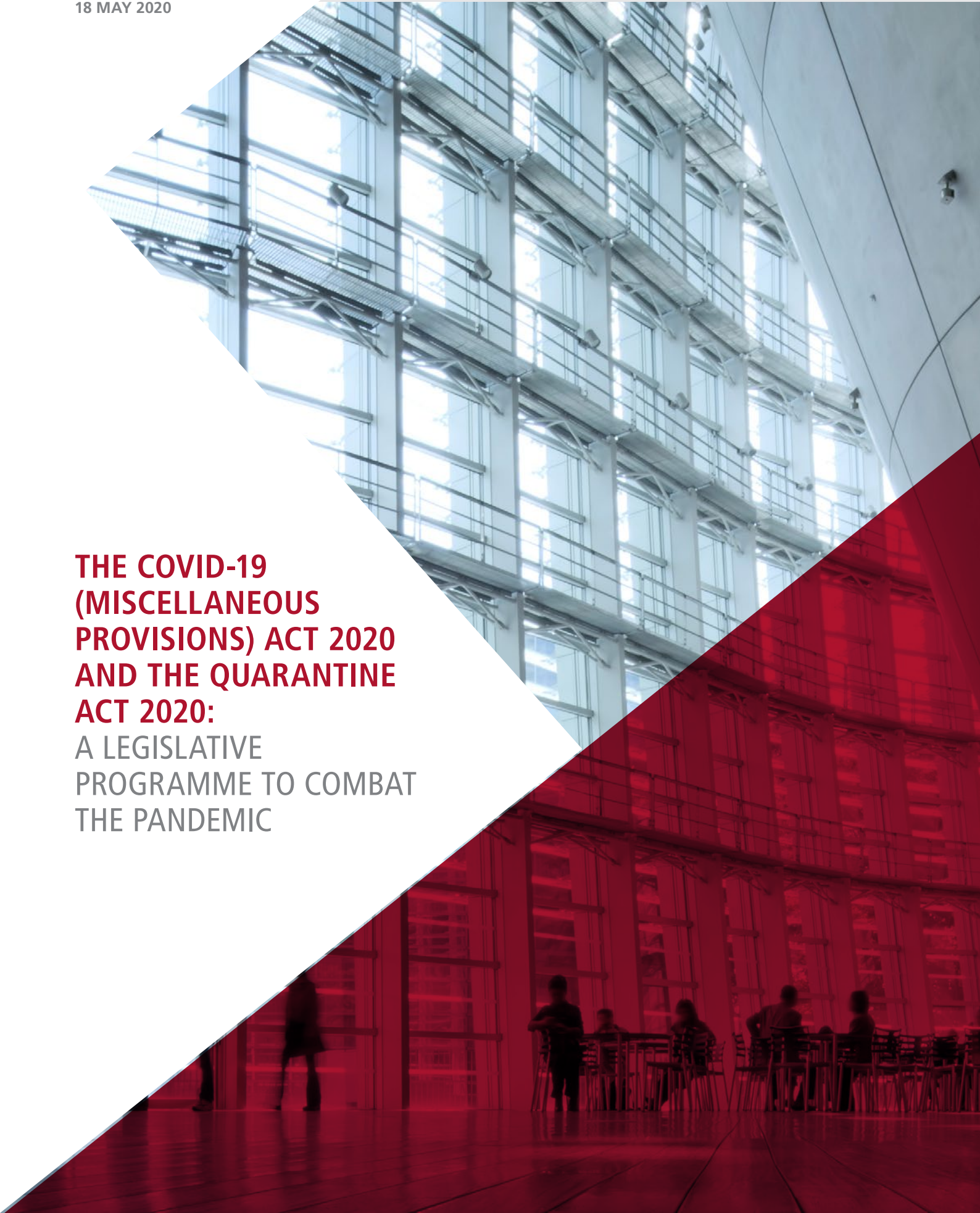


18 MAY 2020

**THE COVID-19
(MISCELLANEOUS
PROVISIONS) ACT 2020
AND THE QUARANTINE
ACT 2020:**

A LEGISLATIVE
PROGRAMME TO COMBAT
THE PANDEMIC



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INTRODUCTION

Shortly after the first cases of COVID-19 were confirmed in Mauritius, the Prime Minister announced that the country would be in confinement as from 20 March 2020. At the time of writing, we are still in a state of sanitary curfew until 01 June 2020 although certain activities have been allowed to re-open since 15 May 2020.

The fallout from COVID-19 having reached our shores has led to heightened concerns about public health and protection of the population from a second wave of infections, as well as a damaged economy in need of a relaunch.

The COVID-19 (Miscellaneous Provisions) Act 2020 (the 'COVID-19 Act') and the Quarantine Act 2020 (the 'New Quarantine Act') which have been passed on 15 May 2020 in the National Assembly seek to lay the foundations for re-opening of the country within appropriate public health parameters. The President of the Republic has assented to the COVID-19 Act and the New Quarantine Act, and they have been published in the Government Gazette on 16 May 2020.

The COVID-19 Act amends a broad array of 56 existing primary enactments whilst the New Quarantine Act repeals and replaces the former Quarantine Act which had been in force since 1954. The new legislations do not as yet provide all the solutions and certain matters will still need to be fleshed out in future regulations. For example, while the new provisions to the Interpretation and General Clauses Act recognise that deadlines that have occurred during the COVID-19 period will need to be extended, they throw back the envisaged extensions of those deadlines to future regulations to be passed under the enactments containing such deadlines. Regulations are to be made by the Minister of Health under the Public Health Act to prevent the resurgence of epidemics and transmission of infectious diseases, as well as from the Minister of Land Transport and Light Rail under the Light Rail Act 2019 and Road Traffic Act to provide for sanitary measures to be applied in light rail commuting and the transport industry generally.

The COVID-19 Act and the Quarantine Act also toughen criminal penalties for breaching public health and quarantine legislation. Whether the impact of those sanctions and the prescription of other invasive provisions on fundamental human rights such as freedom of movement, freedom of association and the right to a private life are proportionate and justified on the ground of protection of public health will remain a moot point.

THE COVID-19 PERIOD DEFINED

Several amendments brought about by the COVID-19 Act refer to events which would have taken place during or

shortly after the 'COVID-19 period'. The Interpretation and General Clauses Act ("IGCA") is therefore amended with effect from 23 March 2020 in order to define what that term means, namely the period starting 23 March 2020 and ending on 01 June 2020 or on such later date as the Prime Minister may prescribe by way of regulations made under the IGCA.

During the COVID--19 period, meetings of statutory corporations (or of their controlling body, committee or sub-committee) may be held either by a number of members who constitute a quorum being assembled together or by means of audio or visual communication provided all participating members constitute a quorum and can hear each other simultaneously. A written resolution signed or assented by all members shall be as good and valid as if it has been passed at a duly convened meeting. Such resolution may consist of several documents, including fax, email or other means of communication.

Where under an enactment, a time limit is imposed to:

- lodge or institute judicial proceedings
- make a payment
- make an application for a licence including renewal
- make a decision or render a determination
- submit a report
- register a document
- serve a notice
- to do or refrain from doing an act,

and the time limit expires or falls wholly or partly during the COVID-19 period or a period of 30 days after the COVID-19 period, then this time limit may be extended not later than such periods as may be prescribed by regulations under the relevant enactment. "Judicial proceedings" in this context means proceedings before any Court, statutory tribunal, statutory committee, statutory commission or statutory panel and includes an appeal, an objection, a review, a petition, an application by way of case stated, a representation, a complaint, an assessment or any other statutory application.

If a licence has expired, under an enactment, during the COVID-19 period or a period of 30 days after the COVID-19 period lapses, the licence will be deemed not to have expired and will be valid for such period as may be prescribed by regulations under that enactment. A licence includes a permit, an approval, a clearance, a certificate or any other similar authorisation.

No charge, interest, penalty, surcharge or any other additional fee shall be charged or payable where the time for doing an act or thing under an enactment expires, or falls wholly or partly, during the COVID-19 period or a period of 30 days after the COVID-19 period lapses.

A person is deemed not to have committed an offence where the time limit for doing or refrain from doing an act, under an enactment, expires or falls wholly or partly during the COVID-19 period.

A person shall be exempted to follow continuous professional development courses during the current CPD year for the purpose of continued registration or to practise his profession, on account of the COVID-19 period.

The Public Officers Protection Act is amended, also with effect from 23 March 2020, so that if the two years within which an action against any public officer or person engaged in any public duty should have been instituted, falls during the COVID-19 period, then the action may be lodged not later than 3 months after the COVID-19 period lapses.

QUARANTINE, PUBLIC HEALTH AND PUBLIC ORDER MEASURES

The New Quarantine Act repeals and replaces the Quarantine Act 1954. The latter was a very short piece of legislation which empowered the Minister of Health to make regulations to prevent danger to public health from ships or aircraft and the spread of infection by means of ship or aircraft, and for the Quarantine Authority (being the Permanent Secretary of the Ministry of Health) to make rules to implement such regulations. The Quarantine Authority was also empowered to require special measures to be taken during situations of emergency.

The New Quarantine Act contains more detail on the declaration and modalities of a quarantine period, and makes provision for:

- the definition of 'communicable diseases', as listed in a Schedule to the Act (including Covid-19 and pandemic influenza type A) and including human diseases which are transmissible by contact with an infected person, his bodily discharges or fluids, contaminated surfaces or objects, contaminated food or water or an insect or animal capable of transmitting a communicable disease
- the Prime Minister, during a quarantine period, to prohibit the entry of aircrafts and ships, to order persons to remain indoors and to order the closure of commercial premises or offices
- the Commissioner of Police to issue permits allowing a person to be outdoors on such terms and conditions as he may specify
- the Minister of Health to declare that there is, or there is likely to be an epidemic in Mauritius and that a quarantine period shall be in force in Mauritius, and to declare the end of a quarantine period when there is no longer a threat of an epidemic.
- following the declaration of a quarantine period, for the

Quarantine Authority (being the Director General Health Services) will be able to designate quarantine facilities each under the control of quarantine officer (being a medical practitioner). The designated areas may include private premises subject to entry into a written agreement with the owner or occupier of the premises, without the need to comply with the Public Procurement Act

- the quarantining and medical examination of any person who travels into Mauritius from abroad, has been or may have been in contact with a person who has or may have a communicable disease or has otherwise been exposed to a communicable disease
- a quarantine officer to allow a person to be quarantined in an adequate private health institution or direct a person to self-isolate subject to conditions imposed by the quarantine officer
- a quarantine officer to discharge a quarantined person, and re-admit the latter if he or she does not comply with conditions imposed on him or poses a risk to public health
- a quarantine officer to control access to and from a quarantine facility, with the assistance of police officers if necessary
- compelling a person to provide information reasonably required by a quarantine officer if the person shows symptoms of a communicable disease, is infested with vectors, has been in contact with another person who has or may have a communicable disease or has otherwise been exposed to a communicable disease, failure of which amounts to a criminal offence
- imposing a duty on a person who suspects that he has or may have a communicable disease, is infested with vectors or may have been in contact with a person who has or may have a communicable disease, to inform a quarantine officer, failure of which amounts to a criminal offence
- granting the police wide powers to board a ship or aircraft or enter premises without a warrant, or arrest a person without a warrant if the officer has reasonable cause to believe that the person has committed an offence under the Act
- sentences for offences committed under the Act to be punishable by up to 500,000 rupees and 5 years' imprisonment

The Public Health Act is amended to provide that when a dangerous epidemic, endemic, infectious or communicable disease has subsided, the Minister of Health may make regulations to prevent the resurgence and further spread of the disease. Offences committed in breach of regulations made under the Act are also now punishable by tougher sentences of a maximum of 200,000 rupees' fine and up to 5 years' imprisonment up from 500 rupees and 6 months previously. The Prime Minister indicated during the reading of the Bill that those amendments are being made pending the introduction of a new and comprehensive Public Health Act.

To increase deterrence against crimes, contraventions and misdemeanours generally, tougher sentences are also now provided under the Criminal Code; spitting in a public place is now a criminal offence. The Public Officers Protection Act is also amended to now criminalise the threatening or intimidation of a public officer, in addition to opposing, molesting, hindering or obstructing one, and sentences under that Act have also been toughened.

MACRO-ECONOMIC MEASURES

The COVID-19 Act amends the Bank of Mauritius Act with effect from 23 March 2020 in order to broaden the powers of the Bank of Mauritius ('BOM') and allow the latter to:

- grant such amount, as approved by its Board, to the Government to assist in the latter's fiscal measures to stabilise the economy due to the negative impact of Covid-19
- provide capital to or invest in any corporation or company set up for the purpose of facilitating economic development in addition to its powers to hold and sell shares
- to invest money in any corporation or company for the purpose of facilitating economic development, with the approval of its Board, and
- to grant such amount from the BOM's Special Reserve Fund when requested by the Government and as approved by its Board, with the aim of assisting the Government to stabilise the economy of Mauritius

In order to report on net debt as opposed to gross debt, the Public Debt Management Act is amended with effect from 23 March 2020 so that when calculating public sector debt, the following are deducted:

- cash balance or cash equivalent held by the Government with the Bank of Mauritius in excess of an aggregate amount of 200 million rupees
- cash balance or cash equivalent held by non-financial public sector bodies in any financial institution in excess of an aggregate amount of 300 million rupees
- equity investment held by the Government or non-financial public sector bodies in any private sector entity, or
- such other money as may be prescribed

A new definition of 'cash equivalent' has been added, meaning an investment other than those in shares and units which are readily convertible to known amounts of cash and are subject to an insignificant risk of changes in value.

The public sector debt ceiling in the Public Debt Management Act has also been repealed. Finally, every director or head of a non-financial public sector body is required to submit to the

Ministry of Finance, not later than 15 days after the end of every quarter, cash balances and cash equivalents, held with any financial institution, and equity investment held in any private sector entity, in respect of that quarter.

The Finance and Audit Act is amended with effect from 23 March 2020 so that the limit of advances at any time which the Minister of Finance may authorise from the Consolidated Fund or deposits under the Act (i) to or on account of a Special Fund and (ii) to or on behalf of any person where the advance is required in the public interest, is increased from 3.5 billion rupees to 15 billion rupees.

COMPANIES AND REPORTING

The COVID-19 Act brings several amendments with effect from 23 March 2020 to the Companies Act during the COVID-19 period, or such further period, as the Registrar of Companies ('ROC') may determine after the COVID-19 period lapses. These amendments have been welcomed by the industry since they relate to matters which were of great concern to company secretaries and other practitioners as given the pandemic, it would have been difficult to respect the current timeframes set out in the Companies Act.

Various timeframes in relation to Annual Meetings of shareholders ('AM') have been amended. Firstly, the holding of an AM which was previously 6 months within the balance sheet date, has been extended to not later than 9 months or not later than such further period that the ROC may determine. Secondly, the requirement for a company to hold an AM once in a year and not later than 15 months after the previous AM, has been waived. Finally, provisions are also made in the COVID-19 Act for the ROC to issue such Practice Directions as may be necessary to determine the manner in which an AM is to be held during the COVID-19 period and such further period, as the ROC may determine.

The duties of a director, to convene a board meeting and resolve that the company should be placed in liquidation or administration where he/she believes that a company is unable to pay its debts as they fall due, shall not apply during the COVID-19 period or such further period, as determined by the ROC, after the COVID-19 period lapses. This may avoid a number of companies from having to enter into collective insolvency processes where there is still a chance of resuming normal activities after some time.

In alignment with the amendments brought to the timeframes applicable for AMs, the timeframe for the obligation of the board of directors to prepare financial statements which was within 6 months after the balance sheet date of the company, has been extended to 9 months or such further period that the ROC may determine. Along the same vein, the timeframe for a company, other than a small private company, to register

its financial statements with the ROC (which was within 28 days after the financial statements of the company and/or any group financial statements are required to be signed) has been extended to 3 months or such further period that the ROC may determine.

FINANCIAL SERVICES

The COVID-19 Act amends the Financial Services Act with effect from 23 March 2020 to provide that a meeting of the Board of the Financial Services Commission may be held by a number of the members who constitute a quorum being assembled together at the place, date and time appointed for the meeting, or by means of audio, or audio and visual communication by which all the members participating and constituting a quorum can simultaneously hear each other throughout the meeting. In addition, a resolution in writing, signed or assented to by all members of the Board shall be as valid and effective as if it had been passed at a meeting duly convened and held; any such resolution may consist of several documents, including fax, email or other similar means of communication, each signed or assented to by one or more members.

In relation to limited partnerships, limited liability partnerships and foundations and with effect from 23 March 2020, during the COVID-19 period and thereafter for such further period as the relevant Registrar may determine, each of the Registrar of Limited Partnerships, the Registrar of Limited Liability Partnerships and the Registrar of Foundations, may issue such practice directions, guidelines or such other instructions as may be necessary for the proper administration of the relevant Act under their purview. Any such issued practice direction, guideline or other instruction will be published in the Government Gazette and will remain in force unless amended or revoked by publication in the Gazette.

EMPLOYMENT AND EMPLOYMENT RELATIONS

The Workers' Rights Act 2019 (the 'WRA'), which came into force on 24 October 2019, has been amended following the COVID-19 Act. Some of the major changes brought are highlighted below.

An "employee" refers to any person to whom the WRA applies irrespective of basic salary and a "worker" refers to any person whose basic salary is MUR 50 000 or less in a particular month.

Work from home

An employer may require an employee to work from home upon being provided with a notice of at least 48 hours.

The Minister of Labour may make regulations as he deems fit pertaining to the conditions attached to an employee working from home.

Night shift

Under the WRA, an allowance of 15 per cent of basic wage was paid to a worker employed on night shift in addition to his basic wage. The COVID-19 Act abolishes the payment of night shift allowance and this takes effect as from the date the COVID-19 Act is gazetted until such period as may be prescribed.

Overtime in connection with COVID-19 period

A worker, other than a watchperson, who is employed in the manufacturing, blockmaking, construction, stone crushing and related industries may be provided paid time off in lieu of overtime payment for additional hours worked from the date the COVID-19 Act is gazetted until such period as may be prescribed. In the event that the worker is unable to take the paid time off, it shall be accumulated up to the date the worker ceases to be in employment or 31 December 2021, at which date the accumulated paid time off shall be converted into remuneration.

Annual leave

In the event that that a worker has not worked during the COVID-19 period, the employer may, during a period of 18 months following the expiry of the COVID-19 period, withhold a maximum of 15 days or any such number as prescribed from the 22 annual leaves provided to workers under the WRA. In the event that the worker has worked during the COVID-19 period, it would not be possible for the employer to withhold any annual leave. Those amendments are deemed to take effect as from 23 March 2020.

Protection against termination of agreement

An employer shall not terminate the employment of any employee during any month in respect of which the employer received the Wage Assistance Scheme or such other financial assistance paid by the Government to the employer unless there is a case of misconduct. In the event that the agreement is terminated by the employer under such circumstances, the employee shall be entitled to transition unemployment benefit in accordance with section 84 of the WRA.

Employment following transfer of undertaking

In the event that there is a transfer of undertaking in accordance with section 67 of the WRA and the employee is provided employment on terms and conditions which are not less favourable than those of his previous agreement by

his new employer, the employee's agreement with his new employer shall be deemed continuous.

The COVID-19 Act provides that the Minister may now exempt the new employer from the provision of section 67 of the WRA and the Minister may make provisions for terms and conditions on which an employee may be offered employment by the new employer following a transfer of undertaking. However it only applies to employers who provide services relating to air traffic control, air transport services, civil aviation and airport (including ground handling and ancillary services), health, hospital, port (including cargo handling services and other related activities in the ports including loading, unloading, shifting, storage, receipt and delivery, transportation and distribution, as specified in section 36 of the Ports Act), customs, electricity, hotel services, radio and television, refuse disposal, telephone, transport of passengers and goods and water supply (the 'Services'). The above amendments are deemed to take effect as from 23 March 2020.

Reduction of workforce

There are specific procedures to be followed under the WRA prior to laying off employees on the ground of redundancy. These include, but are not limited to, negotiation with the trade unions or employees' representatives, to explore the possibility of avoiding reduction of workforce or closing down.

The WRA now provides that the Minister may exempt employers which provides Services (as defined above) from complying with the procedures as provided for under Section 72 of WRA. In the event that the Minister has granted an exemption, the following procedures must be followed:

- the employer shall give written notice to the redundancy board (the 'Board') at least 15 days before the intended reduction or closing down (the 'Reduction'). The notice shall be accompanied by a statement showing the cause for such reduction or closing down, and
- the Board shall complete its proceedings within 15 days after receiving the notice from the employer

If the Board finds that the reasons for the Reduction are justified, the Board shall order that the Employee be paid 30 days' wage as indemnity in lieu of notice.

In lieu of termination, the Board may, upon request of the employer and consent of the employee, order that employee proceed on leave without pay for a period specified by the employer subject to the condition that the resumption of employment be on such new terms and conditions, including pension benefits, as the employer may offer to the employee prior to the resumption of work. In the event that the Board

makes such an order and the employee has not taken any other employment during the period of leave without pay, the employee shall be entitled to a transition unemployment benefit in accordance with section 84 of the WRA.

If the Board finds the Reduction to be unjustified, the employer shall be ordered to pay severance allowance, amounting to 3 months' remuneration per year of service, to the employee.

The above amendments are deemed to take effect as from 23 March 2020.

Portable Retirement Gratuity Fund

Effective as from 01 January 2020, the contributions to the Portable Retirement Gratuity Fund (the 'Fund') have been postponed to such later date as may be prescribed by the Minister. Since there is now no requirement to pay any amount to the Fund, should an employee retire or die, the employer shall pay to the employee or to his legal heirs such amount as shall be prescribed. Similarly, in the event an employee resigns or his employment is terminated on or after the 01 January 2020, the amount that his employer must contribute to the Fund will be as prescribed.

Amendments to the Employment Relations Act (the 'ERA')

The below amendments to the ERA are deemed to come into effect as from 23 March 2020.

Labour Dispute

Under the ERA, the parties to a labour dispute may jointly refer such dispute for voluntary arbitration to the Employment Relations Tribunal or to an arbitrator appointed by them. The dispute will proceed to the Tribunal only if there is a deadlock in the negotiations by the President of the Commission for Conciliation (the 'CCM').

With the amendments brought by the COVID-19 Act, the ERA now provides that, in the event that a dispute is reported to the CCM during the COVID-19 period or such further period as may be prescribed, the CCM must forthwith refer the dispute to the Tribunal and the Tribunal, shall within 30 days, enquire into the dispute and make an award thereon. However this provision only relates to air traffic control, air transport services, civil aviation and airport (including ground handling and ancillary services), health, hospital and port (including cargo handling services and other related activities in the ports including loading, unloading, shifting, storage, receipt and delivery, transportation and distribution, as specified in section 36 of the Ports Act). In addition, no person will be allowed to take part in a strike or lock-out in connection with dispute pertaining to the above services.

Procedure Agreement

Every procedure agreement for service industries pertaining to air traffic control, air transport services, civil aviation and airport (including ground handling and ancillary services), customs, electricity, health, hotel services, hospital, port (including cargo handling services and other related activities in the ports including loading, unloading, shifting, storage, receipt and delivery, transportation and distribution, as specified in section 36 of the Ports Act), radio and television, refuse disposal, telephone, transport of passenger and goods and water supply must establish the number of workers, their occupations and their departments in respect of which a minimum service must be maintained during any period of strike or lock-out.

BANKING AND INSOLVENCY

In respect of individuals, the amount of money that is now allowed to be outstanding by an individual before the latter files for personal bankruptcy or any one of his creditors may petition for same is being increased from 50,000 to 100,000 rupees. Furthermore, the individual is now given more time to entertain a demand for payment set out in a bankruptcy notice, increasing the compliance deadline 14 days to 28 days after service. Other changes to the bankruptcy legislation are of a consequential nature to the above adjustments.

Pursuant to a new section 100 (1A) of the Insolvency Act, resolutions for voluntary winding up passed by domestic companies, or resolutions passed by creditors in an administration at the watershed meeting putting the company in liquidation, shall be deemed not to have been passed and shall be void during the COVID-19 period, or during a period not exceeding 3 months after the COVID-19 period. Similar changes are applied to section 137 of the Insolvency Act in relation to domestic companies being wound up by reason of provisions of their constitution or by special resolution.

To the extent that a voluntary winding up procedure is initiated as a voluntary winding up and a declaration of solvency is not made by the directors, the winding up is a creditors' insolvent winding up pursuant to section 142 of the Insolvency Act. The directors are then required to call for a creditors' meeting to appoint a liquidator. Section 142 is suspended and shall not apply during the COVID-19 period or during a period not exceeding 3 months after the COVID-19 period lapses.

Section 180 of the Insolvency Act is amended such that the amount of debt that needs to be outstanding in order to enable a creditor to serve a statutory demand against a debtor company is increased from Rs 100,000 to Rs 250,000, and the debtor has more time to comply with the statutory demand (from 1 month to 2 months). In the same spirit, the

debtor now has more time to apply to set aside the statutory demand if the debtor disputes the debt, with the delay being extended from 14 days to 28 days.

Sections 183 and 185 of the Insolvency Act are amended so that appointments of receivers by secured creditors pursuant to powers conferred under an instrument (e.g. a charge document) made during the COVID-19 period shall be of no effect and void.

The delay given to an administrator for holding the first creditors' meeting is within 10 days after appointment. However, a new section 234(2A) now provides that to the extent that the period of 10 days expires, or falls wholly or partly, during the COVID-19 period, the meeting shall be held no later than 30 days after the COVID-19 period lapses. However, the COVID-19 Act omits to make corresponding amendments to section 237 of the Insolvency Act about the deadline for holding the watershed meeting – in the event that the first creditors' meeting is held within the extended deadline of section 234, a court application will be necessary to extend the date within which a watershed meeting may be convened.

The above amendments to the Insolvency Act take effect as from 23 March 2020.

TAXATION

Mauritius Revenue Authority Act

Any statutory delay relating to proceedings before the Assessment Review Committee which expires, or falls wholly or partly, during the COVID-19 period is suspended and the statutory delay will restart from the day following the last day of the COVID-19 period. If the statutory delay expires, or falls wholly or partly, during a period of 21 days after the COVID-19 period lapses, the statutory delay is suspended and will restart from the day following the last day of the 21 day-period.

An extension of 2 months after the COVID-19 period lapses is granted for making an assessment, decision, determination, notice or claim if the time imposed to make the assessment, decision, determination, notice or claim expires, or falls wholly or partly during the COVID-19 period. If the time imposed expires or falls wholly or partly during a period of 30 days after the COVID-19 period lapses, an extension of 2 months after those 30 days lapse is granted to make such assessment, decision, determination or notice of claim.

An extension of time until 25 June 2020 is granted for any payment under a Revenue Law for a payment which falls due during the COVID-19 period. If however, the time to make the payment falls during the period ending 30 June, the payment

must be made not later than 26 June 2020, i.e. not later than 2 clear days before the end of the month.

The applicable penalty is payable if a payment is not made by the set deadline.

The above amendments to the Mauritius Revenue Authority Act are deemed to come into operation as from 23 March 2020.

Income Tax Act

Relief for contributions to COVID-19 Solidarity Fund:

1. An individual or company who has, in the income year commencing 1 July 2019 or 1 July 2020, contributed to the COVID-19 Solidarity Fund, is entitled to deduct the amount contributed in that income year when computing tax liability.
2. Any unrelieved amount may be carried forward and deducted against the net income of the income year immediately following that income year up to a maximum of 2 years.

Payment of a COVID-19 levy:

1. Every employer who has benefited from an allowance under the Wage Assistance Scheme (see below) is liable to pay the COVID-19 levy to the Mauritius Revenue Authority in respect of year of assessment commencing on 1 July 2020, 1 July 2021 or 1 July 2022, as applicable.
 - Employer who is an individual
2. In respect of the year of assessment commencing on 1 July 2020, the levy payable is the lower of (i) the total amount paid to the employer under the Wage Assistance Scheme and (ii) 15% of the gross income derived by him after deducting allowable expenditure.
3. In respect of the year of assessment commencing on 1 July 2021, the lower of (i) the total amount paid to him under the Wage Assistance Scheme as reduced by the amount of the levy payable for the year of assessment commencing on 1 July 2020 and (ii) 15% of the gross income derived by him after deducting allowable expenditure.
 - Employer who is a resident société or a company - Accounting period ends on any date during the period starting on 1 May 2020 and ending on 31 December 2020, and starting on 1 May 2021 and ending 31 December 2021
4. The levy shall be payable in respect of the years of assessment commencing on 1 July 2020 and 1 July 2021.

5. In respect of year of assessment commencing on 1 July 2020, the levy payable is the lower of (i) the total amount paid to the employer under the Wage Assistance Scheme and (ii) 15% of its chargeable income for levy.

6. In respect of year of assessment commencing on 1 July 2021, the levy payable is the lower of (i) the total amount paid to the employer under the Wage Assistance Scheme as reduced by the amount of levy payable for the year of assessment commencing on 1 July 2020 and (ii) 15% of the employer's chargeable income for levy.

- Employer who is a company - Accounting period ends on any date during the period starting on 1 January 2021 and ending on 30 April 2021, and starting on 1 January 2022 and ending 30 April 2022

7. In respect of year of assessment commencing on 1 July 2021, the lower of (i) the total amount paid to him under the Wage Assistance Scheme and (ii) 15% of the employer's chargeable income for levy.

8. In respect of year of assessment commencing on 1 July 2022, the levy payable is the lower of (i) the total amount paid to the employer under the Wage Assistance Scheme as reduced by the amount of levy payable for the year of assessment commencing on 1 July 2021 and (ii) 15% of the employer's chargeable income for levy.

9. An employer who is not liable to income tax with respect to the year of assessment commencing on 1 July 2020 or 1 July 2021, as applicable, does not have to pay the COVID-19 levy.

10. The COVID-19 levy must be declared by the employer in his return to the Mauritius Revenue Authority and must be paid on or before the date by which the return is required to be submitted.

11. If an employer who is required to pay the COVID-19 levy fails to do so on or before the due date, the Director-General of the Mauritius Revenue Authority may, within a period of 3 years from the date the levy is payable, issue a claim to the employer to pay the levy together with any penalty an interest within 28 days from the date of the notice to pay.

12. The "chargeable income for levy" is the aggregate amount remaining after deducting from the gross income all allowable deductions except the unrelieved amount of loss carried forward from a previous year of assessment pursuant to section 50 of the Income Tax Act.

13. The Minister of Finance may, by regulations, exclude certain categories of employers from the levy.

Wage Assistance Scheme:

1. For every eligible employee, an employer may obtain the following allowance from the Director-General, Mauritius Revenue Authority:
 - an allowance equivalent to 50 per cent of the basic salary or wage of that employee for the month of March 2020
 - an allowance equivalent to the basic salary or wage of that employee for the month of April 2020 where the main business activities of the employer are carried out in the island of Mauritius
 - an allowance equivalent to 50 per cent of the basic salary or wage of that employee for the month of April 2020 where the main business activities of the employer are carried out in the Island of Rodrigues or Island of Agalega
 - an allowance equivalent to the basic salary or wage of that employee for the month of May 2020 where the main business activities of the employer are carried out in the island of Mauritius
2. The allowance payable is calculated on the National Minimum Wage of 9,000 rupees and the basic salary or wage does not exceed 50,000 rupees.
3. The maximum allowance per employee is as follows: 12,500 rupees for the month of March 2020, 25,000 rupees for the month of April 2020 where the employee is employed in the island of Mauritius, 12,500 rupees for the month of April 2020 if the employee is employed in Rodrigues or Agalega and 25,000 rupees for the month of May 2020.
4. The allowance is paid based on information which the employer provides in his return submitted under the National Pensions Act.
5. If an employer has benefitted from an allowance but has failed to pay the basic wage or salary to an eligible employee or has reduced the wage or salary of the eligible employee, the employer will need to refund the allowance.
6. An 'eligible employee', is an employee who is employed on a part-time or full-time basis by (i) an employer deriving gross income from business, (ii) a charitable institution approved by the Director-General, Mauritius Revenue Authority or is registered under the Registration of Associations Act, or is a charitable trust or charitable foundation, and the employee's basis salary for the month of March 2020, April 2020 or May 2020 or such other month does not exceed 50,000 rupees. An employee employed by the Government or a parastatal body or the Rodrigues Regional Assembly is not an 'eligible employee' and therefore does not benefit from the allowance.

Self-employed assistance scheme:

1. A self-employed individual is entitled to obtain an allowance of 5,100 rupees for the period 16 March 2020 to 15 April 2020 and 2,550 rupees for the period 16 April 2020 to 30 April 2020 where the main business activities of the self-employed are carried out in the island of Mauritius. An allowance of 5,100 rupees is paid for the month of May 2020.
2. A 'self-employed' is a Mauritian national who is resident in Mauritius above the age of 18 and is not employed whether on a full-time or part-time basis as at 1 March 2020 and has been in business in own account or is a tradesperson carrying out activities such as mason, cabinet maker, plumber, hairdresser, artist or other similar activities for a period of at least 3 months prior to the start of the COVID-19 period.
3. However, there are limitations on the categories of self-employed who may obtain the payment of the allowance. The following self-employed will not be eligible to obtain the allowance:
 - a self-employed who receives a basic retirement pension or social benefits under the National Pensions Act
 - a self-employed who is pursuing higher studies on a full-time basis
 - a self-employed who is dependent spouse
 - a self-employed whose monthly income, when aggregated to that of his spouse, exceeds 50,000 rupees
 - a self-employed who is a registered fisherman
 - a self-employed who meets such other criteria as may be prescribed by regulations
4. The allowance payable is based on information provided to the Director-General, Mauritius Revenue Authority and any other information available to him. The Director-General may require the self-employed to produce any information or document to ascertain the eligibility of the self-employed. Any allowance paid in excess may be recovered and the making of a false declaration constitutes a criminal offence.

The amendments to the Income Tax Act are deemed to have come into operation on 23 March 2020, except the penal provision which comes into force on the date on which the COVID-19 Act is gazetted.

Value Added Tax Act

With effect from 24 March 2020, protective masks, previously subject and other breathing appliances and gas masks which

were previously subject to 15% VAT are reclassified as zero-rated VAT items.

Customs Act and Customs Tariff Act

With effect from 23 March 2020, the period of 7 working days which is granted for the payment of duty, excise duty, taxes and any fees or charges leviable on goods cleared by a small or medium enterprise or a VAT registered person when goods are cleared is extended to 16 working days.

With effect from 23 March 2020, goods which have entered for warehousing during the period starting on 2 November 2019 and ending on 31 December 2020 may be warehoused from their date of entry for a period of 36 months.

Duty is removed from disinfectants such hand sanitisers with effect as from 24 March 2020.

Registration Duty Act

The Registration Duty Act is amended with effect from 23 March 2020 so that no surcharge is payable if the timeframe for the payment of duties on registrable documents within the Sixth Schedule to the Act expires or falls wholly or partly during the COVID-19 period or such period as may be specified after the COVID-19 period lapses.

The amendments also provide for an extension time to object to the valuation of transfer of shares. Consequently, if the time limit of 15 days currently provided expires or falls wholly or partly during the COVID-19 period, the objection may be made by registered post not later than 30 days after the COVID-19 period lapses; if the time limit expires 10 days after the COVID-19 period lapses, the person may object to the notice by registered post not later than 30 days after the period of 10 days lapses. The objection should normally be dealt within a period of 4 months from the date the objection is made. However, if the 4-month period expires or falls wholly or partly during the COVID-19 period, the objection shall be dealt with not later than 2 months after the COVID-19 period lapses. If the 4 month-period expires or falls wholly or partly during a period of one month after the COVID-19 period lapses, the objection shall be dealt with not later than 2 months after the period of one month lapses.

Land (Duties and Taxes) Act

The time limits applicable to the different steps of the procedure of reassessment by Registrar General of the valuation price of the transfer of an immovable property have been revised to allow more flexibility in the current situation. The notice of reassessment sent by the Registrar-General to seller and buyer was originally of 7 months from the date of registration of the deed of sale has been reviewed. If the 7-month period expires or falls wholly or partly during

the COVID-19 period, the notice of reassessment shall be forwarded not later than 3 months after the COVID-19 period lapses; if it expires or falls wholly or partly within a period of one month after the COVID-19 period lapses, the notice shall be forwarded not later than 3 months after the period of one month lapses.

Any person who receives a notice of reassessment shall pay the relevant duty with 28 days from the date of the notice. However, if the period of 28 days expires or falls wholly or partly during the COVID-19 period, any duty or tax shall be paid not later than 28 days after the COVID-19 period lapses; if the 28 day-period expires 21 days after the COVID-19 period lapses, any duty or tax shall be paid not later than 28 days after the period of 21 days lapses.

The objection period to the notice of reassessment has been extended by 28 days after the COVID-19 period lapses if the original objection period expires or falls wholly or partly during the COVID-19 period; if the objection falls wholly or partly with of period of 21 days after the COVID-19 period, an objection may be made not later than 28 days after the period of 21 days lapses.

The objections received shall be dealt with within a period of 4 months. If such period expires, or falls wholly or partly, during the COVID-19 period, the objection shall be dealt with not later than 2 months after the COVID-19 period lapses; if it expires or falls wholly or partly during a period of one month after the COVID-19 period lapses, the objection shall be dealt with not later than 2 months after the period of one month lapses.

After having considered the objections raised, the Assessment Review Committee reaches an agreement or a decision, the Registrar General shall issue a payment notice with 5 working days. If the period of 5 working days expires, or falls wholly or partly, during the COVID-19 period, the Registrar-General shall issue the notice to the person not later than 21 working days after the COVID-19 period lapses; or if it expires or falls wholly or partly during a period of 10 days after the COVID-19 period lapses, the Registrar-General shall issue the notice to the person not later than 21 working days after the period of 10 days lapses.

The person receiving the payment notice must effect the payment within 28 days, if that period expires or falls wholly or partly during the COVID-19 period, the amount of duty or tax shall be paid not later than 28 days after the COVID-19 period lapses; or if it expires or falls wholly or partly during a period of 10 days after the COVID-19 period lapses, the amount of duty or tax shall be paid not later than 28 days after the period of 10 days lapses.

The above amendments to the Land (Duties and Taxes) Act take effect as from 23 March 2020.

TENANCIES

The Landlord and Tenant Act is amended with effect from 23 March 2020 so that in respect of all premises, whether business or residential premises, let under the Act or under any other enactment, and notwithstanding the Act, any other enactment or any other agreement, non-payment of rent for the months of March 2020 to August 2020 (both inclusive) and such other subsequent month as may be prescribed shall not constitute a breach of a tenancy agreement. This is provided that the rent for those months is fully paid in instalments by 31 December 2021 or such other date as may be prescribed.

Consequently, a court shall not make an order for the recovery of possession by a landlord or ejection of a tenant under the Act or any other enactment for non-payment of rent for the months of March 2020 to August 2020 (both inclusive) and such other subsequent month as may be prescribed, provided that the rent for those months is paid in instalments by 31 December 2021 or such other date as may be prescribed.

One word of caution is that the above amendments do not specify when instalments for the March 2020 to August 2020 rent have to start being paid and at what frequency. Presumably, these will be left to the landlord and tenant to agree upon.

ENVIRONMENT

The COVID-19 Act amends the Environment Protection Act with effect from 23 March 2020 by introducing a new section 28B which provides that:

- Where a specific time is imposed on any person to do or to refrain from doing an act or thing, and such specific time expires or falls wholly or partly during the COVID-19 period, the person may do or refrain from doing such act or thing not later than 30 days after the COVID-19 period lapses.
- Where such specific time imposed on a person to do or refrain from doing an act or thing, and the time expires or falls wholly or partly during the period of 21 days after the COVID-19 period lapses, the person may do or refrain from doing such act or thing not later than 30 days after the 21-day period lapses
- An Environmental Impact Assessment (EIA) licence which expires during the COVID-19 period, shall continue to be valid for a further period of 30 days after the COVID-19 period lapses. Where the EIA licence expires during the period of 21 days after the COVID-19 period lapses, it shall remain valid temporarily for a period of 30 days after the 21 day-period lapses

The imposition of the environment protection fee has been reviewed as well. The manager of a hotel, and guest house

or tourist residence of more than four bedrooms shall not be required to pay to the Director-General any environment protection fee for the period starting 1 March 2020 and ending 30 December 2020.

Further amendment is brought to the Fifth Schedule to the Act, to provide that any person rearing poultry above 15,000 heads, instead of 5,000 heads previously, will require a Preliminary Environmental Report. Clearance from all relevant authorities will still be required and the activity shall be subject to a number of conditions and guidelines in the future.

TRANSPORT

The Road Traffic Act is amended to increase the time limit for various appeal processes from 10 days to 21 days, namely:

- the grant or variation of a licence, where the person wishes to appeal to appeal against the decision of the National Transport Authority (NTA) or against any condition attached to the licence
- for the grant of a licence to operate a private petrol station, where the person wishes to appeal to appeal against the decision of the NTA or against any condition attached to the licence,
- for the grant of an instructor's licence or a driving school licence, where the person wishes to appeal to the Minister of Land Transport and Light Rail against the refusal of such licence by the Commissioner of Police.

Holders of a motor vehicle or trailer licence whose licence expired on 31 March 2020, 30 April 2020, 31 May 2020 or such further date as may be prescribed, will not be liable to a surcharge of 50% on the amount of the tax prescribed, as long as that licence is renewed by 31 August 2020, or such other date as may be prescribed.

The time limit for the payment of fixed penalty notices (FPN) will also be extended. If a person committed one of the offences before or during the COVID-19 period, and the period of 28 days to pay the fixed penalty expires during the COVID-19 period, that person will be allowed to pay the penalty no later than 28 days after the COVID-19 period lapses. If a person has refused to accept an FPN, the police officer who detected the offence will serve the fixed penalty notice at the residence of the person not later than 14 days after the COVID-19 period lapses. The same extensions of time apply to offences which have been detected by a photographic enforcement device. The Motor Vehicle Insurance Arbitration Committee (MVIAC) will also benefit from extended time periods. It will now have 4 months (instead of 6 weeks) from the date of receipt of written representations to determine a dispute. In addition, the MVIAC will now have 6 weeks (instead of 2 weeks), from

the date of its determination, to communicate its findings in writing.

The upper limit of penalties for the contravention of all regulations made under section 190 of the Road Traffic Act will respectively increase from Rs 10,000 to Rs 50,000 and from 1 year of imprisonment to 2 years' imprisonment.

A new section 198 is added to the Road Traffic Act to empower the Minister to, by regulations, make provisions for sanitary measures to be observed during the COVID-19 period and during such further period as may be prescribed. Any person contravening such regulations may face a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding 2 years.

The Light Rail Act 2019 is amended to toughen sentences for damaging light rail, light rail vehicle or light rail premises to a fine not exceeding 1 million rupees (up from 500,000 rupees) and imprisonment not exceeding 5 years (up from 2 years).

A new section 45A is also introduced to the Light Rail Act 2019 empowering the Minister to make regulations on sanitary measures to be observed during the COVID-19 period or any other period as prescribed and any person who contravenes such regulations shall commit an offence and be liable to a fine not exceeding 50,000 rupees and imprisonment not exceeding 2 years.

TOURISM

The COVID-19 Act amends the Tourism Authority Act to empower the Tourism Authority, on the ground of public health and for such period as it considers appropriate, issue guidelines to holders of pleasure craft licences for the purpose of restricting the number of passengers authorised on board pleasure crafts at any one time and imposing such other conditions as may be necessary. A holder of a pleasure craft licence who fails to comply with such guidelines commits a criminal offence.

Where the 14 days to pay a fixed penalty in respect of offences committed under the Tourism Authority Act expires or falls partly or wholly during the COVID-19 period, the person who is served with the fixed penalty notice shall pay the penalty not later than 3 months after the COVID-19 period lapses. Where the 14-day deadline expires, or falls partly or wholly, during a period of 30 days after the COVID-19 period lapses, the person may pay the penalty not later than 3 months after the period of 30 days lapses. The amendments mentioned in this paragraph take effect as from 23 March 2020.

Where the time to renew a tourist accommodation certificate, tourist enterprise licence, pleasure craft licence or canvasser permit expires, or falls wholly or partly during the COVID-19

period, the certificate, licence or permit shall be deemed not to have expired and shall remain valid for a period of 12 months after the COVID-19 period lapses. Where such time expires, or falls wholly or partly during a period of one month after the COVID-19 period lapses, the certificate, licence or permit shall be deemed not to have expired and shall remain valid for a period of 12 months after the one-month period lapses. The payment of the renewal fee in respect of any of the above certificates, licences or permits may, for the 12 month period for which they are renewed, be made in equal monthly instalments but if a person fails to pay 3 such consecutive monthly instalments, the certificate, licence or permit shall lapse. The amendments mentioned in this paragraph take effect as from 23 March 2020.

EDUCATION

The Education Act is amended with effect from 19 March 2020.

The Minister of Education now has the power to order the temporary closure of any 'educational institution', and not simply of 'any schools'. An 'educational institution' means a school or an institution in the pre-primary, primary, secondary, technical and vocational, Special Education Needs and tertiary sub-sectors of education.

Section 36 of the Education Act is further amended to provide that any closure of educational institutions, in case of infectious diseases occurring in epidemic forms, shall not be limited to the epidemic period but may extend to such further period, as the Minister may determine.

A new section 36A of the Education Act caters for the distance education and online learning programmes including the broadcasting of lessons by educational institutions during their closure. Teaching staff and relevant personnel of the educational institutions will be required to engage in the conduct of these learning programmes which will be monitored by designated employees of the Ministry of Education and by any of its respective statutory bodies.

It is to be noted that any failure by any person required to conduct or to monitor the distance education and online programmes without any reasonable excuse, shall be deemed to be in breach of his contract of employment and may be subject to disciplinary proceedings.

For proper interpretation, the following terms are defined in that new section: 'distance education', 'educational institution', and 'statutory bodies'.

In addition existing powers of the Minister, the latter will have extended authority to make regulations, including on the following:

- the structure, hygienic character, proper sanitation and disinfection of educational institutions, and for inspection in this respect
- the control of instruction given in educational institutions, including but not limited to, face to face learning, distance education, online learning or a combination thereof, hours of instruction and the size of classes
- social and physical distancing at educational institutions
- the attendance of non-teaching staff during any period of temporary closure and any further period
- the dispensing of distance education and online learning programmes
- the confinement of students at their residence during the period of school closure
- the keeping and the management of a register with the contact details of school staff, managers of secondary schools and of the responsible parties for students, to be used for the purpose of distance and online learning or any other educational purpose

The penalty for the contravention of any such regulations made by the Minister is increased to a fine not exceeding 25,000 rupees, instead of the previous fine of 1,000 rupees. The increased penalties do not, unlike the other amendments to the Education Act, have retroactive effect.

Moreover, the Minister has also been granted extended powers to make rules with respect to:

- the cancellation and rescheduling of assessments and examinations
- the review of timetable and curricula of schools and in that respect the allocation of public funds to schools based on such timetables and curricula
- the duration of holidays in schools and any review
- the conduct of distance education and online learning, including the broadcasting of lessons.

COURTS

The Courts Act is amended with effect from 23 March 2020 to provide the Chief Justice with more latitude for the maintenance of essential judicial services and to administer any Court and to regulate the practice and procedure before any Court during and even after the COVID-19 period.

The Chief Justice may:

- during the COVID-19 period, determine which judicial services are essential and shall be provided by any Court
- after the COVID-19 period lapses, determine which additional services shall be provided by any Court.

The Chief Justice shall also regulate the practice and procedure as he considers appropriate before any Court during and after the COVID-19 period.

In addition to the rules to regulate the practice and procedure, the Chief Justice may limit the number of persons who may be present in chambers or in a courtroom or call or hear a matter remotely by means of a telephonic, an electronic or any other communication facility as he may approve in writing.

The Chief Justice may give such practice directions as he thinks fit to regulate the practice and procedure before any Court and not only before the Supreme Court.

DATA PROTECTION

In order to ensure that the provisions of the Data Protection Act do not impede the collection, verification and processing of personal data for the issuance of a licence, permit or authorisation, the COVID-19 Act creates, with effect from 23 March 2020, an additional exception to the compliance with the provisions of the Data Protection Act on the basis that such exception "constitutes a necessary and proportionate measure in a democratic society".

ICT

A licence which expires during the COVID-19 period is deemed not have expired and remains valid for a period of 30 days after the COVID-19 period lapses. In addition, a licence which expires during a period of 21 days after the COVID-19 period lapses is deemed not to have been expired and remains valid for a period of 30 days after the period of 21 days lapses. The additional periods above may be further extended by regulations.

If an act expires or falls wholly or partly during the COVID-19 period, no charge, interest, penalty, surcharge or any other additional fee is payable provided that the act or thing is done not later than 30 days after the COVID-19 period lapses or after such other period as may be prescribed by regulations. If the act to be done expires or falls wholly or partly during a period of 21 days after the COVID-19 period lapses, no charge, interest, penalty, surcharge or any other additional fee is payable provided that the act is done not later than 30 days after the period of 21 days lapses or after such further period as may be prescribed by regulations.

The above amendments to the Information and Communication Technologies Act are deemed to have come into operation as from 23 March 2020.

FREEPORT

The Freeport Act is amended so that a freeport developer is authorised with effect from 01 May 2020 to provide warehousing facilities for the storage of goods, which have been cleared from customs, in a freeport zone to any person during the COVID-19 period and such further period as may be prescribed by regulations. According to the Prime Minister during the reading of the Bill, this will allow the State Trading Corporation to secure, in the national interest, storage facilities in order to avoid shortage of liquefied petroleum gas during the COVID-19 period and such further period as may be prescribed.

In addition, the goods which benefit from the warehouse facilities may be stored for a maximum period not exceeding 36 months if such goods have entered during the period starting on 1 October 2018 and ending 31 December 2020.

PASSPORT AND IMMIGRATION

The Passports Act is amended with effect from 23 March 2020 to include a new section on the extension of the validity of the visa during the COVID-19 period. Accordingly, visas expiring during the COVID-19 period, will remain valid for a period of 30 days after the COVID-19 period lapses. Or, where visas expire during a period of 21 days after the COVID-19 period lapses, the visa will remain valid for a period of 30 days after the period of 21 days lapses.

The Immigration Act is amended with effect from 23 March 2020 to include a new section on the extension of the validity of a permit during the COVID-19 period. Accordingly, permits expiring during the COVID-19 period will remain valid for a period of 30 days after the COVID-19 period lapses. Or, where permits expire during a period of 21 days after the COVID-19 period lapses, the permit will remain valid for a period of 30 days after the period of 21 days lapses.

In addition, a person who has been issued a permit under section 9 of the Immigration Act (residence permit/permanent residence permit) may apply for an extension or variation of the permit whilst being in Mauritius.

PUBLIC PROCUREMENT

Section 36 of the Public Procurement Act is amended with effect from 23 March 2020 with the addition of a new subsection (6) providing that during the COVID-19 period and such further period as may be prescribed, bids can be opened through technological means, subject to such guidelines as the Procurement Policy Office may issue.

UTILITIES

Pursuant to the section 20A(2) of the Central Electricity Board Act and other relevant provisions of the legislation, consumers are under a statutory obligation to pay their electricity bills as well as the Mauritius Broadcasting Corporation license fees within 20 days of issue of the bill. Section 20A is amended with effect from 23 March 2020 with the addition a new subsection (4) providing that to the extent that the deadline for payment of same falls due within the COVID-19 period, or such later period as may be prescribed, no surcharge by imposed and the supply of electricity shall be not be disconnected.

Pursuant to section 21A (2) of the Central Water Authority Act, consumers are under a statutory obligation to pay their wastewater management fees within 20 days of issue of the bill. Section 21A is amended with effect from 23 March 2020 with the addition a new subsection (5) providing that to the extent that the deadline for payment of same falls due within the COVID-19 period, or such later period as may be prescribed, no surcharge by imposed and the supply of water shall be not be disconnected.

The power of the Utility Regulatory Authority to request information from utility providers is amended with effect from 23 March 2020 to specify that such information may be requested in electronic form. A new subsection (2A) is added to section 25 with effect from 23 March 2020, pursuant to which rights of inspection of the public of the utility public register to be maintained by the Authority now goes beyond hardcopy inspection and can henceforth also be exercised electronically.



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