑ 10% rebate on DBM rental for SMEs in productive sectors for 2 years
- ❑ Writing off of loans which will become outstanding for more than 20 years as at June 2025 and loans of deceased micro entrepreneurs at DBM
- ❑ Increase in the maximum yearly refund to Rs.500,000 under the Participation in International Fairs SME Refund Scheme
- ❑ Waiving 50% of rental arrears of over 5 years at DBM if settled by June 2025

Other Measures

- ❑ Portability of bank accounts
- ❑ Modernisation of alternative dispute resolution
- ❑ Electronic availability of the Government Gazette and legislations by December 2024
- ❑ Increase in the maximum yearly refund to Rs.500,000 under the Participation in International Fairs SME Refund Scheme
- ❑ Waiving 50% of rental arrears of over 5 years at DBM if settled by June 2025

FINANCIAL SERVICES SECTOR

Charging of additional fees

- ❑ The following legislations will be amended to allow the Financial Services Commission (“FSC”) to levy fees for post-licensing matters such as appointment of officers and functionaries:
 - The Captive Insurance Act
 - The Financial Services Act
 - The Insurance Act
 - The Private Pension Schemes Act
- ❑ Processing and annual licence fees payable by licensees of the FSC will be increased.

Turn – around times

- ❑ It has also been announced that the FSC will:
 - Implement new processes to reduce turn-around time for investor queries and licence applications; and
 - Establish a timeframe to process specific licenses and once the timeframe is near expiry, the application for such licences will be channelled to a fast-track sub-committee for the issuance of the licence.
- ❑ The FSC will streamline its licences and permits to ensure they are granted within 10 working days, subject to all requirements being met.
- ❑ Although those announcements are most welcome by the industry, it remains to be seen in practice how effective and efficient the measures to be put in place will indeed reduce turn-around times given that this is a major issue that the industry has been facing for quite some time.

FINANCIAL SERVICES SECTOR

❑ Financial Services Act

The Financial Services Act will be amended to –

- require the chief executive to make appropriate annotations in the register with respect to a licensee where the licence is suspended or terminated;
- introduce timeframes for the processing of licenses falling under the regulatory purview of the FSC;
- impose a requirement on qualified trustee to provide such information at the request of the FSC (although it is unclear precisely what information may be required);
- empower the chief executive to appoint an investigator;
- enable the chief executive to refer, to the enforcement committee, past matters where licensees have carried out their businesses in a manner which threatens the integrity of the financial system of Mauritius or is contrary or detrimental to the interest of the public or in case of financial crime;
- set the timeframe of 6 months after closure of its financial year for an authorised company to file with the FSC its financial summary, accounts, financial statements or returns; and
- allow the chief executive to issue directions to authorised companies and corporations holding a global business license.

❑ Further amendments

It has also been announced that –

- the funds regime will be reviewed to enhance the attractiveness of the jurisdiction; and
- the blueprint for the financial services sector will be reviewed in light of new opportunities, challenges and threats.

FINANCIAL SERVICES SECTOR

❑ Financial Reporting Act

The Financial Reporting Act will be amended to -

- exclude authorised companies, licensed under the Financial Services Act, from the definition of public interest entities;
- provide for renewal of membership for registered professional accountants; and
- provide that public interest entities will pay an annual subscription fee to the national committee on corporate governance for services being rendered by the committee.

BANKING

❑ Bank of Mauritius Act

The Bank of Mauritius Act will be amended to further strengthen the operational independence of the Central Bank to deliver on its mandate of monetary policy, financial stability and as a regulator.

❑ Banking Act

The Banking Act will be amended to –

- re-align the reference to central bank throughout the Banking Act;
- review the terms for the appointment of the firm of auditors for branches or subsidiaries of a foreign bank as may be determined by the Bank of Mauritius (BOM);
- provide that a director or senior officer or employee of any financial institution cannot, at the same time, be a director or senior officer or an employee of a licensee under the National Payment Systems Act, except with the approval of the BOM; and
- remove the timeframe of at least 24 hours within which a financial institution has to give notice to the public before the day on which it proposes to transact business with the public when that day is a bank holiday or a public holiday.

PENSIONS ACT AND SOCIAL CONTRIBUTION

❑ Pensions Act

Under the amendments to be brought under the Pensions Act-

- In the case of a public officer appointed before 01 January 2013 and who dies while in service, the share of contributions that the officer has made until date of his death will be refunded to his heirs. The effective date of this amendment is 01 January 2021; and
- In the event of the demise of a pensioner, the payment of a death gratuity will be effected to his surviving spouse or, if there is no surviving spouse, to his legal personal representative.

❑ Social Contribution and Social Benefits Act

- The Social Contribution and Social Benefits Act will be amended to increase the amount of retirement benefit as from 01 January 2024 from MUR 1,000 to MUR 2,500 for a person aged 75 years or above.

EMPLOYMENT

□ Parenthood

The Budget Speech recognises the challenges of parenthood and those of balancing work and family life. This acknowledgment sets the tone for advocating additional support for parents to achieve a healthier work-life balance. The Workers' Rights Act 2019 will therefore be amended to include provisions inter alia for the following:

- The length of paid leaves for maternity will be increased from 14 to 16 weeks.
- 2 additional weeks will be provided for mothers who give birth to twins or triplets (or more) or to a premature baby.
- Expecting mothers will benefit from a grant of MUR 3,000 upon completing 6 mandatory checkups.
- A maternity allowance of MUR 2,000 for 9 months will be provided to expecting mothers as from third trimester of pregnancy.
- The length of paid leaves for paternity will be increased 1 to 4 weeks.
- Workers on maternity or paternity leaves shall not be discriminated in respect of career development or promotion opportunity.
- Ensuring job security for workers on maternity or paternity leave by establishing provisions that prohibit termination under such circumstances.
- More flexible working arrangements allowing a worker the option to take time-off instead of being paid overtime.
- Regulations to be made to streamline the process for providing childcare facilities to employees with children not older than 3 years, specifically targeting employers with a workforce exceeding 250 workers.
- Companies investing in corporate nurseries shall benefit from a tax credit of 25 percent on the cost.

EMPLOYMENT

❑ Extreme weather conditions

Over the past few years, the country has encountered an increased frequency of extreme weather conditions. Worker required to work in extreme weather conditions such as heavy rainfall or safety bulletins will now be entitled to similar allowance paid during cyclone warning class III and IV.

❑ Labour contractor

To effectively align labour demand with supply and facilitate labour management within enterprises, while concurrently enhancing the protection of workers' rights, the following measures have been announced:

- In sectors to be prescribed, a labour contractor will be able to recruit and supply migrant workers to enterprises. It has not been identified which types of enterprises will qualify to engage services of a labour contractor.
- The labour contractor shall be the employer and provide for remuneration, conditions of employment and food and accommodation.
- The labour contractor and the hirer employer shall however both be liable in case of any non-compliance with the law.

❑ Enhancing workplace conditions

In view to support workers' health and promoting a more balanced work-family dynamic, it has been announced that worker working from home and performing excessive hours of work will be granted the right to disconnect, while still considering business needs and emergencies. The conditions to such right have not been ascertained as of yet.

In the same vein, measures will be taken for the refund of vacation leave to avoid penalising workers who are unable to take their vacation leave due to work demands.

EMPLOYMENT

❑ Minimum Wage

- The Budget Speech has raised the minimum wage threshold from MUR 18,500 to MUR 20,000 for full-time workers and this as from 1st July 2024.
- The Government will provide compensate the increase in minimum wage and salary compensation of 2024 in the textile industry.
- The Government will equally support SMEs by paying the full salary compensation of up to MUR 2,000 for SMEs up to December 2024.

❑ Repatriation of migration workers

An employer shall notify the supervising officer of the responsible ministry for a proposed repatriation of migrant workers. The aim of such measure is to protect migrant workers against human trafficking and to ensure that the migrant workers have been duly paid. This will equally improve the authorities' oversight over workers whose work permits have expired.

EMPLOYMENT

❑ Industrial Court Act

In an effort to protect public officers, the Industrial Court Act will be amended to include measures protecting officers from liability, ensuring that no criminal or civil action can be initiated against them for acts done or omitted in good faith during the conduct of criminal or civil proceedings.

❑ Employment Relations Act

In line with the International Labour Organisation (ILO) Convention 87 on “Freedom of Association and Protection of the Right to Organise”, the domestic legislation will be amended to provide that a migrant worker in an employment relationship is eligible to become a member of a trade union.

Among the measures announced, the Employment Relations Act is proposed to be amended to cater for the following:

- Staff of Ministries and government departments will be able to join only one union of his choice so as to avoid double counting in membership.
- Specific benefits to be applicable for a specific period of time for more flexibility in the collective bargaining process.
- The Conciliation and Mediation service of the responsible ministry shall conduct conciliation or mediation only in circumstances where, during the collective bargaining process, the parties have negotiated in good faith and there has been a deadlock.
- The period for determination of reinstatement cases shall be extended from 60 to 90 days allowing the Employment Relations Tribunal sufficient time to effectively process the cases.
- The period for an employer to submit relevant documents related to recognition of trade unions shall be extended from 10 to 20 days to give the Employment Relations Tribunal sufficient time to determine recognition of trade unions

MISCELLANEOUS

❑ Law Practitioners Act and Institute for Judicial and Legal Studies Act

The Law Practitioners Act will be amended to make it mandatory for any law practitioner or legal officer to every year participate in a Continuous Professional Development Programme for at least 12 hours, including 2 hours on ethics, and to provide for matters connected and related thereto.

The 12-hour requirement is already provided for under the Institute for Judicial and Legal Studies (Continuing Professional Development Programme) Regulations 2012.

❑ Competition Act

Appeals before the Supreme Court of Mauritius against any ruling, decision, order or direction of the Competition Commission will now be allowed (previously appeals appeared to be limited to order or directions).

❑ Fair Trading Act

The Minister of Commerce and Consumer Protection will now be allowed to make regulations relating to:

- Mediation and dispute resolution; and
- E-commerce and digital marketplace – to ensure compliance with fair trading practices and enforcement of consumer protection measures

Disclaimer

The information provided in this legal alert is for general information purposes only. It is not intended to provide legal advice or opinion of any kind. Please refer to your professional advisors for specific advice.

About Prism Chambers

Prism Chambers is a full-service business law firm based in Mauritius and which specialises in all aspects of revenue law.

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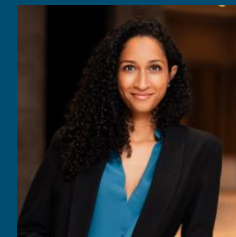
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