



FINANCE ACT 2024: AN OVERVIEW FOR BUSINESSES



Introduction

Port Louis, 29 July 2024

The Finance (Miscellaneous Provisions) Act 2024 was gazetted on 27 July 2024. It legislates the measures announced in the Minister of Finance's Budget Speech 2024-2025. While this summary document does not cover every aspect of the legislation, it aims to highlight the key provisions that affect the business community. This note does not amount to legal or other advice.





Areas covered

Employment

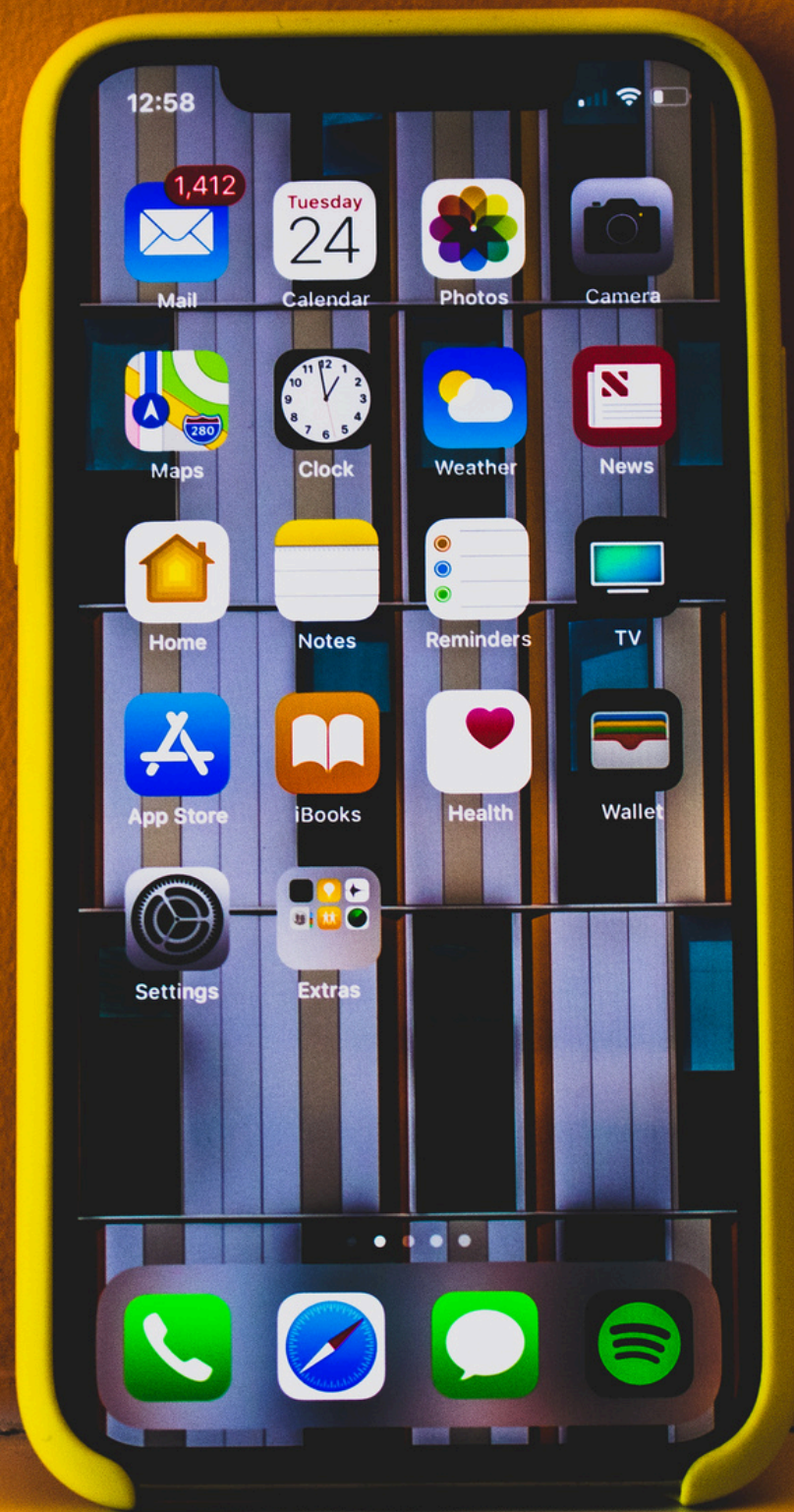
Corporate tax

Corporate Administration & Governance

Global Business & Financial Services

Real Estate

Employment



The right to disconnect during unsocial hours

The Finance Act introduces a worker's right to disconnect, i.e. to disengage from work and work-related communications (including emails, telephone calls, video calls or other means of sending and receiving messages) during unsocial hours when they are not working. These "unsocial hours" are (i) between 1 p.m. on a Saturday and 6 a.m. on the ensuing Monday, and (ii) between 10 p.m. on a weekday and 6 a.m. on the ensuing day.

However, the worker may be required to work during those unsocial hours due to situations of emergency or where those hours correspond to the working hours in the market country served. In those circumstances, the worker will be entitled to a disturbance allowance in addition to their normal remuneration. The disturbance allowance is equivalent to the worker's hourly wage for every hour of work performed during the unsocial hours. These provisions would apply irrespective of a worker's level of salary.

The disturbance allowance is not a new measure. It is already provided for in regulations made by the Minister of Labour in September 2020, except that those regulations provide that "unsocial hours" do not include the working hours of a worker in the ICT/BPO sector whose working hours correspond to the working hours in the market country served. However, the amendment brought by the Finance Act suggests that the disturbance allowance will henceforth be paid even to workers in the ICT/BPO sector.

Vacation leave

The Workers' Rights Act came into force on 24 October 2019. Starting from that date, a worker who remains in continuous employment with the same employer for a period of at least 5 consecutive years is entitled to a vacation leave of not more than 30 days, for every period of 5 consecutive years. This is already provided in the legislation since 2019. As such, a number of workers who have stayed with their employer since then may be eligible to the vacation leave in October 2024. This provision applies to workers earning not more than MUR 600,000 in annual basic salary.



The Finance Act has amended the Workers' Rights Act by adding the following provisions regarding vacation leave.

- The vacation leave must be for a minimum period of 6 consecutive days.
- A worker must apply for the vacation leave at least 3 months in advance, except in special circumstances.
- An employer must approve the application for the vacation leave, except if there are reasonable business grounds, i.e. (a) the inability or impracticability to reorganize working arrangements of existing workers, and (b) a detrimental effect on the ability to meet customers' demand.

Where an employer rejects an application on reasonable business grounds, the worker and the employer may agree on another period when the vacation leave is to be taken. Failing such an agreement, the employer must pay remuneration in lieu of the vacation leave. Such payment is to be made in the month in which the leave was due to start.



Work from home in extreme weather conditions

The Finance Act introduces specific conditions in the Workers' Rights Act for an employer to require a worker to work from home during a period of extreme weather conditions such as cyclonic conditions where a warning class III or IV is issued, an order is issued to remain indoors during a period of heavy or torrential rain or a safety bulletin is issued by the Mauritius Meteorological Services. In those situations, the employer may require the worker to work from home if there is no (i) risk to their life or that of their family, (ii) risk of injury, (iii) risk of their residence being damaged or (iv) electricity or communication breakdown.

Further, prior to the amendment brought by the Finance Act, the Workers' Rights Act required employers to pay an allowance equal to 3 times the hourly wage of a worker when they work from home during these extreme weather condition. The Finance Act has reduced that remuneration to twice their hourly wage. This requirement to pay additional remuneration applies in respect of workers earning less than MUR 600,000 in annual basic salary.

Time off in lieu of remuneration for overtime

The Finance Act has also amended the Workers' Rights Act to allow a worker to opt for paid time off in lieu of remuneration due for overtime and working on public holidays. For that purpose, the number of hours of time off is computed in accordance with the same rate as for overtime payment (i.e. 1.5 times the number of hours of overtime on a weekday, twice the number of hours worked on a public holiday and three times the number of hours of overtime worked on a public holiday).

The amendment, however, does not clarify whether the employer is required or may refuse to grant the time off in lieu of remuneration. Nor does it provide until when the worker is entitled to take such time off. By contrast, when the legislator provided in 2020 that an employer could grant paid time off to a worker in lieu of remuneration for overtime and public holidays during the COVID-19 period, the legislation clearly provided that (a) where the worker is not granted the paid time off, it would be accumulated up to the date the worker ceases employment or 31 December 2021, and (b) the worker would be paid remuneration in lieu of the time off if they are unable to avail themselves of such time off. In the absence of such statutory provisions, employers might wish to introduce internal policies to inform their staff of the circumstances in which time off in lieu of remuneration for overtime may be granted or refused, whilst ensuring that such policies do not infringe any of the workers' statutory rights.





Benefits to parents

- **Maternity leave** has increased from 14 weeks to 16 weeks with full pay (including at least 8 weeks to be taken following confinement).
- Additional 2 weeks' paid maternity leave to a mother who gives birth to twins, triplets or multiple births, or to a premature baby.
- **Paternity leave** has increased from 5 continuous working days to 4 consecutive weeks.
- Affording different treatment to workers on maternity or paternity leave, which has the effect of impairing their career development or their opportunity of promotion, will be considered as unlawful discrimination.
- **Childcare facilities** – In 2023, the legislator introduced the requirement for employers with more than 250 workers to provide free childcare facilities, either on the premises of the workplace or within a distance of one kilometre from the workplace. These facilities apply in respect of children under the age of 3 years. The Finance Act amends the Workers' Rights Act by removing the requirement for these childcare facilities to be provided on the premises of the workplace or within a distance of one kilometre. It has instead delegated powers to the Minister of Labour to issue regulations to provide for how these facilities are to be provided.

Occupation permits under the Immigration Act

- The minimum threshold salary for eligibility to an occupation permit in has been reduced from MUR 30,000 to MUR 22,500, presumably in an effort to target entry-level employees from abroad.
- Introduction of the 'Expert Occupation Permit' for experts with at least 10 years' experience in Wealth Management, Family Office, Virtual Assets and Virtual Tokens, and earning a monthly basic salary of MUR 50,000.

Work permits under the Non-Citizens (Employment Restriction) Act

Prior to the amendment brought by the Finance Act, the Non-Citizens (Employment Restriction) Act provided that an application for work permit made through the National Electronic Licensing System is deemed to have been granted if it is not determined within 30 working days from the date of the complete application, unless the Ministry of Labour has notified the applicant that the application is still under consideration.

The Finance Act amends this provision by reducing the timeframe from 30 working days to 21 working days.



Recruitment of migrant workers

The Finance Act has introduced a new legal framework for the employment of migrant workers by “labour contractors”, who recruit and supply those migrant workers to other businesses (the “hirer employers”) for a specific period of time. These migrant workers are non-citizens holding work permits issued by the Ministry of Labour. They do not include non-citizens with the status of resident such as those holding Occupation Permits. The salient features of this framework are as follows.

- The labour contractors will not be required to hold a private recruitment agency licence pursuant to the Private Recruitment Agencies Act 2023. Instead, they will need to register with the Ministry of Labour.
- The labour contractors will be allowed to supply migrant workers in specific economic sectors and job categories as the Minister may prescribe.
- The contract of employment will be between the migrant worker and the labour contractor (as employer), irrespective of whether or not the migrant worker is supplied to a hirer employer for a given period.
- The labour contractor and hirer employer will be jointly liable for the payment of remuneration and the migrant workers’ conditions of employment, as well as the payment of statutory contributions in respect of the employment of those workers. However, the hirer employer’s liability will be limited to the sum payable by the hirer employer to the labour contractor under their contractual agreement. Nevertheless, the hirer employer cannot set up as defence to a claim from a migrant worker seeking to recover remuneration, the fact that they have already paid to the labour contractor any sum due under their agreement.
- The hirer employer will be liable for any act of violence at work and for any accident, injury or death sustained by the migrant worker out of, or in the course of, their employment.



Termination of employment of migrant workers

An employer who intends to terminate the employment of a migrant worker and to repatriate him must, before the date of the repatriation, (i) give at least 20 working days' written notice to the supervising officer of the Ministry of Labour, (ii) pay the worker any unpaid remuneration and (iii) ensure that the worker has been paid all benefits to which he is entitled to.



Corporate Tax



Corporate Climate Responsibility Levy

The Finance Act has introduced a new corporate tax, namely the Corporate Climate Responsibility (CCR) Levy. This levy is imposed on every company with a turnover in excess of MUR 50 million (inclusive of any exempt income). It also applies to every resident sociétéé.

The levy is equivalent to 2% of the chargeable of the company / net income of the resident sociétéé.

Tax matters relating to specific industries

- Since 2021, manufacturing companies engaged in medical, biotechnology or pharmaceutical sector and holding an Investment Certificate issued by the EDB are liable to income tax at a reduced rate of 3% on their chargeable income. The Finance Act now provides that this reduced rate will not apply to income derived from intellectual property - such income will therefore be taxed at the standard corporate tax rate of 15%.
- Companies supporting registered professionals in the arts will be eligible to a 200% deduction of that expenditure from their gross income.
- Companies that make a donation through electronic means to a registered NGO involved in combatting drug abuse, prevention of gender-based violence or poverty alleviation, are allowed a 300% deduction of that donation from their gross income. That deduction is capped at MUR 1 million.
- Tax credit of 15% of the cost of artificial intelligence and patents by manufacturing companies in the year of acquisition and in each of the 2 subsequent income years.
- Subject to the approval of the Finance Minister, interest income derived from a bond issued by a public sector company (where the government holds more than 50% shares) to finance infrastructure projects will be exempt from income tax.
- See also the section of this document on global businesses and financial services for tax-related matters.





Prime à l'emploi

The *Prime à l'emploi* scheme provides for the payment of a monthly allowance of up to MUR 15,000 to an employer who, between July 2023 and June 2024, recruits a female person or a person with disabilities who was previously unemployed for at least 1 year. The allowance is paid for a period of 2 years.

By virtue of the Finance Act, this scheme has been extended to June 2025 and now includes part-time employees who work a minimum of 20 hours in a week. The allowance in respect of part-time employees will be equivalent to their basic wage or salary up to MUR 7,500.

Further, an employee qualifies for the scheme if they were previously employed for at least 3 months (instead of 1 year). Other conditions also apply.

Allowances for payment of national minimum wage and salary compensation

Employers in specific sectors are eligible to allowances paid by the MRA in respect of employees earning up to MUR 50,000 in monthly basic salary. They include export enterprises, manufacturing companies, SMEs, bus operators providing public transport, charitable institutions, religious bodies, BPOs, security or cleaning services companies, construction industry, trade unions, NGOs, among others. The allowances and conditions of eligibility vary. The allowances target employers who have suffered an accounting loss or whose accounting profit would be reduced by 10-50% if the additional remuneration and increase in national minimum wage were deducted from that accounting profit.

Submission of amended income tax returns

A person may not submit an amended income tax return with respect to an income year for which the MRA has raised an assessment.

Further, where a person has been informed of the MRA's intention to issue an assessment, they may request for changes to be made to a return that they have already submitted before the issue of the assessment, provided that the changes to be made do not relate to matters forming part of the basis of assessment.



Tax credit on corporate nurseries

The Income Tax Act allows a company a deduction from its gross income of 200% of the capital expenditure incurred on a crèche or the cost of setting up a Child Day Care Centre for the benefit of its employees. The deduction is claimed in the income year in which the expenditure is incurred. Where a company claims that deduction, it is not entitled to an annual allowance in respect of such expenditure in that income year and succeeding years.

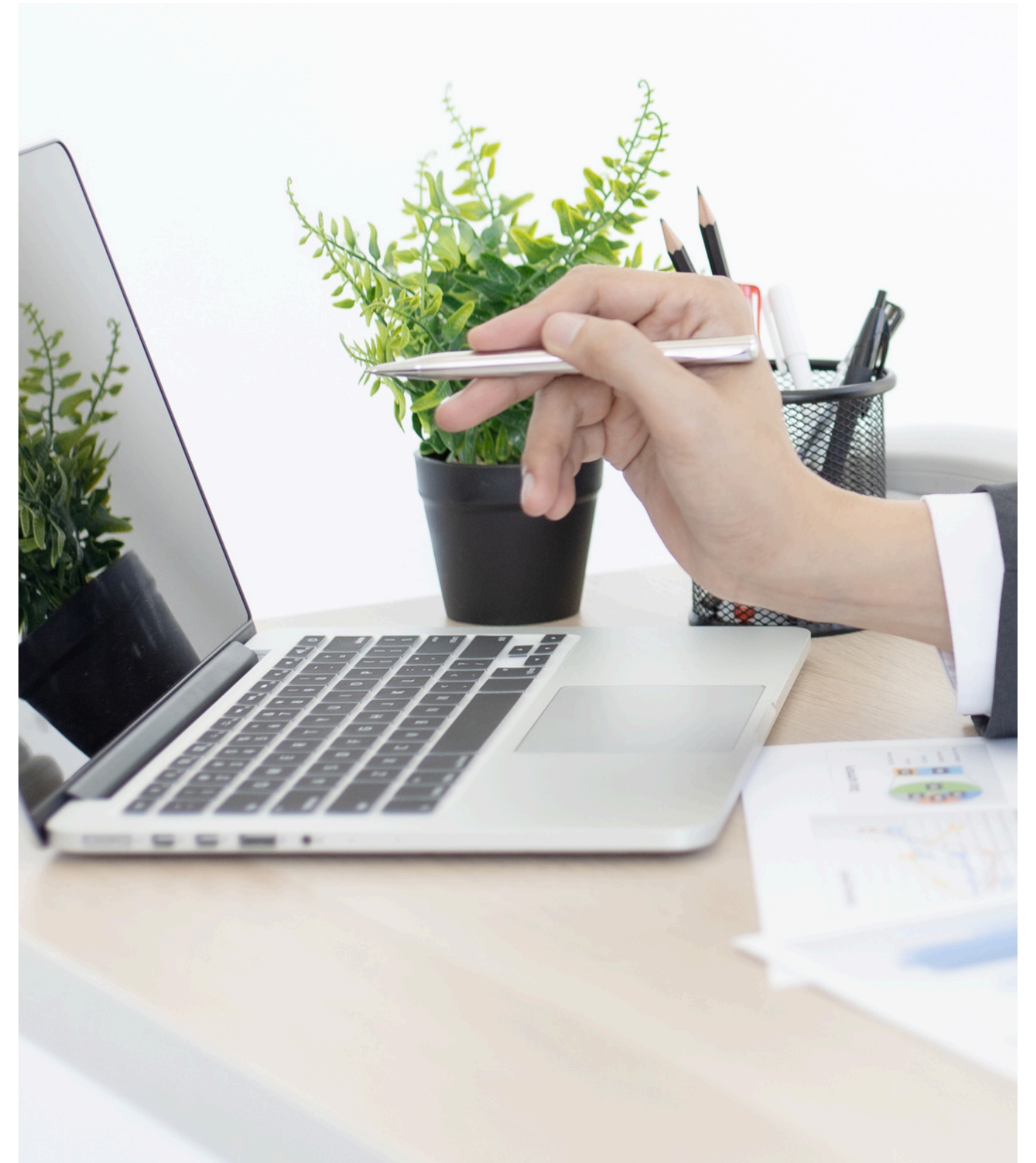
The Finance Act has introduced a further tax incentive in that respect: the company will be allowed a tax credit of 25% of the expenditure by way of deduction from the income tax otherwise payable in that income year. If the deduction exceeds the amount of income tax payable for that income year, the excess may be carried forward to the following income years for a maximum of 5 consecutive years. Further, the tax credit does not prevent a company from claiming an annual allowance in respect of the capital expenditure in that income year and succeeding years.



Corporate Administration & Governance

Administrative matters

- An application for incorporation made by a company limited by guarantee must be accompanied by a copy of its constitution.
- Prior to the amendment brought by the Finance Act, a person nominated by a one-person company to act as secretary upon the death of the sole shareholder and director had all the duties of a secretary. Such duty is now restricted to the calling of a meeting of heirs or other personal representative of the deceased to appoint new director(s).
- Where a company holds a licence issued by the FSC, a request for its removal from the register of ROC must be accompanied by a letter of no objection from the FSC.
- All fees payable to the ROC are due at the time of submission of any document or request involving payment.



Winding up of limited life companies

A limited life company is a company whose duration is limited to a maximum of 150 years from the date of its incorporation. The Companies Act already provides that for the purposes of winding up a limited life company, an administrator can be designated in the constitution of the company, appointed by the shareholders of the company or by the Bankruptcy Division of the Supreme Court. The administrator need not be a registered insolvency practitioner but must be a natural person.

The Finance Act has amended the Companies Act by requiring the administrator, as far as possible, to conduct the winding up of the company in accordance with the Insolvency Act.



Financial Reporting

The Financial Reporting Act has been amended to require Public Interest Entities (“PIE”) to apply for registration to the National Committee on Corporate Governance. The PIEs include:

- (a) entities listed on the Stock Exchange of Mauritius;
- (b) financial institutions, other than cash dealers, regulated by the Bank of Mauritius;
- (c) financial institutions regulated by the FSC, from the following categories: (i) insurance companies, other than companies conducting external insurance business, licensed under the Insurance Act; (ii) collective investment schemes and closed-end funds, registered as reporting issuers under the Securities Act; (iii) CIS managers and custodians licensed under the Securities Act; (iv) persons licensed under section 14 of the Financial Services Act to carry out leasing, credit finance, factoring and distributions of financial products to the extent that the services supplied are by retail;
- (d) any company which has, during 2 consecutive preceding years, at least one of the following:
 - (i) an annual turnover exceeding 500 million rupees; or
 - (ii) total assets exceeding 500 million rupees;
- (e) Any group company which has, during 2 consecutive preceding years, at least one of the following: (i) an annual turnover exceeding one billion rupees; or (ii) total assets exceeding one billion rupees.

This requirement, however, does not apply to Global Business Corporations and Authorised Companies.



Global Business & Financial Services



Applications to the FSC

To enhance the ease of doing business in Mauritius, the Financial Services Act has been amended to provide a timeline of 10 working days for the FSC to process an application for a licence (including for the grant of a global business licence and for authorisation as an Authorised Company), subject to the following framework.

- Upon receipt of an application, the FSC will determine whether the application is complete. Unfortunately, the Bill as currently drafted does not provide a period within which the FSC must make that determination.
- If the FSC requests further information in connection with the application, the applicant will have 15 days to submit such information.
- If the application does not contain the mandatory information and documents required by law or in the FSC's guidelines, or if the applicant does not submit the further information requested by the FSC within 15 days of the request, the application will be deemed to have been withdrawn.

- From the time that the FSC determines that the application is complete, the FSC will grant the application within 10 working days.
- This framework does not apply to (a) applications made prior to 01 October 2024; (b) applications for registration concerning initial token offerings or licences under the Virtual Assets and Initial Tokens Offerings Act; and (c) other applications that may be specified in FSC Rules.





Post licensing fees

The Finance Act has also introduced post licensing fees that a licensee would have to pay to the FSC. Further to the amendment, the Financial Services Act now specifically provides for such fees to be paid to the FSC upon an application being made to appoint a new management company or registered agent.

The Annex to the Budget Speech also indicated that such fees would be payable in respect of post-licensing processes such as appointment of officers, directors, auditors, actuaries, new controllers, and beneficial owners.

These fees will be specified in FSC Rules.



Remedies to prejudiced shareholders

Under section 178 of the Companies Act, shareholders, former shareholders and other entitled persons may apply to the court for equitable remedies where they consider that the affairs of the company have been, are being or are likely to be conducted in an oppressive, unfairly discriminatory and unfairly prejudicial manner. Such remedies include, where just and equitable, the court's alteration of a company's constitution, and restrictions on the company to further alter that constitution (section 179).

This cause of action is generally available (but not necessarily restricted) to minority shareholders, who are not in control of the affairs of the company. Prior to the amendment brought by the Finance Act in this respect, the court did not have jurisdiction to entertain an action under sections 178 and 179 of the Companies Act in respect of Global Business Companies and Authorised Companies. The Companies Act has now been amended to allow these companies to incorporate these provisions in their constitutions.

Enhanced powers of the FSC (1/2)

- **Qualified trustees:** The FSC will be entitled to request qualified trustees to submit any recorded information on trust structures that they manage.
- **Advertisements:** The FSC will have the power to inspect any advertisement proposed to be published by persons holding any FSC licence, authorisation or consent. Such persons must submit any proposed advertisement to the FSC at least 7 days prior to the date of first publication. If the FSC is not satisfied with the advertisement, it is empowered to require the person to amend, withdraw or refrain from publishing the advertisement.
- **Private pension schemes:** The FSC's approval will be required before private pension schemes alter their pension benefits by (a) converting the accrued benefits of a member in a defined benefit scheme and crediting the commuted value to the member's account under the subsequent defined contribution scheme or (b) shifting a member from a defined benefit to a defined contribution scheme for future service accrual, on the date on which the member's accrued pension benefits are preserved. Any approved alteration must be effected in accordance with the guidelines of the FSC.



Enhanced powers of the FSC (2/2)

- **Financial crimes:** The Financial Services Act already provides for the powers of the Chief Executive of the FSC to refer a matter to the Enforcement Committee of the FSC for such action as the Enforcement Committee deems fit if the Chief Executive has reasonable cause to believe that a licensee has committed a financial crime. The amendment brought by the Finance Act widens this power to include instances where the FSC believes that a licensee is in the course of committing a financial crime.
- **Directions:** By virtue of a new provision in the Financial Services Act, the Chief Executive of the FSC is empowered to give such written directions as he deems fit to a Global Business Company or an Authorised Company where he has reasonable grounds to believe that the company (a) has or is likely to contravene certain provisions of the laws of Mauritius, (b) is conducting its affairs in an improper manner or (c) is involved in a financial crime. The Chief Executive must give the company a reasonable opportunity to respond to the allegations in writing before giving such directions. However, if the Chief Executive believes that any delay in issuing the direction may cause severe prejudice to the company, the public or the financial services industry, he may issue the directions and then give the company the opportunity to respond to the allegations within 7 days of such directions.





Other regulatory matters

- Licensees to ensure that they promptly notify the FSC in case of a change of name. The FSC may require the submission of additional information and the payment of prescribed fees upon such notification.
- FSC to issue duplicate licences where any original licence is misplaced, lost or destroyed.
- A deadline of 6 months after the close of their financial year for Authorised Companies to file their annual financial summary or any other type of accounts, statements or returns with the FSC.
- Auditors of closed-end funds to be approved by the FSC and to owe reporting obligations to the FSC.
- A virtual asset service provider must always have a senior executive. The approval of the FSC must be sought prior to the appointment of that senior executive.
- The BOM's approval is required for the appointment of a director, senior officer or employee of a licensee under the National Payment Systems Act.
- The BOM may grant an 'in-principle' approval to an applicant in relation to the operation of a payment system, clearing system or settlement system under the National Payment Systems Act. The 'in-principle' approval is granted to enable the applicant to proceed with the finalisation of its set-up and will automatically lapse if the applicant fails to satisfy the terms and conditions set out in that approval.

Tax matters

- Income from the sale of virtual assets and virtual tokens to be exempt from income tax.
- Extension of the partial exemption regime to income derived by a company holder of a Payment Intermediary Services licence issued by the FSC.
- Extension of the partial exemption regime to income derived by a company holding a Robotic and Artificial Intelligence Enabled Advisory Services licence issued by the FSC.

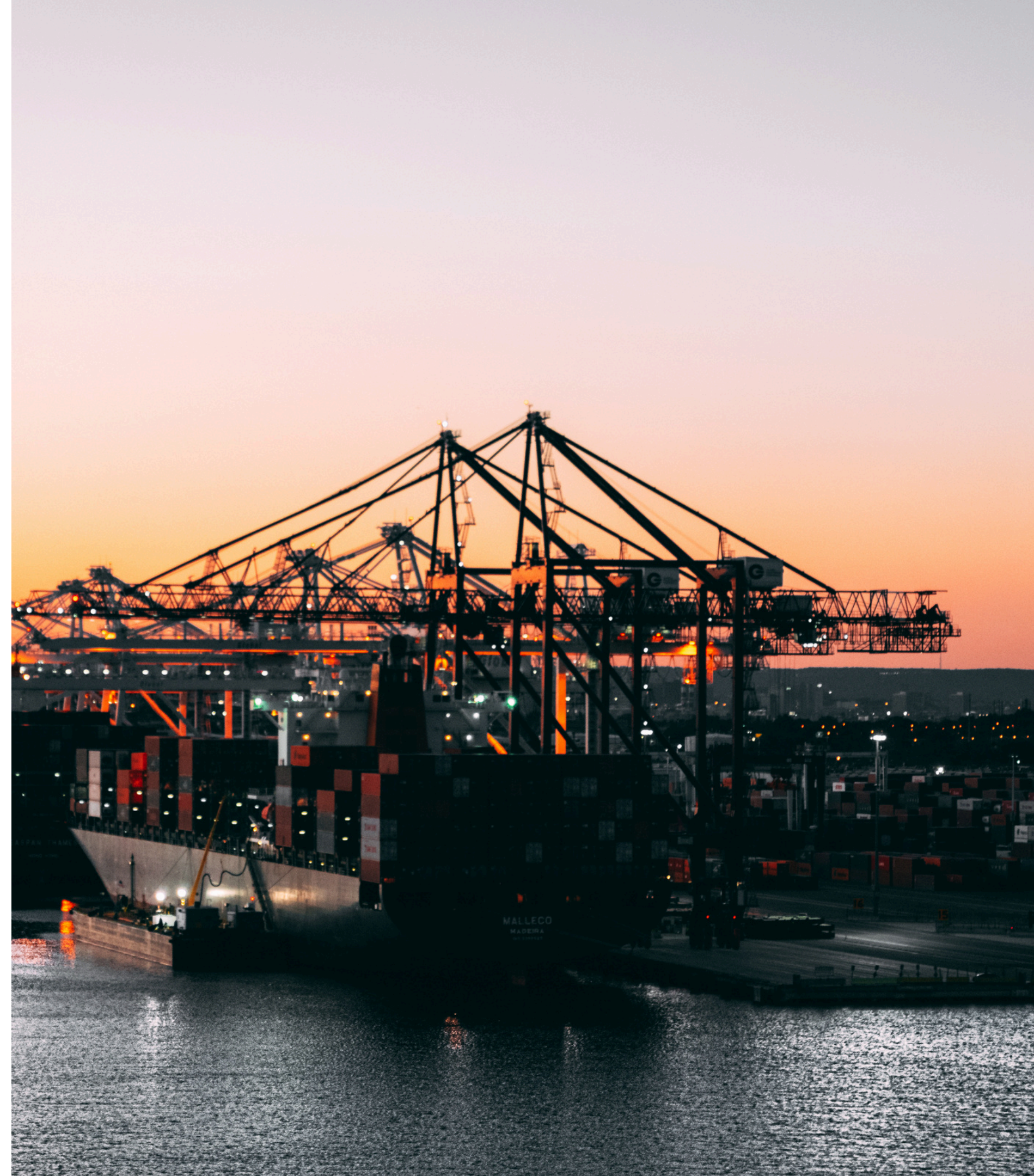
The Finance Act has also amended the Income Tax Act by introducing a new corporate tax, namely the Corporate Climate Responsibility Levy (the “CCR Levy”), equivalent to 2% of the chargeable income of companies that have an annual turnover of over MUR 50 million. The CCR Levy has been specifically included in the definition of “income tax”. Therefore, our reading is that where income derived from certain global business activities is partially exempt from “income tax” (as provided in the Second Schedule to the Income Tax Act), that partial exemption also applies to the CCR Levy.



Activities in the freeport

The Finance Act has amended the Freeport Act in order to allow GBCs to hold a freeport certificate allowing them to build, develop and manage infrastructural facilities, warehouses, cold storage units, offices and similar areas for the purposes of conducting the existing list of prescribed activities set out in the Freeport Act (including but not limited to shipbuilding, repairs and maintenance of ships and aircrafts; operating vaults for keeping gold, silver, precious metals and stones, artworks, antiques and similar items; and minting and refining of precious metals).

Holders of a freeport certificate will also be authorised to operate “Fulfilment Centres” - i.e. logistical hubs that handle a seller’s order fulfilment processes. These centres will not be engaged in manufacturing activities or international buying and selling of tradeable commodities that are directly shipped from the exporting country to the importing country without passing through Mauritius.



Real Estate



Green forests in new morcellements

The Morcellement Act has been amended to introduce a new requirement on developers of morcellement projects of more than 5 arpents to ensure that at least 4% of the total area of the morcellement is dedicated to “green forests”. These green forests should consist predominantly of endemic trees and be designed to provide a useable and useful garden setting and landscaping that complements the morcellement.

The *association foncière* (where available) or the relevant local authority will be responsible for the maintenance of the green forests.

This new requirement does not apply to projects in respect of which an application has already been submitted to the Morcellement Board. Also exempt are industrial projects, agricultural morcellements, plots of land parcelled for charitable or religious purposes, divisions in kind between co-heirs, ascendants and descendants, and subdivisions of large plots of land which do not entail development.





Energy efficiency

In 2011, the legislator established the Energy Efficiency Management Office to operate within the Ministry of Energy. One of its functions is to compile and maintain a database for energy auditors, i.e. institutions that are certified to conduct the verification, monitoring and analysis of use of energy.

Further to an amendment brought by the Finance Act, the Energy Efficiency Management Office will also collect and maintain a database for “energy service companies”, i.e. companies that are engaged in the development, design and financing of projects with the aim of reducing energy use through the implementation of energy efficiency improvement measures. The Minister of Energy may also issue regulations to provide for the criteria and manner of registration of energy service companies. According to the Annex to the Budget Speech, this amendment is intended to allow for the development of a regulatory framework for energy performance contracting.

Transfer of shares in company reckoning immovable property

- Prior to the amendment brought by the Finance Act, a transfer of shares in a company owning immovable property was subject to land transfer tax and registration duty where the transfer of shares resulted in an “effective change in the ownership of that company”. Pursuant to the amendment, the land transfer tax and registration duty now apply where the transfer of shares in the company results in a change of more than 10% in the shareholding of the company.
- Where the shareholder in a company transfers immovable property to that company, and the value of their shares in the company is less than the value of the immovable property, the company will pay registration duty on the difference between the value of the immovable property and the value of those shares. Previously, this basis for levying registration duty applied only to a transfer for the implementation of a project under the Real Estate Development Scheme but it has now been extended to any transfer of immovable property to a company.





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 applied to acquisitions or reservations made between 01 July 2021 and 30 June 2024, subject to certain conditions. The Finance Act has extended the Home Ownership Scheme by another year until 30 June 2025.

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 applied where the deed witnessing the loan is signed and registered between 01 July 2021 and 30 June 2024, subject to certain conditions. The Finance Act has extended the Home Loan Payment Scheme by another year until 30 June 2025.

Tax arrears

Any penalty and interest on registration duty and land transfer tax outstanding as at 30 June 2024 will be disregarded where such arrears are fully paid by 26 June 2025 and the person withdraws any ongoing legal proceedings challenging the payment of the duty and taxes.

Non-citizens

A non-citizen may hold property in virtue of a non-renewable lease agreement for industrial or commercial purposes for up to 30 years (previously 20 years) without authorisation from the Prime Minister's Office.





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