

The Finance Act 2021 Series

Part 3 – Business Vehicles

Key legislative amendments



axis
TRUSTED FIRST

BLC ROBERT ALN 

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01 | Introduction

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The Finance (Miscellaneous Provisions) Act 2021 was gazetted on 05 August 2021 and it brings into force a number of amendments to the legislations in Mauritius. This segment of the joint Axis and BLC Robert Finance Act series sets out the key amendments made to the Business Registration Act, Companies Act, Foundations Act, Freeport Act, Immigration Act, Limited Liability, Partnerships Act, Limited Partnerships Act and Protected Cell Companies Act.

02 | Business Registration Act

The Business Registration Act has been clarified to provide that a copy (*as opposed to a **certified** copy*) of the Business Registration Card (“**BRC**”), displayed at the principal place of business and at every other place where a business is being carried out, is now sufficient and that a fee is applicable whenever a request is made to the Registrar of Businesses, for a change in the particulars on a BRC.

03 | Companies Act

The changes to the Companies Act have further emphasized the commitment to combat money laundering and terrorism financing. The definition section has been amended to include the following terms:

1

“FIU” which shall have the same meaning as in the Financial Intelligence and Anti-Money Laundering Act;

2

“suspicious transaction” which shall have the same meaning as in the Financial Intelligence and Anti-Money Laundering Act;

3

“suspicious transaction report” which shall mean a report made under section 14 of the Financial Intelligence and Anti-Money Laundering Act.

Moreover, every company service provider is now required to comply with such directions as the Registrar may give and as soon as practicable, but not later than 5 working days from the date on which it becomes aware of a transaction which it has reason to believe may be a suspicious transaction, make a suspicious transaction report to the FIU and comply with such guidelines as the FIU may issue. A company service provider may, upon authorization by the company for which it acts, provide to the competent authorities basic information as set out in section 190 of the Act.

The Registrar may undertake educational programmes to raise and deepen awareness among companies limited by guarantee and the donor community on the potential vulnerabilities of the sector to terrorism financing abuse and risks, and the measures they can take to protect themselves. The Registrar may share, with Mauritian and foreign law enforcement agencies and institutions involved in the prevention of money laundering and combating of terrorism financing and proliferation, information on companies limited by guarantee pursuant to the Act.

Last year, the Registrar was empowered to be able to remove a company from the register of companies if the company failed to identify the beneficial owner, record and submit information thereon to the Registrar. This year’s amendment permits the Registrar to make public notice in this regard.

Besides the shareholder, officer, management company or registered agent, as the case may, henceforth, a representative or secretary of a company will be able to apply for a certificate of current standing in the name of the company from the Registrar.

There has also been amendment which now requires public entities to include all relevant information as set out in section 221 in their annual report.



04 | Foundations Act

The changes to the Foundations Act are axed towards raising awareness surrounding the potential use of charitable foundations in the furtherance of money laundering and the financing of terrorism. As such, the Registrar of Foundations can now undertake outreach and awareness programs, as well as share information with other Mauritian or foreign law enforcement agencies in the prevention of money laundering and terrorism financing.

An officer of a foundation or a person ordinarily resident in Mauritius can now also be authorised by the foundation to provide basic information to competent authorities (investigatory authorities and public bodies responsible for combatting money laundering or terrorist financing and proliferation) upon their request.

In the same vein, records of charitable foundations should now be kept for a period of at least 7 years. These records must contain information about the use of funds received by a charitable foundation, which should be used in line with the objects of the foundation.

Finally, another noteworthy change brought about under the Finance Act to the Foundations Act concerns the consequences of a foundation, council member, secretary of the foundation not complying with their obligations of keeping appropriate records. This does not automatically lead to the removal of the foundation from the register anymore, but now leads to a notice of 30 days, from the Registrar, for the foundation to comply with its obligations.



(ii) Provide for an extension in the warehousing period of up-to maximum 36 months;

(iii) Where authorization is given to a private freeport developer, during the COVID-19 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 shall be cleared from Customs under the Customs Act, in a freeport zone to any person, the fees shall be paid by the person to whom the warehousing facilities are provided;

(iv) Where authorization is given to a third party freeport developer to rent space within a freeport zone to an enterprise outside the freeport zone for the manufacturing and storage of goods, subject to clearance of the goods from the Director-General under the Customs Act, the fees shall be paid by the enterprise;

(v) Amend the Second Schedule setting out the freeport activities to include the display of the showroom to potential buyers; and in the Third Schedule to authorise a third party freeport developer to rent space within a freeport zone to an enterprise outside the freeport zone for the manufacturing and storage of goods.

05 | Freeport Act

The Freeport Act has been amended to include the following:

(i) Authorize a third party freeport developer to rent space within a freeport zone to an enterprise outside the freeport zone for the manufacturing and storage of goods, subject to clearance of the goods from Customs under the Customs Act;

06 | Immigration Act

A noteworthy amendment to the Act is the introduction of a Family Occupation Permit. A non-citizen may, through the Economic Development Board, apply to the immigration officer for a family occupation permit authorizing:

- the applicant, his spouse, dependent child, parent, other dependent or such other person working exclusively for the family unit, as may be approved by the immigration officer to become resident for a period of 10 years, upon satisfying the criteria;
- the applicant or his spouse, to carry out any occupation in Mauritius or take up employment in Mauritius; and
- such persons working for the family unit, as may be approved by the immigration officer, to take up employment with the applicant for the purpose of attending to the needs of the family.

The definition of 'Dependent Child' has been amended to a child, stepchild or lawfully adopted child of a person and who is:

- wholly dependent on the person;
- unmarried; and
- not engaged in any gainful activity.

The list of persons who hold the status of resident under the Act has been extended to include (i) a person who purchases or otherwise acquires an apartment used, or available for use, as residence, in a building of at least 2 floors above ground provided the purchase price is not less than USD 375,000 or its equivalent in any other hard convertible foreign currency and (ii) the Holder of a Family Occupation Permit, his dependents and persons working

for the family unit.

The Act has also been amended to include the following:

- (i) Enable holders of a 10-Year Permanent Residence Permit prior to 1 September 2020 to have the automatic validity extension to cover a 20-year period;
- (ii) Enable holders of a Permanent Residence Permit under the category of Investor, Professional or self-employed to switch category of their Permanent Residence Permit to Retired Non-Citizen, on application, provided that the holder has a monthly disposable income of USD 1,500 or its equivalent in any other hard convertible foreign currency;
- (iii) The section on loss of status of residence has been amended to clarify that it applies equally to persons having acquired residence under Integrated Resort Scheme, Real Estate Scheme, Invest Hotel Scheme, Property Development Scheme or Smart City Scheme;
- (iv) An Occupation Permit application will be determined within 5 days of receipt of a complete application as opposed to 2 days;
- (v) Extend the validity of the Occupation Permit for Professional for the period specified in his contract of employment or for a period of 10 years, whichever is lesser; and in the case of a young professional, for the period of his contract of employment or for a period of 3 years, whichever is lesser;
- (vi) The Passport and Immigration Office is allowed to share information of non-citizen with the Financial Intelligence Unit and no public sector agency, other than the Financial Intelligence Unit, shall disclose any information to a third party.



07 | Limited Liability Partnerships Act (“LLPA”) and Limited Partnerships Act (“LPA”)

The additions to both the LLPA and the LPA have brought about the introduction of a procedure whereby both a limited liability partnership and a limited partnership can now authorise an officer to provide basic information, including beneficial ownership information to investigatory authorities or public bodies responsible for combatting money laundering or terrorism financing.

The information which the officer would be authorised to provide includes the name, legal form and status, registered address of the partnerships, alongside information on the partners of the partnerships.

08 | Protected Cell Companies Act (“PCA”)

The amendment brought to the PCC Act has extended the use of protected cell companies for business activities relating to real estate development which consists of acquiring, developing, holding, managing and disposing of real estate assets or portfolios of real estate assets in different cells.