



FINANCE BILL 2022: AN OVERVIEW FOR BUSINESSES



Introduction

Port Louis, 25 July 2022

On 22 July 2022, the Cabinet approved the introduction of the Finance (Miscellaneous Provisions) Bill 2022 into the National Assembly. The object of the Bill is to provide for the implementation of the measures announced in the Minister of Finance's Budget Speech 2022-2023. The Bill will be debated and voted at the National Assembly in the coming weeks.

This note highlights the main proposals that the Bill puts forward and that are most relevant for the business community. In particular, it focuses on the proposed changes that concern the financial and operational aspects of businesses. This note does not cover every aspect of the Bill, nor does it amount to legal or other advice.

The partners are also grateful to the firm's associates, pupils and interns for their valuable contribution to this publication over the past weekend.



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Areas covered

Income Tax & VAT
Employment
Corporates
Banking
Financial Services
Real Estate
Regulatory & Compliance
Miscellaneous



Income Tax & VAT



Global Minimum Tax

In the Budget Speech, the Finance Minister announced his intention to introduce a domestic minimum top-up tax to ensure that resident companies of larger multinationals are taxed at a minimum rate of 15%. The Bill proposes to introduce this tax on a date that remains to be decided. The tax will be imposed in accordance with the Global Anti-Base Erosion Rules (the GloBE Rules) developed by the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting (BEPS). It concerns large multinational enterprise groups (with a turnover of more than EUR 750 million).

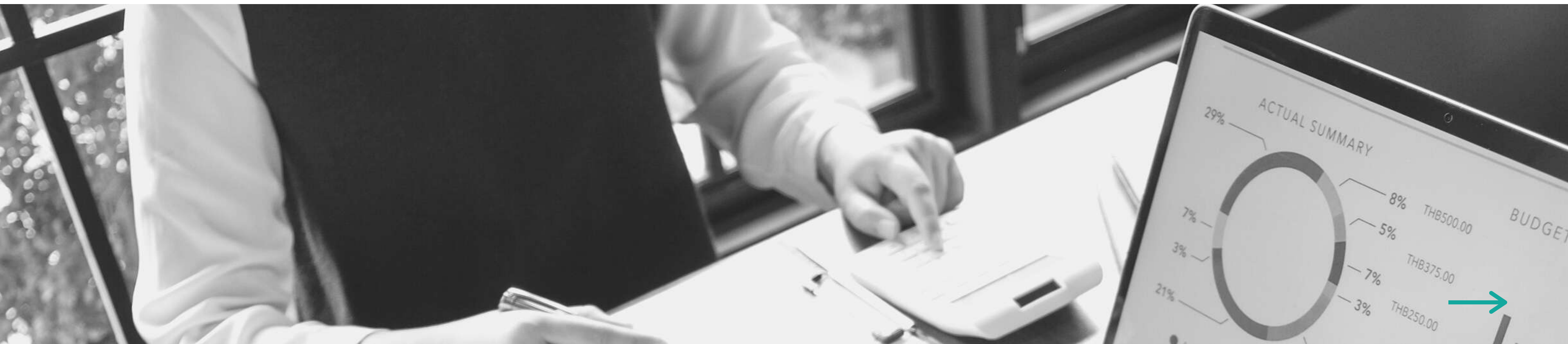
Tax on foreign employer of premium visa holder

In 2020, Mauritius introduced the premium visa, allowing non-citizens to work remotely from Mauritius for their foreign organisations for a 1-year period. Where the premium visa holder's income is remitted in Mauritius, it is deemed to be derived in Mauritius and therefore taxed in Mauritius. The Bill does not propose to change the tax status of premium visa holders. However, it proposes to also impose tax on the foreign employer (whose core business activities are outside Mauritius) in respect of the gross income attributable to the work performed by the premium visa holder in Mauritius.



Angel investor allowance

The Bill proposes to grant a tax relief to an angel investor who invests a minimum of MUR 100,000 as equity in an SME that is set up on or after 01 July 2022. The angel investor will be entitled to a tax relief of 50% of the amount invested, provided that he holds the shares in the SME for at least 36 months and does not, together with his relatives, hold more than 25% of the share capital in the start-up SME. The total tax deduction in an income year will be capped at MUR 500,000, but any unrelieved amount may be carried forward and deducted against the investor's net income of the 2 succeeding years. The terms and conditions of the tax relief, as well as the eligibility criteria of the angel investor and start-up SME, are not defined in the Bill – they will need to be set out in regulations.





Tax relief on products manufactured locally by SMEs

In 2021, Mauritius introduced a tax incentive to encourage large businesses to buy locally manufactured products. The incentive applied to a manufacturing company whose annual turnover exceeded MUR 100 million in an income year. Where that large company bought products manufactured locally by SMEs (that is, companies whose turnover did not exceed MUR 50 million), the large company was allowed an additional 10% of the purchase expense as tax deduction.

The Bill proposes to allow the large businesses to benefit from the tax relief on the expenditure incurred in purchasing products manufactured locally by SMEs whose turnover do not exceed MUR 100 million (as opposed to MUR 50 million only), retrospectively from 1 July 2021. The Bill also proposes to increase the tax relief from 10% to 25% of the expenditure incurred from 1 July 2022.



Exempt income

The Income Tax Act currently provides that transport allowance payable to an employee is exempt from income tax up to 25% of the monthly basic salary or MUR 11,500, whichever is the lower. The Bill proposes to increase the exemption to 25% of the monthly basic salary or MUR 20,000, whichever is the lower.

The Bill also proposes to exclude tax on the following income:

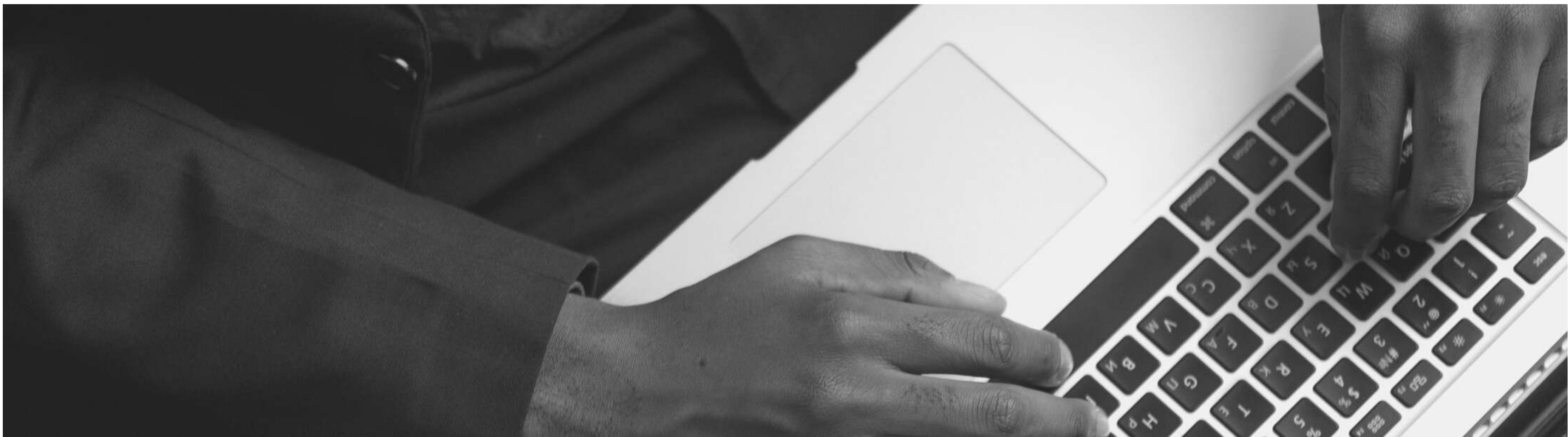
- Income derived by a person using an innovative agricultural method under the Integrated Modern Agricultural Morcellement Scheme administered and managed by the EDB during 8 succeeding income years as from the income year in which the person starts the activity.
- Income derived by a person engaged in sustainable agricultural practices and registered with the EDB during 8 succeeding income years as from the income year in which the person starts the activity.
- Income derived by a freeport operator or private freeport developer, provided that it has started its operations on or after 1 July 2022, it has invested not less than MUR 50 million in its operations and it satisfies such conditions relating to the substance of its activities as may be prescribed. The exemption applies for a period of 8 succeeding income years as from the income year in which the company started its operations.
- Social contribution income allowance received by a person under the Social Contribution and Social Benefits Act 2021.



Value Added Tax (VAT)

E-Invoicing System

The Bill proposes to cause the MRA to set up an e-invoicing system that would allow a business to (a) connect electronically to the system for registering thereon all invoices, including debit notes and credit notes, generated in the furtherance of the business, and (b) issue fiscal invoices, that is, receipts or invoices to customers to acknowledge the occurrence of transactions. The MRA may require certain businesses to issue such fiscal invoices to their customers, in which case the businesses will need to acquire the relevant equipment and software for that purpose. Regulations will be made to set out the businesses to which the e-invoicing system will apply.



Value Added Tax (VAT)

VAT deduction at source by public sector agency

The Bill proposes to require a public sector agency (i.e. a Ministry, a Government department, a local authority, a statutory body or the Rodrigues Regional Assembly) to deduct VAT at source when making payments to VAT-registered persons, and remit the amount deducted to the MRA. The deduction is made in respect of the following contracts at the rates set out below.

- Goods and services procured under a single contract and where the payment, exclusive of VAT, exceeds MUR 300,000: deduction of 40% of VAT amount.
- Goods procured under a contract and where the payment, exclusive of VAT, exceeds MUR 100,000: deduction of 30% of VAT amount.
- Services procured under a contract and where the payment, exclusive of VAT, exceeds MUR 30,000: deduction of 60% of VAT amount.





Value Added Tax (VAT)

Refund of VAT to certain persons

The VAT Act currently provides that a planter or horticulturist, who is not required to be VAT-registered, may apply for a refund of VAT paid on certain equipment and services. The Bill proposes to provide that refund only to a planter, group of small farmers having an annual turnover not exceeding MUR 10 million, or a horticulturist, provided that they are registered with the Small Farmers Welfare Fund or as a co-operative society under the Co-operatives Act.

The VAT Act also currently provides that an event organiser registered with the EDB may apply for refund of VAT in respect of accommodation costs incurred by visitors attending an event. Among other conditions, the event should be attended by at least 100 visitors for the refund to apply. The Bill proposes to make the refund available in respect of events that are attended by at least 50 visitors (instead of 100 visitors).

Further, the VAT Act currently provides for the refund of VAT on residential building, house or apartment where the cost of the construction or purchase price does not exceed MUR 3 million (among other conditions). The Bill does not propose to change this condition where the construction started, or the purchase was made, before 31 July 2022. Conversely, where the construction has started, or the purchase is made, after 31 July 2022, the Bill proposes to remove this condition of eligibility and replace it with the condition that the floor area of the residential building, house or apartment does not exceed 1,800 square feet.



Employment



Freelancers / service providers

A major change proposed by the Bill is the enlargement of the definition of “worker” to include a person, other than a consultant, who performs the same or similar work of a comparable worker employed in the same enterprise or industry, and this whether he is called a “service provider” or by any other such name, and whether or not he holds a business registration number.

The Bill also proposes to amend the definition of an ‘atypical worker’ to include a person who is classified by an employer as a service provider (or by any other such appellation) and this whether or not he holds a business registration number, but who performs personally the same or similar work of a comparable worker employed in the same enterprise or industry on a standard agreement.

In parallel, the Bill proposes to exclude a consultant from the ambit of an “atypical worker”.



Cyclone warning class III or IV

The Bill proposes that where, by the nature of the operation of an undertaking where he is employed, the worker is required (i) to work on the employer's premises, (ii) from home or (iii) at any other place where he has been assigned duty or (iv) to remain at the employer's premises, on a day on which a cyclone warning class III or IV is in force, the worker shall, in addition to any remuneration due to him, be entitled to (a) an allowance equal to 3 times the basic rate per hour in respect of every hour of work performed and (b) adequate free meals (except where he is working from home).

Adequate free meal

The Bill proposes to extend the right of a worker to an adequate free meal (or be paid a meal allowance) where he is required to perform a normal day's work of at least 10 hours.

Petrol allowance

Where a worker is granted a petrol allowance by an employer, the Bill proposes that the allowance payable as from 1 July 2022 shall be at least 10 per cent higher than the allowance payable in December 2021, but up to a maximum increase of MUR 2,000.

Sick leaves

Under the current law, a worker can accumulate up to 90 days of sick leaves not taken. The Bill proposes to remove this limit.

Sick child

The Bill proposes to grant to a worker up to 10 days' paid leave per year to care for his sick child, to be reckoned, at his option, against certain of his paid leave entitlements.





Termination of employment

- The Bill proposes that an employer be prohibited from terminating the employment of a worker if the latter's performance at work has been affected as a result of an injury sustained out of and in the course of work.
- The Bill proposes to provide that a worker who is given an opportunity to answer a charge (whether of misconduct, misconduct which was subject to criminal proceedings or poor performance) may do so either (a) in writing, (b) in an oral hearing, or (c) in an oral hearing following his written explanations.
- The Workers' Rights Act provides for circumstances in which an employer may terminate an employee's employment for misconduct that is the subject of criminal proceedings. The Bill proposes to specify that the termination must be in relation to a situation where at the time that the employer becomes aware of the conviction of the worker by the court of first instance, the worker was in employment or under suspension.

Compromise agreement

- The Bill proposes to amend the Workers' Rights Act to provide that a compromise agreement relates to an agreement on the amount of compensation or other related payments, by whatever name called, paid following a termination of employment, or the amount of remuneration payable in a case of short payment or non payment of wages.





Reinstatement

The Employment Relations Act currently provides that a dispute relating to the termination of employment may be referred to the Commission for Conciliation and Mediation (CCM) and/or the Employment Relations Tribunal (ERT) where the termination is effected in specific circumstances, namely:

- (a) discrimination;
- (b) maternity leave or absence for nursing an unweaned child;
- (c) temporary absence because of injury sustained at work or sickness duly notified to the employer and certified by a medical practitioner;
- (d) trade union membership or activities;
- (e) whistleblowing; or
- (f) exercise of any of the worker's statutory or contractual rights.

The Bill proposes to remove disputes relating to termination of employment in the above circumstances from the ambit of disputes to be referred to the CCM. Nor can parties directly refer such disputes to the ERT. Instead, the Bill proposes to introduce a new provision in the Workers' Rights Act setting out that a worker, whose employment has been terminated for any reason, other than for the purposes of reduction of workforce or closure of enterprises, may instead of claiming severance allowance, register a complaint with the supervising officer of the Labour Office to claim reinstatement. The supervising officer may refer the matter to the Employment Relations Tribunal if he is of the opinion that the worker has a bona fide case for reinstatement.





Redundancy

- The Bill proposes that the Redundancy Board be empowered to make an order for an employer not to reduce his workforce or close down his enterprise where the Board finds that the reasons for notification are unjustified.
- The Bill proposes that where an employer and an employee reach a settlement agreement following mediation and conciliation services provided by the Redundancy Board, such an agreement may be enforced in the same manner as an order of the Industrial Court.



Portable Retirement Gratuity (1/3)

Application

In the context of the PRGF, the Bill proposes:

- to amend the definition of “appropriate retiring age” to add certain circumstances where an employee has retired before the age of 60, namely for health-related reasons; and
- to amend the definition of “self-employed” to include a person who works for his own account and employs up to 5 workers (the current legislation provides that the PRGF scheme is available only to a self-employed person who does not employ any worker).



Minimum rate of contribution to private pension schemes

- The Bill proposes that where a worker’s retirement benefits are payable in accordance with a private pension scheme, the employer’s contribution to the private pension scheme must not be less than the rate of contribution under the PRGF. Otherwise, the employer will not be exempt from making the contributions to the PRGF.
- The Bill proposes that an employer who makes a contribution into the Sugar Industry Pension Fund or other pensions set up by the Sugar Industry Pension Fund Act be required to make at least the same rate of contributions into that pension fund as under the PRGF.
- The Bill proposes to criminalise an employer’s failure to comply with the above requirements relating to the minimum rate of contribution to a private pension scheme or fund. An accused shall on conviction be liable to a fine of not less than MUR 50,000 and not exceeding MUR 150,000 and to a term of imprisonment not exceeding 12 months.



Portable Retirement Gratuity (2/3)

Contributions for past services

- With regard to contribution for past services, the Bill proposes to clarify that where a worker’s employment is terminated, the contributions for past services must be paid as from the date of commencement of the employment with the employer. Conversely, in the case of a worker who has resigned, the contribution for past services should only be paid in respect of the period commencing on 01 January 2020. Such payments are to be made to the Director-General not later than one month after the date of termination of employment or the date of resignation of the worker.
- The Bill proposes that where a worker retires or dies, an employer must instead of paying contributions for the past services of the worker to the MRA, make that payment directly to the worker (in the case of his retirement) or his legal heirs (in the case of his death). The payment must be made by no later than the last day of employment, or where it is made to the legal heirs or representative of a deceased worker, on submission of relevant legal documents.
- The Bill proposes that where the employer had insured the worker in a private pension scheme, in the Sugar Industry Pension Fund or in any other pension fund set up under the Sugar Industry Pension Fund Act on or after the 01 January 2020 but contributions were not made to the relevant pension scheme or fund from the period commencing on the date the worker was employed up to the date preceding the date when the worker was insured in the scheme, such employer shall make pension contributions in respect of a worker’s past services.



Portable Retirement Gratuity (3/3)

Other changes

- The Bill proposes a new payment structure of the PRGF gratuity. For the period from the start of employment and until up to 2 months prior to the date of retirement, 90% of the accumulated fund is paid on the date of retirement. The balance is to be paid 2 months following the retirement of the worker.
- The legislation already provides that an employer shall, not later than one month after the cessation or termination of employment, change of employment, retirement or death, of a worker, give written notice of the occurrence to the MRA. The Bill proposes to criminalise the failure of an employer to do so and upon conviction to be liable to a fine of not less than MUR 50,000 and not exceeding MUR 150,000 and to a maximum imprisonment term not exceeding 12 months.
- The Bill proposes that an employer will no longer be liable to a surcharge fee if it fails to submit (i) monthly returns and (ii) a yearly report to the MRA in respect of the PRGF requirements.



Sexual harassment

The Bill proposes to amend the definition of “sexual harassment” in the Workers' Rights Act to align it with the definition provided by the Equal Opportunities Act, i.e.:

- “(1) A person sexually harasses another person where, in circumstances in which a reasonable person would have foreseen that the other person would be humiliated, offended or intimidated, he –
- (a) makes an unwelcome sexual advance, or an unwelcome request for a sexual favour, to another person; or
 - (b) engages in any other unwelcome conduct of a sexual nature towards another person
- (2) For the purposes of subsection (1)(b), "conduct" includes making or issuing an unwelcome oral or written statement of a sexual nature to a person or in the presence of a person.”

Employee complaints

The Bill proposes that where a worker makes a complaint to the supervising officer against his employer or any agent of the employer in respect of any matter arising out of his employment, the supervising officer may refer the complaint to the CCM. The Bill proposes to extend the functions of the CCM in that respect.



Trade Union

Where any officer or negotiator of a recognised trade union has a right to enter an employer's premises for purposes related to employment issues in respect of its members, the Bill proposes to require the employer to submit to the trade union officer or negotiator information regarding wages and conditions of employment in respect of the relevant workers.



Training levy

The Human Resource Development Act (HRD Act) currently requires employers to pay a training levy in respect of their employees, other where they are employed by a private secondary school and a charitable institution.

The Bill proposes to also exclude from the application of the HRD Act, non-citizen employees who are not tax residents or who hold a premium visa.

The Bill also proposes to allow a charitable institution to irrevocably elect to pay a training levy, which will consequently allow the charitable institution to recover up to 75% of the training costs incurred in the enhancement of the skills of their workforce.

Private Pension Schemes

The Private Pension Schemes Act currently provides for the conditions under which a member may be transferred from one private pension scheme to another. The Bill proposes to also allow the transfer of a member from one private pension scheme to another person (not being another private pension scheme), subject to conditions to be specified in the FSC Rules. It is understood from the Annex to the Budget Speech that what is envisaged by this proposal is the transfer of a member from a private pension scheme to the Portable Retirement Gratuity Fund.

National Savings Fund

The National Savings Fund Act (NSF Act) requires an employer to pay a contribution in respect of certain employees. The Bill proposes to amend the NSF Act to exclude its application to non-citizens who are not tax residents in Mauritius or who hold a premium visa.



CSG and Social Benefits

The Social Contribution and Social Benefits Act requires the payment of a social contribution (labelled as the Contribution Sociale Généralisée (the CSG)) in respect of certain employees and self-employed persons and provides for the social benefits applicable to them.

The Bill proposes to extend the applicability of the Social Contribution and Social Benefits Act to a premium visa holder.

The Bill also proposes to reduce the monthly retirement benefit provided under the Act from MUR 4,500 to MUR 1,000 for a one-year period from July 2022 to June 2023. The monthly retirement benefit from July 2023 remains at MUR 4,500. Whereas the SCSB Act currently provides that the monthly retirement benefit is available only to a person who has resided in Mauritius for at least 20 years in aggregate (amongst other conditions), the Bill proposes to reduce that minimum period of residence to 12 years.

The Bill introduces 2 new social benefits:

- **Disability allowance** of MUR 2,500 per month where a person has suffered the loss of a physical faculty of not less than 40% and not exceeding 59% due to an injury or medical condition specified in the Sixth Schedule to the SCSB. The allowance is only available to a person under the age of 60 and who is not entitled to the basic pension provided under the National Pensions Act.
- **Income allowance** of MUR 1,000 per month from July 2022 to June 2023 (with an additional allowance of the same amount in December 2022) payable by the MRA to an employee or self-employed person who derives income of up to MUR 50,000. The person must be a citizen and tax resident, or a non-citizen registered with the MRA for payment of social contributions. The allowance is available to a person between the age of 16 and 65.



Prime A L'Emploi Scheme

The Bill proposes to pay an allowance to an employer who recruits a worker who was previously unemployed for 6 months. The allowance is equivalent to the employee's monthly basic salary up to MUR 15,000. The allowance is payable monthly for a period of one year. The scheme only provides for the payment of an allowance in December 2022 and December 2023 equivalent to 1/12th of the total allowance paid during that year.

The scheme is only applicable to the first 10,000 workers in respect of whom applications are made to the MRA by their respective employers.

The eligible worker must be a Mauritian. The scheme applies to men not above the age of 35 and women not above the age of 50. The eligible workers are those earning a monthly basic salary of up to MUR 50,000. They do not include trainees and household employees. It concerns the private sector only.

Employers will need to apply to the MRA for the approval of the registration of the eligible employees to benefit from the scheme. They will need to undertake to safeguard the employment of an approved eligible employee for a period of at least 3 years.





Financial assistance to employers

The Income Tax Act currently provides that the MRA will pay to every SME (whose turnover did not exceed MUR 50 million for the year 2020) the compensation that they are required to pay to employees as additional remuneration for compensation for increase in cost of living, that is, MUR 375 in respect of employees earning up to MUR 50,375 in monthly basic salary inclusive of the additional remuneration (except for export enterprises, where the allowance will amount to MUR 235 and an eligible employee is one earning up to MUR 50,235 in monthly basic salary). The Income Tax Act currently provides that the allowance is paid for the period of January 2021 to June 2022, subject to certain conditions.

The Bill proposes to increase the allowance from MUR 235 to MUR 375 for export enterprises from January 2022 to June 2022.

In terms of salary compensation for the year 2022, the Bill proposes to extend the financial assistance to enterprises in the tourism industry (specified in Part I of the Twelfth Schedule to the Income Tax Regulations 1996). The allowance will be as follows for the period from January 2022 to June 2022: MUR 500 for an employee deriving up to MUR 13,500 in basic monthly salary (other than in export enterprise); MUR 400 for an employee deriving more than MUR 13,500 but up to MUR 50,775 in basic monthly salary (other than in export enterprise); MUR 360 for an employee in an export enterprise deriving up to MUR 13,360 in basic monthly salary; and MUR 260 for an employee deriving more than MUR 13,360 but up to MUR 50,635 in basic monthly salary in an export enterprise.



Corporates

Companies (1/4)

Small private companies

Private companies having a turnover of less than MUR 100 million (instead of the current threshold of less than MUR 50 million) in respect of their last preceding accounting period will now qualify as 'small private companies'.

It is proposed that small private companies with an annual turnover of less than MUR 100 million (instead of the current threshold of less than MUR 20 million) may file with the Registrar of Companies a financial summary.

Small private companies having a turnover of less than MUR 100 million (instead of the current threshold of less than MUR 20 million) will be exempted from filing annual returns with the Registrar of Companies (unless there is a change in shareholding or board composition or any other related particulars).



Reporting

The Bill proposes to introduce a new section 221(2A) in the Companies Act, whereby a company (which is required to include group financial statements in its annual report) must include, in relation to each of its subsidiaries, (i) particulars of interest entered in the interests register, (ii) donations made by each subsidiary, (iii) details of present and past directors, (iv) fees payable to auditors, and (v) details of any major transactions.



Companies (2/4)

Removal of COVID-19 grace periods

The Bill proposes to remove all temporary time extensions and other exemptions afforded in 2020 due to Covid 19. The previous timeframes are hence reinstated such that:

- annual meetings of shareholders must be held not later than 6 months or such other period determined by the Registrar of Companies (the 'ROC') after the balance sheet date of the company; and
- financial statements must be prepared within 6 months (or such other period determined by the ROC) after the balance sheet date of the company, and filed within 28 days (or such other period determined by the ROC) from the date of signature of those financial statements.

Amongst the proposed changes, section 162(5) of the Companies Act which refers to the express disapplication of directors' duties on insolvency will be removed altogether. Directors' duties on insolvency are therefore reinstated.



Companies (3/4)

Redomiciliation

Although the procedure already exists in practice, the Bill proposes to clarify the individual steps involved where a company transfers its incorporation from a foreign jurisdiction to Mauritius. The new provisions provide that:

- The ROC shall issue a conditional certificate of registration in respect of a company transferring its incorporation from a foreign jurisdiction to Mauritius, where the ROC receives a properly completed application and where it is satisfied that all prescribed requirements have been complied with.
- The ROC shall request the company to be deregistered from its original place of registration.
- On receipt of the certificate of deregistration from the foreign authority, the ROC will enter the particulars of the company on the register of companies in Mauritius, and will issue a certificate of registration as from the date of deregistration from the original place of registration.

The Bill also proposes to amend the powers of the ROC where it receives an application to remove a company from the register of companies in Mauritius. Assuming that the application satisfies the prescribed requirements, the current regime provides that the ROC removes the company. With the proposed changes, the ROC must instead request the company to be registered or incorporated under the law of the foreign country and, on receipt of the certificate of registration or incorporation issued by the relevant foreign authority, the ROC will remove the company from the register of companies in Mauritius as from the effective date of that registration or incorporation.



Companies (4/4)

Removal from the register

The Bill proposes to amend the grounds for removal of a company from the register of companies. One of the grounds referred to the ROC's power to remove a company from the register where two cumulative conditions exist: the company ceases to carry on business and there is no other reason for it to continue in existence. The proposed changes in the Bill splits those cumulative requirements into two separate grounds.

Restoration

The Bill proposes to require the ROC to give notice concerning the restoration of a company on the register of companies if the ROC initiated removal proceedings where the company was in fact still carrying on business at the material time.



Small and Medium Enterprises (SME)

The Bill proposes to simplify the meaning of an enterprise to which the Small and Medium Enterprise Act applies to mean plainly any form of trade, business or manufacturing of products.

Under the Small and Medium Enterprises Act, enterprises are currently categorised as microenterprises having an annual turnover of not more than MUR 2 million, small enterprises having a turnover of more than MUR 2 million but not more than MUR 10 million and medium enterprise having a turnover of more than MUR 10 million but not more than MUR 50 million.

The Bill proposes to introduce a new type of enterprise, the mid-market enterprise and to revise the classifications of the different types of enterprises as tabled below:

Enterprise	Annual Turnover (MUR)
Microenterprise	Not exceeding 10 million
Small enterprise	Exceeding 10 million but not exceeding 30 million
Medium enterprise	Exceeding 30 million but not exceeding 100 million
Mid-market enterprise	Exceeding 100 million but not exceeding 250 million



The Bill further proposes that a person who operates a mid-market enterprise may apply to the Registrar of Small and Medium Enterprises for that enterprise to be registered as a mid-market enterprise.

The Registrar of Small and Medium Enterprises will further have to decide on whether to grant or decline the application for registration within 7 days from receipt of the application and inform the applicant of his decision accordingly.

In addition, the Bill proposes to automatically consider an application as having been granted where the Registrar of Small and Medium Enterprises fails inform the Applicant whether or not his application has been declined or granted within 7 days from receipt of the application.



Financial reporting

The Financial Reporting Act regulates the reporting of financial matters and to establish the Financial Reporting Council, the Mauritius Institute of Professional Accountants and the National Committee on Corporate Governance. Two basic parameters provided by the Act are what are professional services and who may provide such services.

The Bill proposes to amend the definition of “professional services” for it to read as follows:

“professional services”, in relation to a professional accountant –

(a) means services relating to –

- (i) the preparation of financial and management accounts, and bookkeeping services;
- (ii) auditing, fund accounting, forensic accounting, cost accounting, fiduciary accounting, corporate accounting and insolvency services; and
- (iii) taxation, providing tax advice to individual and corporate clients and representing a client with tax authorities; and

(b) includes such other professional services related to accountancy field as the Mauritius Institute of Professional Accountants may, through its rules, recognise or determine.

The Bill also proposes a new meaning of “public accountant” which would read “a person registered under section 52” instead of “professional accountant registered under section 52”.



Banking

Banking licences

The proposed changes in the Finance Bill modify the criteria for the Bank of Mauritius (BOM) to grant an in-principle approval concerning applications for banking licenses. The BOM may grant an in-principle approval to an applicant of a banking license on such terms and conditions as it may determine, provided that all necessary information or documents (other than those mentioned in a prescribed list in so far as they relate to proposed directors, chief executive officers and other senior officers) are duly submitted. The proposed changes also expressly clarify that the in-principle approval (i) must not be construed by the applicant as an authorisation to conduct banking business, (ii) must not create any legitimate expectation for a positive final determination of the application and (iii) will automatically lapse if the applicant does not satisfy the terms and conditions attached to such in-principle approval.

Digital currency

The Bill proposes to clarify that the BOM can open accounts and accept deposits from persons for the purpose of issuing digital currency.



National Payment Systems

In addition to the existing power to vary the conditions of an authorisation or a license, it is proposed that the BOM may amend or cancel such conditions, or impose new conditions. Corresponding amendments are proposed such that so the BOM must send a notice and give reasons to the licensee concerning the intended amendment, cancellation or imposition of conditions.

The Bill proposes to amend the National Payment Systems Act to enable the licensee to make written representations to the BOM within 15 days of receiving the aforementioned notice and that the BOM consider those written representations when taking its decision.



Inscription of securities

In cases where an inscription has been taken against a debtor's assets and the debt has been fully and satisfactorily repaid, the Bill proposes to amend the Civil Code to require the creditor to erase the inscription within 1 month from full repayment of the debt.



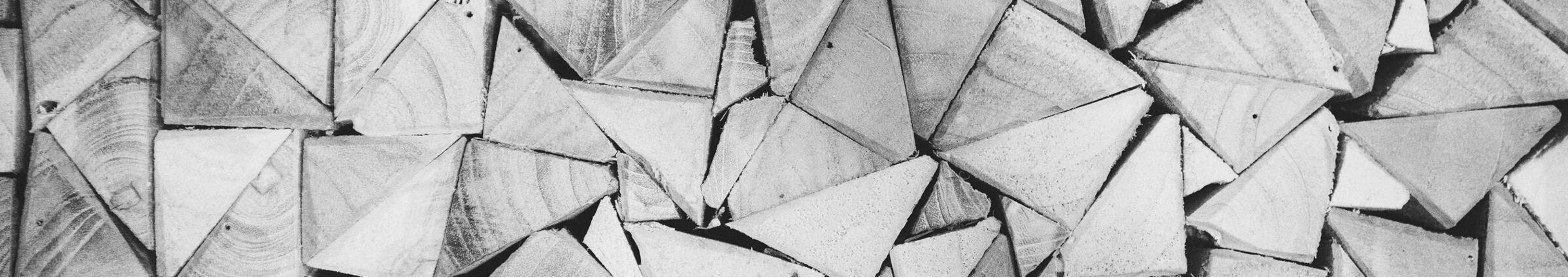
Confidentiality

The amendments proposed by the Finance Bill confer a new power on the BOM, whereby the BOM may require, where warranted by the circumstances, a financial institution or a service provider to comply with any confidentiality requirements specified in guidelines, directives or instructions issued.

In addition, any person involved in a due diligence exercise with a view to acquiring a stake in a financial institution must either:

1. make a declaration of confidentiality before the chief executive officer or the deputy chief executive officer of the financial institution; or
2. take an oath of confidentiality before a competent court or authority in his country of residence; or
3. comply with section 64(1)(aa), relating to the obligation to furnish a written undertaking concerning the non-disclosure of information relating to the financial institution, with such adaptations and modifications as necessary in the circumstances.





Central KYC and Accounts Registry

The Bill proposes to repeal the existing definition of 'Central KYC and Accounts Registry' (which currently refers to the registry established under section 52A) in the Bank of Mauritius Act and replace it with 'Central KYC System' or 'Central Accounts Registry', as appropriate. The proposed amendments also seek to increase the functionalities of the new system and registry as follows:

- The 'Central KYC System' is established by the BOM for the purpose of (i) facilitating the electronic verification of identity of customers, validation and extraction of KYC records of customers by KYC institutions, and (ii) collecting KYC records submitted to KYC institutions by their customers.
- The 'Central Accounts Registry' is established by the BOM for the purpose of collecting information on accounts maintained by customers (other than the balance and amount held in these accounts).

The BOM may also require any KYC institution to furnish to the Central KYC System or the Central Accounts Registry, on such terms and conditions as it may determine, any information required for the purpose of maintaining such system and registry.





Restriction on the central bank's activities

The BOM cannot engage in any trade or acquire any interest in any commercial, agricultural, industrial or any other undertaking, except where (i) such interest is acquired in satisfaction of debts due to the BOM and (ii) the interest acquired is disposed of at the earliest opportunity. The Act did not mention the criteria relating to the BOM engaging in trade. With the proposed changes, the BOM in that respect should ensure whether the trade relates to the activities and operations of The Bank of Mauritius Museum owned and operated by the BOM.



Financial Services



Office holders

Any person acting as an officer of a holder of a license from the Financial Services Commission (the 'FSC') whose appointment was effected without obtaining the prior approval of the FSC will still remain liable for any offence committed under any of the Captive Insurance Act 2015, the Insurance Act 2005, the Financial Services Act 2007, the Private Pensions Scheme Act 2012, the Protected Cell Companies Act 1999, the Securities Act 2005, the Securities (Central Depository, Clearing and Settlement) Act 1996, the Trusts Act 2001, the Variable Companies Act 2022, the Virtual Asset and Initial Token Offering Services Act 2021, and any rules and regulations made thereunder (each a 'relevant Act').





Disciplinary hearings before the Enforcement Committee

For the purposes of Sub Part A of Part IX of the Financial Services Act relating to proceedings before the Enforcement Committee established by the FSC, the Finance Bill amends the definition of 'licensee' such that it refers to (i) any present or past FSC licensee, (ii) any present or past officer, partner, shareholder or controller of a FSC licensee, or (iii) any person acting as officer of a FSC licensee without having obtained the prior approval of the FSC.

It is proposed that the Enforcement Committee shall consist of not more than 4 employees of a grade not lower than Senior Manager (instead of Executive).

The Finance Bill adds two new grounds permitting the Chief Executive of the FSC to refer the matter to the Enforcement Committee:

- where the Chief Executive has reasonable cause to believe that a licensee has contravened a direction or order issued under a relevant Act; and
- where the Chief Executive becomes aware that a person acts as officer of a licensee but whose appointment was not formally approved by the FSC.





Settlement Committee

The Bill introduces a new subpart relating to the setting up of a Settlement Committee for the purpose of assessing the possibility for an early resolution of disciplinary matters with a FSC licensee. The Settlement Committee will not, when discharging its functions and exercising its powers, be subject to the direction or control of any person or authority. The Settlement Committee may exercise the disciplinary powers of the FSC to impose administrative sanctions on licensees.

The composition of the Settlement Committee will consist of a chairperson and a member appointed by the board of the FSC, the Chief Executive of the FSC, and not more than 2 employees not below the grade of Senior Manager and who are not members of the Enforcement Committee. The appointment of those persons shall be effected on such terms and conditions determined by the board of the FSC. The Settlement Committee is also entitled to co-opt any other person having the requisite expertise.



Global activities

The Bill removes “Global headquarters administration”, “Global shared services” and “Global treasury activities” from the scope of “financial services” in the Second Schedule of the Financial Services Act, and creates a separate section and a new Schedule for the regulation of those activities in line with FATF requirements.

The new section introduced by the Bill encompasses those activities under the new definition of ‘global activities’. Applications for a ‘global activity’ licence remain subject to the regulation of financial services under Part IV of the Financial Services Act. The Chief Executive of the FSC may exercise his powers under section 53(1) by referring a ‘global activity’ licensee to the Enforcement Committee for disciplinary proceedings, where he is of the opinion that an administrative sanction is necessary to protect the good reputation of Mauritius as a centre for global business.





Ombudsperson for Financial Services

The Bill proposes to confer a new power on the Ombudsperson for Financial Services (the ‘Ombudsperson’), who may now share information on an anonymised basis with any body operating in the field of financial services for the purpose of developing educational programmes for consumers and financial institutions, in addition to requesting for information, issuing instructions and guidelines and entering into a memorandum of agreement with financial institutions.

Persons aggrieved by a failure in the provision of any services provided by a participant under the Securities (Central Depository, Clearing and Settlement Act) will no longer be able to lodge a written complaint to the Ombudsperson. A person or his representative may complain to the Ombudsperson only if he is aggrieved by the decision or the non-receipt of a decision from the financial institution against which the complaint is made, within 10 days or such other period specified under an enactment.

The Bill also proposes to clarify that no complaint can be entertained by the Ombudsperson if it pertains to a subject matter which is the same as a subject matter which is or has been the subject of proceedings before or has been determined by the Commissioner for the Protection of Borrowers, a court, a tribunal or an arbitrator.



Insurance Act (1/5)

New definitions are introduced by the Bill:

- “clearing” meaning the process of transmitting, reconciling or confirming claims obligations before settlement, and the establishment of final positions for settlement;
- “clearing system” meaning a system containing a set of procedures whereby insurers present and exchange information relating to the claims obligations to other insurers through a centralised system or at a single location and includes a mechanism for the calculation of the position of insurers on a multilateral basis for the purpose of facilitating the settlement of their claim obligations;
- “custodian” meaning a person holding a Custodian services (non-CIS) licence under the Financial Services Act or, any other person duly licensed as a custodian in an equivalent foreign jurisdiction and approved by the FSC;
- “custodian agreement” meaning any agreement relating to the appointment and functions of a custodian, to which a structured investment-linked insurance business policy holder or the insurer and the custodian are parties; and
- “settlement” meaning the act of discharging obligations by transferring funds between two or more insurers.



Insurance Act (2/5)

Motor insurance business

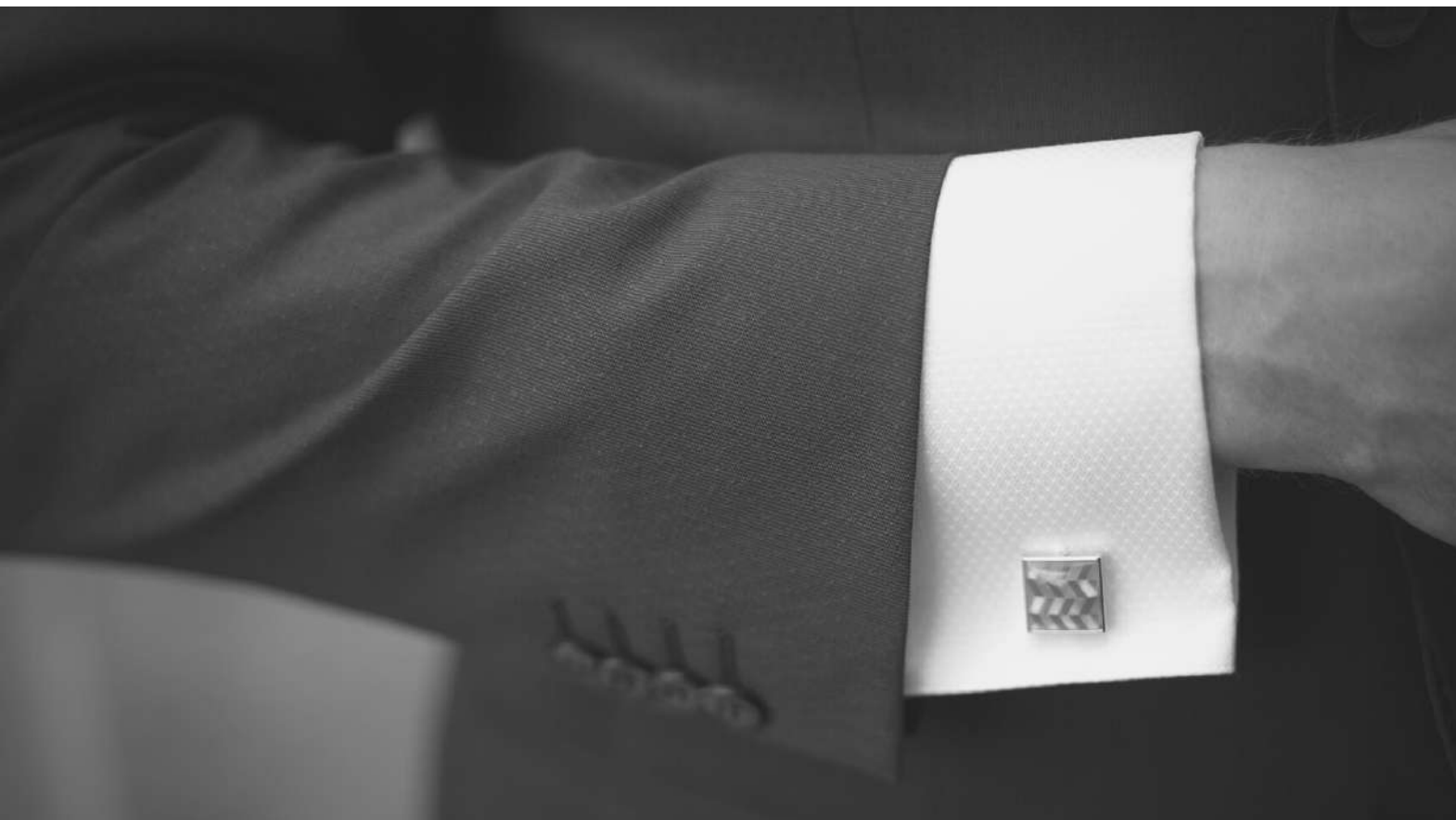
The Bill empowers the FSC to utilise information furnished by insurers providing motor insurance business under section 6A for the purposes of facilitating, in collaboration with other regulatory bodies, the clearing and settlement of claims through a clearing system (as defined by the proposed amendments).

Every insurer providing motor insurance business must comply with the requirements in rules issued by the FSC for the smooth functioning of the clearing system.

The Bill proposes to extend the limitation period for claim applications in respect of victims of hit-and-run accidents from 2 years to 5 years.



Insurance Act (3/5)



Appointment of officers

The FSC was deemed to have approved the appointment of officers under section 36 where it has not objected to such appointment within 15 days of being notified in writing of the proposed appointment. The Bill amends the timeframe of 15 days from notification, to a timeframe of 15 days from the later of (a) the receipt of an application or (b) any additional information requested by the FSC.



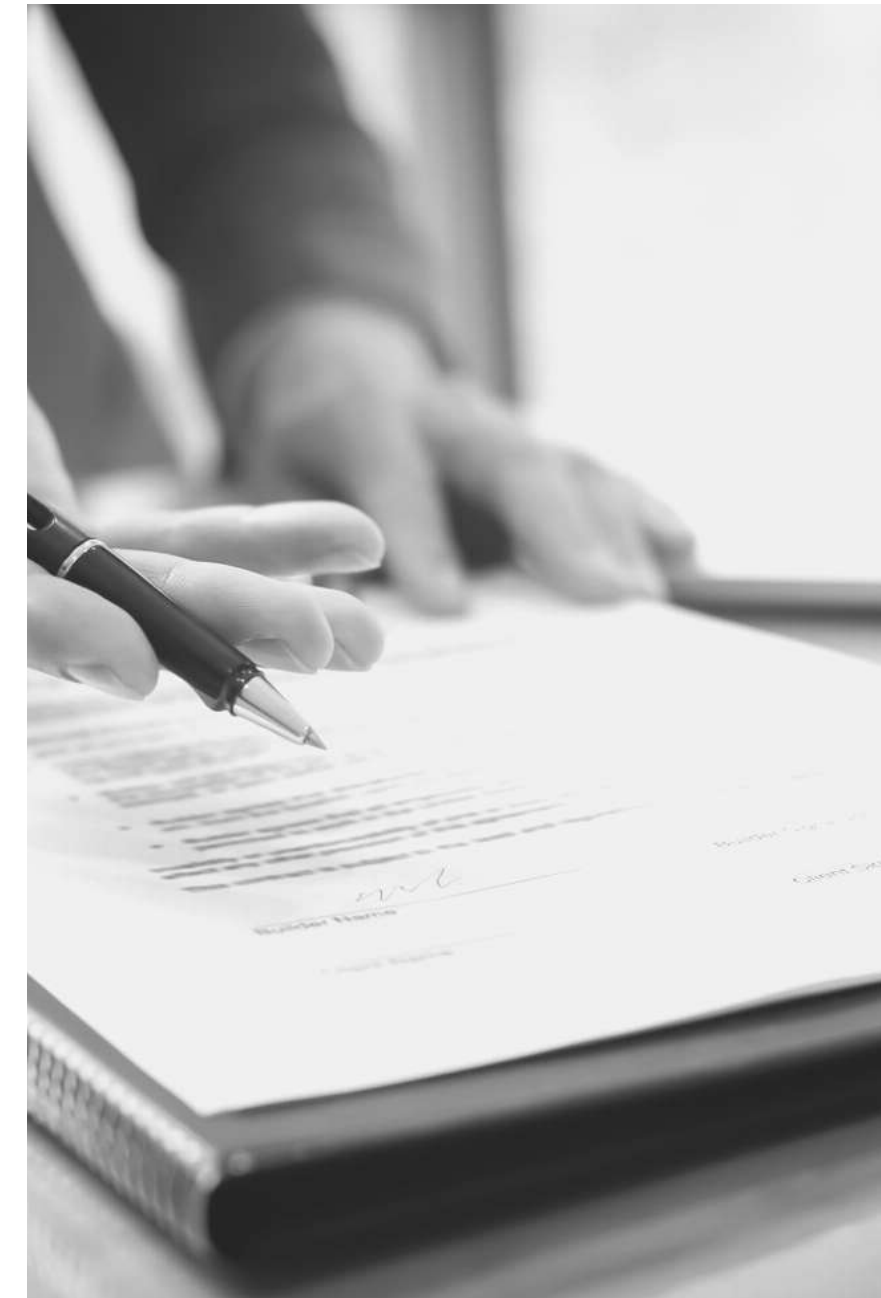
Insurance Act (4/5)

Framework for structured investment-linked insurance policies (1/2)

The Bill establishes a framework for structured investment-linked insurance policies. Under the new framework, 'structured investment-linked insurance business' is defined as 'the business of effecting and carrying out contracts of insurance under which the benefits are, wholly or partly, to be determined by reference to the value of, or the income from, a dedicated investment portfolio held separately for each policyholder with a custodian, and which may include the own assets and investments of the policyholder, both existing at inception and accruing over the future term of the policy, with a minimum subscription at inception in cash or assets which may be specified in FSC rules or guidelines'.

Only licensed custodians can hold the assets of a structured investment-linked insurance business policy for safekeeping. Any person other than a licensed custodian holding such assets as well as any insurer allowing a person other than a licensed custodian, commits an offence, which on conviction attracts a maximum fine of MUR 1 million and a maximum imprisonment term of 5 years.

Long-term insurers carrying out structured investment-linked insurance business must enter into a custodian agreement with a custodian. Custodians are not allowed, in relation to a structured investment-linked insurance policy, to carry out any activity or function in respect of which they have not been duly licensed or authorised.



Insurance Act (5/5)

Framework for structured investment-linked insurance policies (2/2)

The FSC is empowered to issue rules specifying (a) the process for appointing custodians, (b) the selection criteria, (c) the contents of a custodian agreement, (d) the powers, duties and obligations of a custodian, (e) the use of sub-custodians, and (f) any other conditions relating to the use of a custodian.

The Finance Bill proposes to amend certain existing sections of the Act such that:

- Insurers cannot invest in derivatives other than derivatives designated as an asset in respect of linked long term policies. The scope of the exemption is extended to derivatives designated as assets in respect of structured investment-linked insurance policies.
- Long term insurers who manage assets in structured investment-linked insurance business must keep separate accounts and records for each portfolio.
- Insurers must provide to policy holders, at intervals not exceeding one year, a report of the performance of the investment of the policy holder in a structured investment-linked insurance policy.



Securities Act

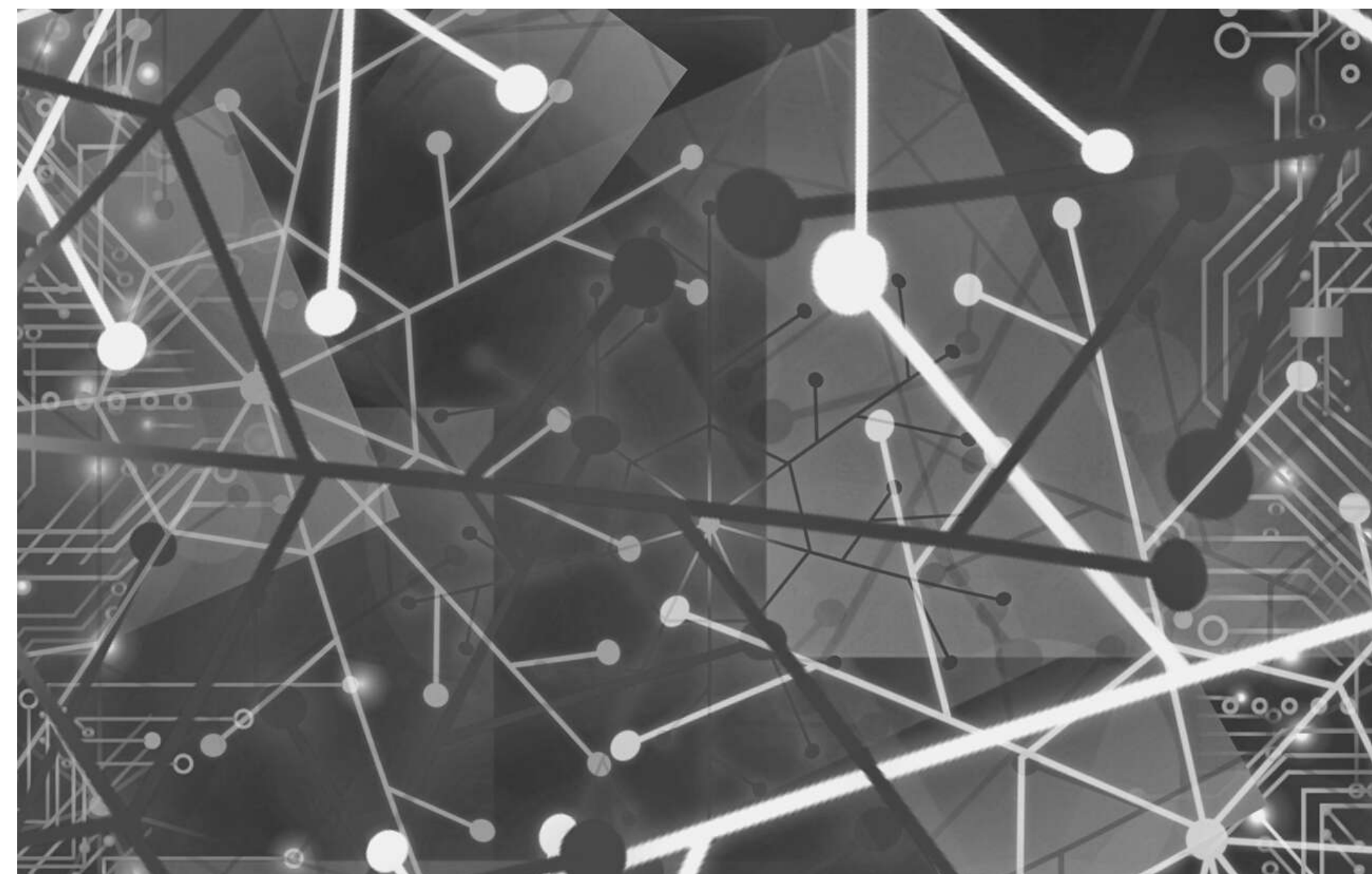
- The Bill proposes to clarify that an 'Official Exchange' (currently defined as the Stock Exchange of Mauritius and Afrinex Ltd) is empowered to investigate market abuses, including insider dealing and fraudulent behaviour by market participants and issuers on the 'Official Exchange'.
- The Bill proposes to impose a new requirement that an audit firm cannot audit the financial statements of a CIS manager or a collective investment scheme, without the prior approval of the FSC.



Virtual Asset and Initial Token Offering Services Act

The Bill proposes to allow the FSC or any investigatory authority (as defined in the Financial Intelligence and Anti-Money Laundering Act) to use investigative tools and information in order to carry out its investigation. Such tools and information include (a) blockchain or distributed ledger analytics tools; (b) law enforcement and intelligence reports; (c) web-scraping or open-source information; (d) information obtained from international co-operation; or (e) any other reliable or reputable source of information. The tool or information used shall be admissible as evidence in criminal proceedings.

As part of its investigative powers, the FSC and any investigatory authority will be able to share information amongst them for the purposes of a criminal investigation.





Borrower Protection

The Borrower Protection Act currently allows a credit agreement to provide for penalty by way of interest where a borrower is in default of payment of one or more instalments in respect of a loan. The Bill proposes to prohibit penalty by way of interest where, in respect of a loan, the immovable property furnished as security is the sole residence of the borrower.



Real Estate





Electronic signature

For the purposes of deeds and documents required to be registered with the Registrar-General and/or the Conservator of Mortgages under various legislative instruments, the Bill proposes to accept the registration of deeds and documents containing a digital signature in accordance with section 19 of the Electronic Transactions Act instead of the originals.

Share buyback or redemption

The Bill proposes to levy registration duty and land transfer tax in cases where a company holding immovable property acquires its own shares by way of redemption or share buy-back or in any other manner which results in an effective change of ownership of that company. However, note that transfer of shares on the SEM, DEM and shares traded on Venture Market operated by SEM are excluded. The Bill also proposes to impose land transfer tax where leasehold rights in State land are transferred through a share redemption or buy-back.

Married couple's eligibility to reduction in registration duty

The Registration Duty Act currently provides for certain circumstances in which a person may be entitled to a reduction in registration duty for the transfer of freehold bare land or *droit de surélévation*. Some of those conditions apply to the purchaser or their spouse, e.g. the purchaser or their spouse should not already be the sole owner of immovable property as at a given date. The Bill proposes to amend these conditions, insofar as married couples are concerned, so that the restrictions in respect of previous ownership apply in respect of a couple married under the regime of legal community of goods and property.





Home Ownership Scheme

In 2021, the legislator introduced a scheme allowing the buyer of eligible property to a refund of 5% of its declared value, the refund being capped at MUR 500,000. The scheme currently applies to acquisitions or reservations made between 01 July 2021 and 30 June 2022, subject to certain conditions. The Bill proposes to extend the Home Ownership Scheme by another year until 30 June 2023.

The Bill also proposes to confer a discretionary power on the Minister to approve a refund to purchasers who do not qualify for the Home Ownership Scheme, subject to such terms and conditions that the Minister may determine.

Home Loan Payment Scheme

The scheme introduced in 2021 provides for the Registrar-General to pay to an eligible borrower 5% of the amount disbursed under a secured housing loan, up to MUR 500,000. The scheme currently applies where the deed witnessing the loan is signed and registered between 01 July 2021 and 30 June 2022, subject to certain conditions. The Bill proposes to extend the Home Loan Payment Scheme by another year until 30 June 2023.



Additional duty leviable on transfer of property to non-citizen

The Bill proposes to levy registration duty at the rate of 10% (instead of 5%) on the value of the immovable property (excluding VAT) that is transferred to a non-citizen buyer (subject to approval under the Non-Citizens (Property Restriction) Act) where that value is not less than USD 350,000. The additional levy of 5% is to be imposed irrespective of the date on which the deed of transfer was drawn up.

However, the additional levy does not apply to an immovable property acquired as follows:

1. By a retired non-citizen who acquires a right to live in a residential care home or residential unit for the rest of his life, rent free, subject to the requisite authorisation from the Board of Investment.
2. By a non-citizen or person not resident in Mauritius who purchases / disposes of:
 - (a) a luxury property, as prescribed under the Economic Development Board Act 2017;
 - (b) an apartment used as residence in a building of at least 2 floors above the ground floor, provided the purchase price is not less than MUR 6 million or its equivalent in other hard convertible foreign currency, subject to an authorisation from the Economic Development Board;
 - (c) a plot of service land for the construction of a residence from a company holding a certificate under the Smart City Scheme or Property Development Scheme, as prescribed under the Economic Development Board Act 2017; or
 - (d) a residential property from a company holding an IRS certificate or a RES certificate.



Transit Oriented Certificate Holder

The Bill proposes to provide that the holder of a Transit Oriented Certificate issued by the EDB will be exempted to pay registration duty on any deed witnessing the lease of land to the extent that the land is used to develop a project approved by the EDB under the scheme.



Premium Investor Certificate Holder

The Bill proposes to enhance the anti-avoidance 'arsenal' of the Registrar-General to include situations where holders of a Premium Investor Certificate fail to use the land acquired for the development of a project approved under the EDB's Premium Investor Scheme.

Transfer of leasehold rights in State land

The Bill proposes to apply the 10% land duty tax to the transfer of leasehold rights in State land with regard to the transfer of a built-up hotel, provided such deed witnessing the transfer is registered on or before 30 June 2023.





Further exemptions from land transfer tax

The Bill proposes to extend the list of transactions that are exempt from the application of land transfer tax by adding the following:

- transfer of land under the Modern Agricultural Morcellement Scheme, provided that the purchaser uses the land to carry out innovative agricultural practices certified by the EDB; and
- transfer of leasehold rights in State land further to the EDB's approval under the Transit Oriented Scheme.



Non-Citizens (Property Restriction) Act

The Bill proposes to introduce the notion of a ‘qualified entity’ as an entity (a) that owns property and (b) in which a non-citizen directly or indirectly owns or controls all interests in the property. Notwithstanding any other enactment, qualified entities cannot be wound up without the expression authorisation of the Prime Minister.

The Bill proposes to extend the scope of section 5(2) relating to the consequences of property purchased, acquired, held, or disposed of in contravention of section 3 (relating to the obligation to apply for the Prime Minister’s approval) or a condition imposed in a certificate. Transfers of property are now captured as well, so that the Curator of Vacant Estates can take possession of such property and sell it in accordance with the Sale of Immovable Property Act.

The Bill also proposes to empower the Minister to make regulations as he thinks fit for the purposes of the Non-Citizens (Property Restriction) Act.



Regulatory & Compliance

Prevention of Corruption Act (1/2)

Foreign public official

The Bill proposes to introduce the offence of bribery of and by a foreign public official, defined as:

1. a person who holds a legislative, an executive, an administrative or a judicial office in a foreign country, whether by way of appointment or election;
2. performs a public function for a foreign country, or for a foreign public agency, public enterprise or public company, or an official or agent of a public international organisation namely, an international civil servant or a person who is authorised by the organisation to act on behalf of the organization; and
3. includes a public agency, public enterprise or public company.

A foreign public official who solicits, accepts or obtains from a person, for himself or for any other person a gratification *inter alia* for the foreign public official to use his position to do or to refrain from doing an act in the execution of his function shall commit an offence and shall, on conviction, be liable to penal servitude not exceeding 10 years. Any person who promises to give to a foreign public official a gratification for himself or for any other person for that foreign public official to use his position to do or to refrain from doing and act in the execution of his functions shall also commit an offence and shall, on conviction, be liable to penal servitude not exceeding 10 years.



Prevention of Corruption Act (2/2)

Non-tax deductibility of bribes

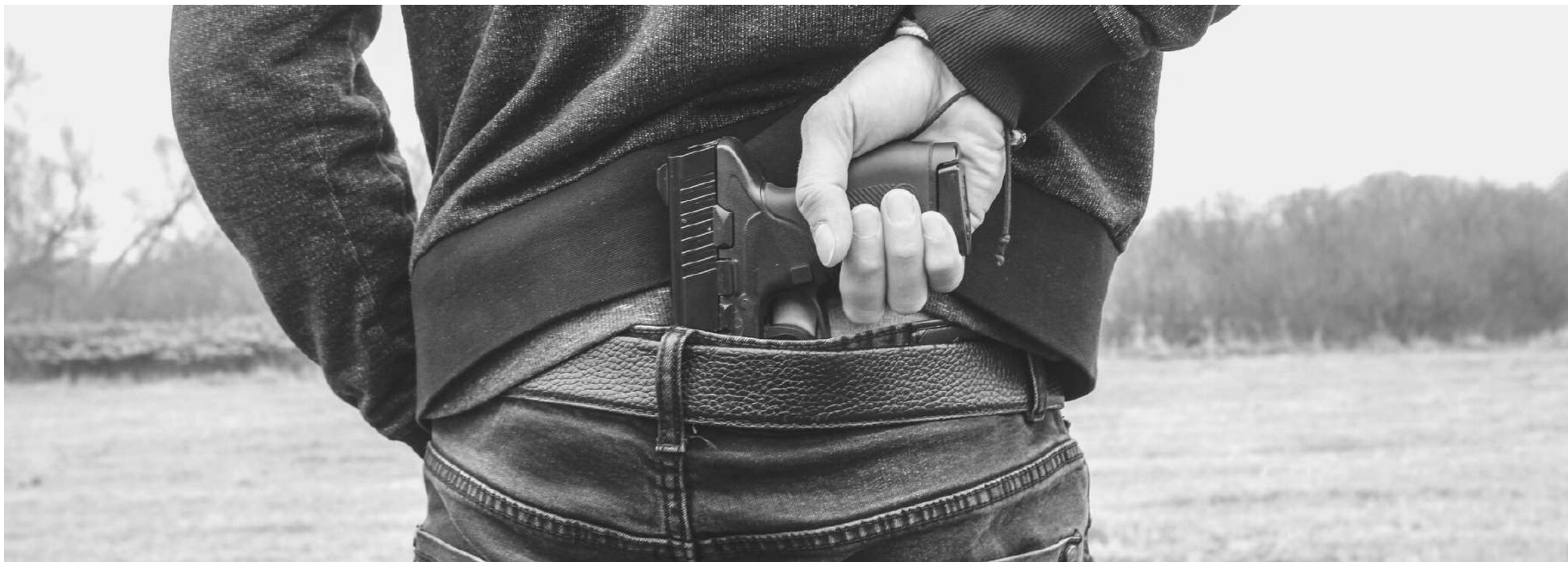
The Bill proposes to introduce a new section 17B providing that any person who, in his tax return to the MRA, deduct from his turnover or income any sum which has been given as a bribe shall commit an offence and shall be liable, on conviction to a fine of not less than 50,000 rupees but not exceeding one million rupees and to imprisonment for a term not exceeding 2 years.



United Nations (Financial Prohibitions, Arms Embargo and Travel Ban) Sanctions Act

The Bill proposes to introduce the term “international terrorism” defined as including:

- a. terrorist acts that go beyond national boundaries in terms of the methods used, the people who are targeted or the places from which the terrorists operate;
- b. violent or criminal acts committed by individuals or groups that are inspired by, or associated with, foreign terrorist organisations.



Miscellaneous

Intellectual Property

Customs plays an important role in the protection of intellectual property. As a natural consequence of the recent proclamation of the Industrial Property Act in January 2022, the categories of IP for which the importation or exportation is subject to scrutiny has been adjusted and expanded.

The Bill proposes that any owner or authorised user of a patent, an industrial design, a collective mark, a mark, a copyright, a utility model, a layout-design, a breeder's right, a trade name or a geographical indication may apply, in writing, to the MRA (i) to suspend the clearance of any goods imported or being exported and (ii) to detain any goods on the local market, on the grounds that his patent, industrial design, collective mark, mark, copyright, utility model, layout-design, breeder's right, trade name or geographical indication is being or is likely to be infringed.

The Bill also proposes to extensively amend the definition of “owner” to read as follows-

(a) means the (locally) registered owner of a patent, an industrial design, a collective mark, a mark, a utility model, a layout-design, a breeder's right, a trade name or a geographical indication under the Industrial Property Act or the copyright owner under the Copyright Act; and

(b) includes the owner of a patent, an industrial design, a collective mark, a mark, a utility model, a layout-design, a breeder's right, a trade name or a geographical indication, or copyright owner, registered with such competent authority outside Mauritius as the Director-General may approve.



Public Procurement

- The Bill proposes to allow a public body to contract with a single source without competition for the purchase of consultancy services (Direct Procurement). Consultancy services is defined under the Public Procurement Act as services of an intellectual and advisory nature, not incidental to the supply of goods or to the execution of works, such as design supervision, training, analysis, auditing, software development and similar services.
- The current position is that a public body is able, in a bidding exercise, to exclude a bidder whose performance in a previous public contract has been deficient or who has failed to deliver goods, works or services satisfactorily and has caused prejudice to the public body with regard to contractual requirements notwithstanding that the bidder is not disqualified. The Bill proposes to extend this discretion, namely to exclude a bidder notwithstanding that the bidder is not disqualified, even in circumstances where the latter's performance in a previous public contract has been deficient or who has failed to deliver goods, works or services satisfactorily and has caused prejudice to another public body with regard to its contractual requirements.



Private Security Service Act

The Private Security Service Act provides for the regulation of the private security services ecosystem, including the licensing and control of private security services and the registration of security guards.

The Bill proposes to amend the first part of the definition of “security guard” which would read as follows:

“security guard” means a person employed by a licensee to provide security and property protection services and who carries out one or more of the following duties–

- (i) guard industrial plants, warehouses or any other property against hazards, theft and illegal entry;
- (ii) make periodic inspection tours in respect of buildings and grounds and record such entries as may be required;
- (iii) keep watch regarding suspicious persons or activities; and
- (iv) convey, or guard messengers conveying, valuables to and from banks or any other establishment.

It should be noted that the second part of the definition remains unchanged.

The Bill also proposes that the Commissioner of Police may refuse to issue a licence to an applicant who wishes to operate a private security service where the applicant, or the person who will manage the private security service, has not been trained by a recognised training institution with respect to security services.

The Bill further proposes that a licensee –

- (i) shall employ as security guards only persons who have been trained by a recognised training institution with respect to security services, and
- (ii) shall, on a regular basis, conduct training courses as the Commissioner may approve for the security guards.



Small Farmers

For the purposes of the Small Farmers Welfare Fund Act, the Bill proposes to define a small planter as a planter registered with the Fund, who:

- grows sugar cane, tobacco or food crops, fruit, plants, ornamental plants or any other plant grown for commercial purposes, or conducts sheltered farming or aquaponics, on his land or on leased land, on an extent of not less than 10 perches but not more than 10 hectares for open fields;
- grows tea on his land or on leased land, on an extent of not less than 10 perches but not more than 2 hectares;
- grows a single crop on his land or on leased land, on an extent of less than 10 perches for open fields, provided that the land is under intensive cultivation; or
- conducts sheltered farming on his land or on leased land, on an extent of not less than 100 square metres but not more than 12,500 square metres.

With regard to the eligibility to benefit from schemes set up by the Fund or facilities granted by the Government, the Bill proposes that a small planter (except for a cane planter) shall be registered with the Fund and be subscribed to a Farmer's Protection Scheme.



Sugar Insurance Fund

- The definition of “normal years” in the Sugar Insurance Fund Act is currently the 3 crop years of the 8 crop years preceding any crop year having the highest average sugar yield per hectare. The Bill proposes to amend the definition of “normal years” to mean the 3 crop years of the 5 crop years (currently 8 crop years) preceding any crop year having the highest average sugar yield per hectare.
- The definition of “shortfall” in the Sugar Insurance Fund Act is currently the insurable sugar of an insured in an event year less the first loss of the insured in that year. The Bill proposes to revise the definition of “shortfall” to mean the insurable sugar of an insured in an event year less the first loss of the insured in that year; and less the sugar accruing to the insured in that year. “First loss” will be defined as the product of the amount of insurable sugar of an insured in an event year and the relevant percentage corresponding to the ranking assigned to the insured.
- The Sugar Insurance Fund Act empowers the Minister to reduce compensation to be paid as assessed, in the event that there is insufficient credit to meet the liabilities of the General Insurance Account. The Bill proposes to provide a cap on compensation by introducing that where the sugar accrued of an insured is less than 55% of his insurable sugar in any crop year, his insurable sugar shall be deemed to be his sugar accrued divided by 55% for the purpose of assessment of compensation.
- The Bill proposes that planters and metayers shall also pay reduced fire insurance premium, in addition to the existing reduced general insurance premium. The difference between the fire insurance premium payable and the reduced premium authorised shall be paid from the Consolidated Fund into the Fire Insurance Account.



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