

The COVID-19 (Miscellaneous Provisions) Bill

Sailing through COVID-19

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SUMMARY

- **The COVID-19 Bill** contains a raft of overarching provisions which will amend several main legislations. We have selected a few which may affect your business directly or indirectly so that you are better prepared in facing the business challenges that lie ahead. The **‘COVID Period’** for the purposes of this Bill means the period **23 March 2020** to **1st June 2020**, when the national lockdown is expected to be lifted, or such other dates as may be prescribed by regulations.



AMENDMENTS TO THE LAWS

Companies Act amended (AGM, FS)

- AGM date extended to **9 months** (instead of 6 months) after the balance sheet date **or such further period** that the Registrar of Companies may determine after the COVID-19 period lapses.
- No restriction on having more than one AGM in a year and an AGM can be held more than 15 months of the previous AGM, during the COVID Period and such further period as the Registrar may determine.
- Time to complete **Financial Statements** extended to **9 months** after balance sheet date or such further period as the Registrar may determine after the COVID -19 Period lapses.
- Filing of FS/Audit Report with the Registrar extended to **3 months** after completion of FS (instead of 28 days) or such further period as the Registrar may determine after the COVID-19 period lapses.
- Duty for Directors to call a Board Meeting if the company cannot pay its debts as they fall due, or otherwise be personally liable, has been put in abeyance during or after the COVID Period for such further period as the Registrar may determine.



AMENDMENTS TO THE LAWS

The Workers Rights Act amended

Annual Leaves deduction

- 15 days' deduction if Workers have not worked between 23 March and 14 May.
- 7.5 days' deduction if Workers have worked between 23 March and 14 May.
- Overtime during COVID Period: Overtime means work for more than 45 hours per week. Payment in cash or time off. Time off to be calculated based on 1.5 time or 2.
- Reduction of workforce: Prior approval must be sought from the Redundancy Board if company employs more than 15 employees or has an annual turnover of above MUR 25 M. Redundancy will be decided within 30 days. If redundancy is for no valid reason, severance allowance of 3 months per year of service is payable. If valid, then Employer has to pay 30 days wages as indemnity in lieu of notice.
- Redundancy will be fast-tracked for certain sectors like hotel, port, hospital, etc. Redundancy Board will make a decision within 15 days only.



AMENDMENTS TO THE LAWS

The Workers Rights Act amended

Annual Leaves deduction

- Where the Board finds that the reasons for the reduction of the workforce or the closing down are justified, the Board shall, in lieu of the termination of employment, at the request of the employer and subject to the consent of the worker concerned, order that the worker, or such category of workers as the employer may designate, shall proceed on leave without pay for such period as the employer may specify in his notification subject to the condition that the resumption of employment be on such new terms and conditions, including pension benefits, as the employer may, prior to resumption of work, offer to the worker.
- Work from Home: Employers may now request Employees to work from home subject to giving 48 hours' notice.
- Flexi-time: All Workers may now request to work on flexi-time.
- Night Shift Allowance suspended during COVID Period.

AMENDMENTS TO THE LAWS

Immigration Act amended

- Visas, including Work Permits expired during the COVID Period will remain valid for a period of 30 days after the COVID-19 period lapses or for such further period as may be prescribed.

Customs Act amended

- For goods entered and cleared by an SME or VAT registered person, the duty, excise duty, taxes and any fees or charges leviable on the goods cleared in any other month other than June shall now be paid not later than **16 working days after the end of that month** instead of 7 working days.



AMENDMENTS TO THE LAWS

Insolvency Act amended

- Resolutions for **winding-up** passed during the COVID Period or 3 months following the end of the COVID Period shall be of no effect and deemed void. Not applicable to GBCs.
- The appointment of a **Receiver Manager** during the COVID Period shall be of no effect and deemed void. Not applicable to GBCs.
- Threshold for **Statutory Demand** by creditor increases from **Rs 100,000 to Rs 200,000**. The Debtor shall comply with the Statutory Demand within **2 months** of the date of service. Any challenge in Court to be made within 28 days of service.



AMENDMENTS TO THE LAWS

Landlord & Tenant Act amended

- Rent for business premises during COVID-19 period and up to August 2020 is still payable in full, but payment for these months is deferred till 31 December 2021.

Interpretation & General Clauses Act amended

- Where enactments provide a time period for the following matters, and such time expires or falls wholly or partly during the COVID-19 period or 30 days after the COVID-19 period lapses, such time period may be extended by regulations made by Ministers.

Road Traffic Act amended

- Where a licence expires on 31 March 2020, 30 April 2020, 31 May 2020 or such further date as may be prescribed, the owner or actual owner of the motor vehicle or trailer shall not be liable to a surcharge of 50 per cent on the amount of the tax prescribed for that vehicle or trailer, provided that the licence is renewed not later than 31 August 2020 or such further date as may be prescribed.



AMENDMENTS TO THE LAWS

Freeport Act amended

- A private freeport developer is authorised during the COVID period and such further period as may be prescribed after the COVID-19 period lapses, to provide warehousing facilities for the storage of goods, which have been cleared from Customs, in a freeport zone to **any person**. The goods shall be stored for a maximum period not exceeding **36 months** where the goods are entered during the period starting on 1 October 2018 and ending on 31 December 2020.

Tourism Authority Act amended

- Tourist Accommodation Certificate, Tourist Enterprise Licence, Pleasure Craft Licence that has expired during the COVID Period will be automatically renewed for another 12 months and the licence fee to be paid in equal monthly instalments. Failure to pay for 3 consecutive instalments will cause the licence to lapse.
- The payment of the environment protection fee in relation to hotels, guest houses or tourist residences of more than 4 bedrooms waived for the period of 1 March 2020 to 31 December 2020.

AMENDMENTS TO THE LAWS

Bank of Mauritius Act amended

- The BOM will be allowed to provide a grant to the Government to assist in its fiscal measures to stabilise the economy as a result of the negative impact of COVID-19.
- Removal of the public sector debt ceiling.
- Bank of Mauritius can invest its foreign reserves in any company or corporation engaged in facilitating economic development.



TAX MEASURES

Levy and contribution

COVID-19 Levy

- Applicable for the years of assessment commencing on 1 July 2020 and 1 July 2021 to an employer who has received an allowance under wage assistance scheme (WAS).
- Levy payable to the MAURITIUS REVENUE AUTHORITY ('MRA') by the employer in his respective return of income.
- The MRA may within a period of 3 years from the date the levy is payable issue a notice to make a claim together with interest and penalties if the employer has not paid the levy.
- Employer can be: an individual, a resident or a company having an accounting year end during the period starting on 1 May 2020 and ending 31 December 2020.
- The Levy payable is the lower of the total amount received under the WAS or for an individual: 15% of gross income after specified deductions or for a resident Société or company: 15% of the leviable chargeable income.
- Chargeable income for the purposes of the levy **excludes tax losses brought forward from previous years.**



TAX MEASURES

- The Levy for a company having an accounting period ending between 1 January 2021 and 30 April 2021, shall be payable in respect of the year of assessment commencing on 1 July 2021.
- MRA may within a **period of 3 years** from the date the levy is payable issue a **notice** to make a claim together with interest and penalties if the employer has not paid the levy



Penalties

- 10% and interest of 1% monthly is applicable on unpaid Levy amount.
- The MRA may request the payment of the levy together with the penalty and interest to be made within 28 days of the notice.
- No Levy is payable if an employer taking the WAS is not liable to tax in the years of assessment 2020-2021 and 2021-2022.
- Any employer making a false declaration or a statement shall commit an offence and on conviction shall be liable to a fine not exceeding Rs. 1m and to imprisonment for a term not exceeding 2 years.
- The Minister may by regulations exclude certain categories of employers from the levy.

TAX MEASURES

Wage Assistance Scheme (Effective 23 March 2020)

Eligible employees

- One of the conditions is for the employer to have gross income from a business.
- Amending law to clarify scenario where business income of the employer is exempt under section 7 of the ITA.
- May apply to a month other than March, April or May 2020 through regulations.
- Regulations will be issued to provide for certain exclusion.
- The MRA may make a provisional payment of the WAS allowance to an employer based on its NPF/NSF return submitted in January 2020 and make an additional payment later based on the NSF/NPF return submitted for the month of March, April and May 2020 or such other month as may be prescribed.
- Maximum amount for every eligible employee is Rs. 25,000 for May 2020.
- For other months, maximum amount of WAS will be prescribed.
- WAS is not available to an employer in a subsequent month where the employment is terminated
- Amount paid under WAS should be refunded if employee has not been paid. WAS will not apply for other months.
- Any employer or employee making a false declaration or a statement shall commit an offence and on conviction shall be liable to a fine not exceeding Rs. 50,000 and to imprisonment for a term not exceeding 2 years.

TAX MEASURES

Administration and VAT

Tax Administration & Dispute Matters

- Where the deadline for making a statutory payment is due or falls wholly or partly during the COVID-19 period, the payment should be made by 25 June 2020. During the period ended 30 June 2020, the payment should be made by 26 June 2020.
- Where a statutory delay relating to proceedings in front of the Assessment Review Committee (ARC) ends or falls wholly or partly during the COVID-19 period, the delay shall be suspended and shall start as from the first day following the end of the COVID-19 period. During a period of 21 days post the COVID-19 period, the delay shall be suspended and shall start as from the 22nd day following the end of the COVID-19 period.
- Where a statutory delay imposed on the MRA to make any assessment, decision, determination, notice or claim ends or falls wholly or partly during the COVID-19 period, the deadline will be extended to two months after the COVID-19 period lapses. During a period of 30 days post the COVID-19 period, the deadline will be extended to two months after the period of 30 days lapses.
- The deadline to make an application for review under the Expeditious Dispute Resolution tax Scheme has been extended from 30 June 2020 to 31 August 2020.

TAX MEASURES

Immigration (effective 23 March 2020)

- Persons issued with a permanent residence permit or a residence permit can now apply for an extension or a variation of its permit while being in Mauritius.
- A permit is deemed not expired if it has expired during the COVID-19 period and will remain valid 30 days after the COVID-19 period lapses or further as prescribed.
- A permit is deemed not expired if it expires 21 days after the COVID-19 period lapses and will remain valid for 30 days or any further period as prescribed.



TAX MEASURES

Value Added Tax

The following items are classified as zero rated supplies:

- Protective masks against dust, odours and similar items
- Other breathing appliances and gas masks, excluding protective masks having neither mechanical parts nor replaceable filters
- Hand sanitisers



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