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THE FINANCE ACT 2007

Act No. 17 of 2007

I assent

21st August 2007

SIR ANEROOD JUGNAUTH
President of the Republic

ARRANGEMENT OF SECTIONS

Section

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An Act

To provide for the implementation of measures announced in the Budget Speech and for the strengthening and streamlining of certain provisions relating mainly to revenue and public finance

ENACTED by the Parliament of Mauritius, as follows –

1. Short title

This Act may be cited as the Finance Act 2007.

2. Affidavits of Prescription Act amended

The Affidavits of Prescription Act is amended in section 4(2), by deleting the words “in 3 local daily newspapers” and replacing them by the words “in 2 daily newspapers in Mauritius”.

3. Bank of Mauritius Act 2004 amended

The Bank of Mauritius Act 2004 is amended –

- (a) in section 12, by repealing subsection (1) and replacing it by the following subsection –
 - (1) The general policy of the affairs and business of the Bank, other than the formulation and determination of monetary policy, shall, subject to this Act, be entrusted to a Board of Directors.
- (b) in section 51, by repealing subsections (2), (3) and (4) and replacing them by the following subsection –
 - (2) The Bank may publish, in whole or in part, and at such times as it may decide, the information or data furnished under subsection (1).

- (c) by inserting immediately after section 51, the following new section –

51A. Balance of payment

(1) The Bank shall be responsible for the preparation of the balance of payment accounts and the external assets and liabilities position of Mauritius.

(2) The Bank may, by notice in writing, require any person to furnish, within such time and in such form and manner as the Bank may determine, such information and data as the Bank may require for the preparation of the balance of payment accounts and the external assets and liabilities position of Mauritius.

(3) Where the Bank issues a notice to a person under subsection (2), the person shall comply with the notice.

(4) The Bank shall not publish any information furnished under subsection (2) without the written consent of the person.

(5) Any person who –

(a) fails to comply with a requirement under subsection (2);

(b) for the purposes of this section –

(i) knowingly furnishes information which is false or misleading in any material particular; or

(ii) wilfully or recklessly withholds any material information,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees for each day on which the offence occurs or continues.

- (d) by repealing section 55 and replacing it by the following section –

55. Functions of Committee

(1) The functions of the Committee shall be to formulate and determine the monetary policy to be conducted by the Bank pursuant to section 5(1)(a).

(2) The Committee shall, as soon as practicable after every meeting, cause to be published the gist of the monetary policy to be conducted by the Bank.

(3) In the discharge of its functions, the Committee shall not be subject to the direction or control of any other person or authority.

4. Banking Act 2004 amended

The Banking Act 2004 is amended –

(a) in section 2 –

- (i) in the definition of “bank”, by adding immediately after the words “banking business”, the words “or Islamic banking business, or both”;
- (ii) in the definition of “banking licence”, by inserting immediately after the words “banking licence”, the words “or Islamic banking licence”;
- (iii) by inserting in the appropriate alphabetical order, the following new definitions –

“Islamic banking business” means any financial business, the aims and operations of which are, in addition to the conventional good governance and risk management rules, in consonance with the ethos and value system of Islam;

“Islamic deposit” means a sum of money or monies worth received by or paid to any person, under which the receipt and repayment shall be in accordance with the terms of an agreement made on any basis including custody or profit sharing;

(b) in section 3, by adding immediately after subsection (3), the following new subsections –

(4) Every bank licensed under this Act shall be deemed to be licensed to carry on Islamic banking business through a window on such terms and conditions as the central bank may determine.

(5) Any bank licensed to conduct Islamic banking business shall be governed by the provisions of this Act.

(c) in section 5 –

- (i) in subsection (1), by inserting immediately after the words “banking business”, the words “or Islamic banking business”;
- (ii) in subsection (2), by inserting immediately after the word “deposits”, the words “or Islamic deposits”;

- (d) in section 64(1)(a), by inserting immediately after subparagraph (i), the following new subparagraph (ii), the word “or” at the end of subparagraph (i) being deleted and the existing subparagraph (ii) being renumbered (iii) accordingly –
 - (ii) in the case of a director who is a non-resident, take an oath of confidentiality before the competent court or authority in the country of residence of the director, in such form as the central bank may approve; or

5. Bills of Exchange Act amended

The Bills of Exchange Act is amended in section 44A, by inserting immediately after subsection (6), the following new subsection –

(6A) Where a cheque has been presented for payment under this section, the electronic data, display, printout or other output created by or from the electronic imaging of the cheque by a computer system by or on behalf of a banker shall be admissible as evidence in any legal proceedings.

6. Building Act amended

The Building Act is amended in section 18, by deleting the words “6 months” wherever they appear and replacing them by the words “24 months”.

7. Business Registration Act 2002

The Business Registration Act 2002 is amended in section 3, by repealing subsection (1).

8. Civil Aviation Act amended

The Civil Aviation Act is amended –

- (a) in section 8A, by adding immediately after subsection (2), the following new subsection –
 - (3) Where an airline or its agent fails to remit the passenger fee within the prescribed delay, it shall be liable to pay, in addition to the fee –
 - (a) a penalty of 5 per cent of the fee; and
 - (b) interest at the rate of one per cent per month or part of the month on any amount of fee not remitted up to the date of payment.

- (b) in section 8B, by adding immediately after subsection (2), the following new subsection, the existing subsection (3) being renumbered (4) accordingly –

(3) Where an airline or its agent fails to remit the passenger solidarity fee within the prescribed delay, it shall be liable to pay, in addition to the fee –

- (a) a penalty of 5 per cent of the fee; and
- (b) interest at the rate of one per cent per month or part of the month on any amount of fee not remitted up to the date of payment.

- (c) by inserting immediately after section 8B, the following new section –

8C. Assessment and recovery of passenger fee and passenger solidarity fee

The provisions of Parts VII, VIII and IX and sections 65, 67, 68, 69, 70 and 71 of the Value Added Tax Act shall apply to the passenger fee under section 8A and to the passenger solidarity fee under section 8B with such modifications, adaptations and exceptions as may be necessary to bring them in conformity with sections 8A and 8B and any regulations made under those sections.

9. Customs Act amended

The Customs Act is amended –

- (a) in section 2 –
 - (i) in the definition of “bonded warehouse”, by inserting immediately after the words “storage tank”, the words “, showroom”;
 - (ii) by inserting in the appropriate alphabetical order, the following new definition –

“showroom”, in relation to a bonded warehouse means any fenced yard, building or part of a building approved by the Director-General for the display of imported motor vehicles;
- (b) in section 15(4), by deleting the words “Commissioner for Value Added Tax” and replacing them by the word “Director-General”;

- (c) by repealing section 16A and replacing it by the following section –

16A. Use of computer system

Notwithstanding this Act or any other enactment, the Director-General may allow –

- (a) the import or export of goods under this Act or an entry in relation to excisable goods under the Excise Act; and
- (b) the submission of advance information inbound, outbound or in transit relating to cargo or container shipments;
- (c) the payment of duty, excise duty and taxes,

to be made through such computer system as may be approved by the Director-General.

- (d) in section 16B –

- (i) in subsection (1), by deleting the words “in respect of any period of 12 months,”;
- (ii) in subsection (2)(a), by deleting the words “period specified in subsection (1)” and replacing them by the words “prescribed period”;

- (e) in section 40, by deleting the words “is issued upon by” and replacing them by the words “is issued upon”;

- (f) in section 45, by deleting the words “Authority of Mauritius” and replacing them by the words “Government of Mauritius”;

- (g) in section 119 –

- (i) in subsection (1B), by repealing paragraph (b) and replacing it by the following paragraph –

- (b) No employee of a freight forwarding agent shall be authorised to act as customs agent unless the Director-General is satisfied that such employee has the necessary ability to transact business referred to in subsection (1A).

- (ii) in subsection (4), by deleting the word “revoke” and replacing it by the words “suspend for such period as he may determine, or revoke”;

- (iii) by inserting immediately after subsection (5), the following new subsection –

(5A) While an authorisation is suspended, the agent or broker shall not, during the period of the suspension, carry out his duties as agent or broker.

- (h) in section 127A(1)(a), by deleting the words “to produce for –” and replacing them by the words “to produce, at such time and place as may be specified by the Director-General, for –”.

10. Dangerous Drugs Act amended

The Dangerous Drugs Act is amended in section 52 –

- (a) by inserting immediately after the words “police officer” wherever they appear, the words “or proper officer”;
- (b) by adding the following new subsection, the existing provision being numbered (1) accordingly –

(2) For the purposes of this section, “proper officer” means the “proper officer” referred to in the Customs Act.

11. Development Works Corporation (Repeal) Act 2007 amended

The Development Works Corporation (Repeal) Act 2007 is amended in section 9(2), by deleting the words “one month” and replacing them by the words “7 months”.

12. Environment Protection Act 2002 amended

The Environment Protection Act 2002 is amended –

- (a) in section 65, by inserting in the appropriate alphabetical order, the following new definitions –

“Director-General” has the same meaning as in the Mauritius Revenue Authority Act 2004;

“guesthouse” has the meaning assigned to it by the Tourism Authority Act 2006;

“hotel” has the meaning assigned to it by the Tourism Authority Act 2006;

“tourist residence” has the meaning assigned to it by the Tourism Authority Act 2006;

- (b) in sections 66 and 67, by deleting the word “Director” wherever it appears and replacing it by the word “Director-General”;

- (c) by repealing sections 68 and 69 and replacing them by the following sections –

68. Penalty and interest for late payment of fee

Where a manager fails to pay any fee under section 66 on the last day on which it is payable, he shall be liable to pay to the Director-General, in addition to the fee –

- (a) a penalty of 5 per cent of the fee; and
- (b) interest at the rate of one per cent per month or part of the month on any amount of fee unpaid up to the date of payment.

69. Assessment and recovery of fee

The provisions of Parts VII, VIII and IX and sections 65, 67, 68, 69, 70 and 71 of the Value Added Tax Act shall apply to the fee with such modifications, adaptations and exceptions as may be necessary to bring them in conformity with this Part.

69A. Transitional provisions

(1) Every designated establishment registered with the Director on 31 August 2007 shall, on 1 September 2007, be deemed to be registered with the Director-General.

(2) Any fee unpaid to the Director in respect of any month up to and including the month of August 2007 shall, on 1 October 2007, be deemed to be due for payment to the Director-General.

- (d) in the Fifth Schedule, in Column 1, in item 2, by deleting the words “Boarding houses” and replacing them by the words “Guesthouses or tourist residences”.

13. Finance and Audit Act amended

The Finance and Audit Act is amended –

- (a) in section 2, by deleting the definition of “Consolidated Sinking Fund”;
- (b) in section 3(1), by deleting the words “to the Capital Fund, or to the Consolidated Sinking Fund” and replacing them by the words “or to the Capital Fund”;
- (c) in section 8(1), by deleting the words “or to the Consolidated Sinking Fund”;
- (d) by repealing sections 11, 12, 13 and 14;

- (e) in section 19(3), –
 - (i) in paragraph (r), by inserting after the words “closing stocks”, the word “and”;
 - (ii) by repealing paragraphs (s) and (t).
- (f) by inserting immediately after section 23, the following new section –

23A. Transitional provisions

The assets and liabilities of the Consolidated Sinking Fund as at 30 June 2007 shall, on 1 July 2007, be transferred to the Consolidated Fund.

14. Financial Intelligence and Anti-Money Laundering Act 2002 amended

The Financial Intelligence and Anti-Money Laundering Act 2002 is amended –

- (a) in section 2, in the definition of “member of the relevant profession or occupation”, by repealing paragraph (b) and replacing it by the following paragraph –
 - (b) includes any person licenced to operate a casino, gaming house A, interactive gambling, totalisator or as bookmaker under the Gambling Regulatory Authority Act 2007;
- (b) in section 19A(2) –
 - (i) by repealing paragraph (a) and replacing it by the following paragraph –
 - (a) the Financial Secretary or his representative, who shall act as Chairperson;
 - (ii) by repealing paragraphs (d) and (e);
 - (iii) by adding immediately after paragraph (m), the following new paragraph, the full stop at the end of paragraph (m) being deleted –
 - (n) the Chief Executive of the Gambling Regulatory Authority or his representative.
- (c) in section 19C, by adding before the existing provision, the following new subsection, the existing provision being numbered (2) accordingly –
 - (1) Seven members shall constitute a quorum of the National Committee.

15. Financial Reporting Act 2004 amended

The Financial Reporting Act 2004 is amended in section 50(1), by repealing paragraph (e) and replacing it by the following new paragraph –

- (e) publish, not later than 3 months after the end of its financial year, in the *Gazette* and in 2 daily newspapers in Mauritius, of which one at least shall be approved by the Chief Executive Officer, an annual list of professional and public accountants, and names of member firms.

16. Immigration Act amended

The Immigration Act is amended –

- (a) in section 2, by inserting in the appropriate alphabetical order, the following new definition -

“dependent child”, in relation to a person, means the child, stepchild or adopted child of that person, who is –

 - (a) under the age of 18; or
 - (b) above the age of 18 and pursuing a full-time course at an educational institution;
- (b) in section 5(1) –
 - (i) in paragraph (d), by deleting the words “a child, stepchild or lawfully adopted child, under the age of 18,” and replacing them by the words “a dependent child”;
 - (ii) in paragraph (g), by inserting immediately after the words “Integrated Resort Scheme”, the words “under the Real Estate Development Scheme prescribed under the Investment Promotion Act”;
 - (iii) in paragraph (i), by deleting the words “and dependant” and replacing them by the words “dependent child or other dependant”;
- (c) in section 5A –
 - (i) in subsection (1), by repealing paragraph (d);
 - (ii) by repealing subsection (3);

- (iii) by inserting immediately after subsection (5A), the following new subsection -

(5AA) Any non-citizen who has been employed to work in Mauritius during at least 3 consecutive years immediately preceding his application under this section -

- (a) drawing a basic monthly salary of at least 150,000 rupees during those years by virtue of that employment; and
- (b) holding –
 - (i) a valid work permit issued under the Non-Citizens (Employment Restriction) Act; or
 - (ii) an occupation permit,

may, on application made under this section, be granted the status of permanent resident.

- (iv) in subsection (5B), by deleting the words “subsection (5) or (5A)” and replacing them by the words “subsection (5), (5A) or (5AA)”;
- (d) by inserting immediately after section 9B, the following new section –

9C. Short-term occupation permit

(1) Notwithstanding section 5 and the Non-Citizens (Employment Restriction) Act, any individual who is a non-citizen may, through the Board of Investment, apply to the immigration officer for a short-term occupation permit authorising him to reside and to work in Mauritius during a period not exceeding 9 months.

(2) The period specified in the permit under subsection (1) may, on an application being made within at least 15 days prior to the expiry of the permit, be extended only once for a period not exceeding 3 months.

(3) The provisions of section 9A in relation to the procedure for an application shall apply to this section with such modifications, adaptations and exceptions as may be prescribed to bring them in conformity with this section.

17. Income Tax Act amended

The Income Tax Act is amended –

- (a) in section 2 –
 - (i) by inserting in the appropriate alphabetical order, the following new definitions –

“APS” means the Advance Payment System referred to in Sub-Part AA of Part IV;

“APS quarter” means the quarter referred to in section 50B;
 - (ii) by repealing the definition of “earned income”;
 - (iii) in the definition of “income tax”, in paragraph (b), by inserting immediately after subparagraph (i), the following new subparagraph (ii), the existing subparagraph (ii) being renumbered (iii) accordingly –
 - (ii) the levy imposed by Sub-Part AB of Part IV;
 - (iv) by repealing the definition of “securities” and replacing it by the following definition –

“securities” in item 7 of Sub-Part C of Part II of the Second Schedule has the same meaning as in the Securities Act 2005 but does not include Treasury Bills;
- (b) in section 4(b), by deleting the words “the appropriate rate specified in Part I and Part II of the First Schedule” and replacing them by the words “the rate specified in the First Schedule”;
- (c) in section 5(3), by deleting the words “Earned income derived from outside Mauritius shall be deemed to be derived by a person when –” and replacing them by the words “Income derived by an individual from outside Mauritius shall be deemed to be derived by the individual when –”;
- (d) in section 27(7)(c), by deleting the words “full-time education or training” and replacing them by the words “full-time course at an educational institution or a training institution”;
- (e) in section 44, by deleting the words “the appropriate rate specified in Part II of the First Schedule” and replacing them by the words “the rate specified in the First Schedule”;
- (f) in section 44A(2)(a), by inserting immediately after the words “a company which”, the words “holds a Category 1 Global Business Licence under the Financial Services Act 2007 or which”;

- (g) in section 45, by deleting the words “the rate specified in Sub-Part C of Part II of the First Schedule” and replacing them by the words “the rate specified in the First Schedule”;
- (h) in section 45A(2), by deleting the words “Part II of”;
- (i) in section 46 –
 - (i) in subsection (1), by deleting the words “the rate specified in Sub-Part A of Part II of the First Schedule” and replacing them by the words “the rate specified in the First Schedule”;
 - (ii) in subsection (2), by deleting the words “the rate specified in Sub-Part C of Part II of the First Schedule” and replacing them by the words “the rate specified in the First Schedule”;
- (j) in section 47(7), by deleting the words “a rate specified in Sub-Part C or Sub-Part A of Part II of the First Schedule, as the case may be” and replacing them by the words “the rate specified in the First Schedule”;
- (k) in Part IV, by inserting immediately after Sub-Part A, the following new Sub-Parts –

Sub-Part AA – Advance Payment System

50A. Application of Sub-Part AA

(1) This Sub-Part shall apply to companies, unit trust schemes, collective investment schemes, trusts other than trusts to which section 46(3) applies, non-resident *sociétés* and any *société* holding a Category I Global Business Licence under the Financial Services Act 2007 which has opted to be liable to income tax under section 47(7).

(2) Any reference made to a company under this Sub-Part shall be construed to refer also to a unit trust scheme, collective investment scheme, trust other than trust to which section 46(3) applies, non-resident *société* and any *société* holding a Category I Global Business Licence under the Financial Services Act 2007 which has opted to be liable to income tax under section 47(7).

50B. Advance Payment System

Every company shall submit to the Director-General, in respect of each APS quarter, an APS Statement in such form and manner as may be approved by the Director-General and at the same time pay the tax in accordance with the APS Statement, as follows –

<i>Quarter</i>	<i>Income for the period</i>	<i>Due date for submission of APS Statement and</i>
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		<i>payment of tax</i>
First	3 months commencing on the first day of the income year	within 3 months from the end of the first quarter
Second	3 months immediately following the end of the first quarter	within 3 months from the end of the second quarter
Third	3 months immediately following the end of the second quarter	within 3 months from the end of the third quarter

50C. Ascertainment of chargeable income

The chargeable income of a company in respect of an APS quarter shall, at the option of the company, be –

- (a) deemed to be 25 per cent of the chargeable income of the company for the income year ending on a date immediately preceding the commencement of that quarter; or
- (b) the difference between –
 - (i) the gross income for that quarter; and
 - (ii) the allowable deductions for that quarter including any allowable loss brought forward from the income year immediately preceding that quarter or from the previous quarter, as the case may be.

50D. Calculation of tax

(1) Subject to subsection (2), the income tax payable under section 50B shall be calculated on the chargeable income ascertained under section 50C at the rate specified in the First Schedule.

(2) Where a company has been subject to tax under section 44A in respect of an income year, the income tax payable in respect of an APS quarter shall, at the option of the company be –

- (a) 25 per cent of the tax paid for that income year; or
- (b) the amount of income tax computed on the chargeable income ascertained under section 50C(b).

50E. Return and payment of tax at end of income year

(1) Every company paying tax under this Sub-Part shall, at the end of an income year, submit to the Director-General the return required to be submitted under section 116.

(2) Where the amount of tax payable on the chargeable income in accordance with the return referred to in subsection (1) exceeds the sum of –

- (a) the aggregate amount of any tax paid under this Sub-Part excluding any penalty under section 50F; and
- (b) any amount of tax withheld under Sub-Part BA,

the company shall pay the difference at the time the return is submitted under section 116.

50F. Penalty for late payment of tax under APS

Where a company fails to pay any income tax due on or before the last day on which it is payable under section 50B it shall be liable to pay to the Director-General, in addition to the tax, a penalty of 5 per cent of the amount of tax remaining unpaid.

Sub-Part AB – Special levy on banks**50G. Interpretation**

In this Sub-Part –

“bank” –

- (a) has the same meaning as in the Banking Act 2004; but
- (b) does not include the Development Bank of Mauritius Ltd;

“book profit” means the profit computed in accordance with International Financial Reporting Standards;

“levy” –

- (a) means the special levy referred to section 50H; and
- (b) includes any penalty and interest imposed under this Act;

“net interest income” means interest income less interest expense;

“operating income” means the sum of net interest income and other income before deducting non-interest expense.

50H. Liability to special levy

(1) Subject to this section, every bank shall, in every year be liable to pay to the Director-General a special levy calculated by reference to its book profit and its operating income derived during the preceding year at the rates specified in subsection (2).

(2) The rates shall be in the year of assessment commencing on –

(a) 1 July 2007	30 per cent of the rates specified in paragraph (b)
(b) 1 July 2008 and in respect of every subsequent year of assessment	1.70 per cent on book profit; and 0.50 per cent on operating income

(3) The levy under subsection (1) shall be paid at the time the Bank submits its return of income under section 116.

(4) No levy shall be paid in a year where in the preceding year –

(a) the bank incurred a loss; or

(b) the book profit of the bank did not exceed 5 percent of its operating income.

(l) in section 93, by adding immediately after subsection (3), the following new subsections –

(4) Every employer shall submit to the Director-General a Return of Employees giving such information and particulars, within such time and in such manner, as may be prescribed.

(5) Any employer who fails to comply with subsection (4) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees.

(m) in section 96, by deleting the words “20 per cent” wherever they appear and replacing them by the words “15 per cent”;

(n) in section 105(2) –

(i) in paragraph (b), by deleting the words “Part I of”;

(ii) by adding immediately after paragraph (c), the following new paragraph, the word “or” at the end of paragraph (b) being deleted and the full stop at the end of paragraph (c) being deleted and replaced by the words “; or” –

(d) in respect of gross income derived from the cultivation of sugar cane and from the growing of tobacco leaves.

(o) in section 108, by deleting the words “Part II of the Fourth Schedule” and replacing them by the words “the First Schedule”;

(p) in section 111G, by adding the following new subsection, the existing provision being numbered (1) accordingly –

(2) Where the payee under subsection (1) is a *société* or a succession, the associates of the *société* or the heirs of the succession, as the case may be, shall be entitled to claim a credit in their annual return of income submitted under section 112 or 116, as the case may be, in respect of their share of the amount of tax deducted under this Sub-Part.

- (q) in section 111K, by adding immediately after subsection (4), the following new subsection –

(5) Any payer who fails to comply with subsection (1), (2) or (3), shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees.

- (r) in section 111L –

- (i) in the definition of “owner”, in paragraph (a), by repealing subparagraph (i) and replacing it by the following subparagraph –

(i) the owner of a residential property on any leased land;

- (ii) by deleting the definition of “residential property” and replacing it by the following definition –

“residential property” –

(a) means any immovable property including any building, part of a building, apartment, flat, tenement, campement or bungalow, used, or available for use, as residence; and

(b) includes any tourist residence as defined in the Tourism Authority Act 2006; but

(c) does not include –

(i) any hotel or guest house as defined in the Tourism Authority Act 2006;

(ii) any plot of land on which there is no residential property;

- (s) in section 111M –

- (i) in paragraph (b) –

(A) by repealing subparagraph (i) and replacing it by the following subparagraph –

(i) in the case of an apartment, flat or tenement, its floor area as specified in the title deed or contract; or

- (ii) in paragraph (b)(ii), by inserting immediately after the words “residential property”, the words “including any residential property on leased land”;

- (iii) by adding the following new subsection, the existing provision being numbered (1) accordingly –

(2) Where the owner is an individual, the National Residential Property Tax payable under this section shall, subject to section 111N(11), not exceed 5 per cent of his total income.

- (t) in section 111N –

- (i) by deleting the words “215,000 rupees” wherever they appear and replacing them by the words “385,000 rupees”;
- (ii) in subsection (5), by deleting the word “legaties” wherever they appear and replacing it by the word “legatees”;
- (iii) in subsection (7) –

- (A) by repealing paragraph (a) and replacing it by the following paragraph –

- (a) used for agriculture for the purpose of making a profit and the gross income derived therefrom is declared by the owner in his return of income; or

- (B) by inserting immediately after the words “liable to pay”, the words “in respect of each residential property,”;

- (iv) in subsection (10)(c), by inserting immediately after the words “Integrated Resort Scheme”, the words “under the Real Estate Development Scheme”;
- (v) by adding immediately after subsection (10), the following new subsection –

(11) Section 111M(2) shall not apply to an owner referred to in subsection (10).

- (u) in section 112, by deleting the words “215,000 rupees” and replacing them by the words “385,000 rupees”;

- (v) in section 116 –

- (i) in subsection (1), by deleting the words “the date specified in subsection (2)” and replacing them by the words “six months from the end of the month in which its accounting period ends”;
- (ii) by repealing subsection (2);

- (iii) by repealing subsection (3) and replacing it by the following subsection –

(3) Where in an income year, a company derives gross income and exempt income exceeding 30 million rupees or is an employer submitting PAYE return and remitting tax withheld electronically under Sub-Part A of Part VIII, it shall, unless otherwise authorised -

- (a) submit its return and pay any tax payable under subsection (1) electronically through such computer system as may be approved by the Director-General; and
 - (b) continue to submit its return and pay tax electronically until such time as it ceases to be required to submit a return under subsection (1).
- (w) in section 117A(2), by deleting the words “for the purposes of section 116(2)”;
- (x) in section 119(1), by repealing paragraphs (a), (b) and (c) and deleting the words “at the same time pay the tax payable referred to in paragraph (b) in accordance with its return” and replacing them by the following paragraphs –
 - (a) the full name of the beneficiaries and the amount distributed to each of them; and
 - (b) such other particulars as may be required by the Director-General.
- (y) in section 120, by repealing subsections (1) and (2) and replacing them by the following subsection –

(1) Subject to subsection (4), where the estate of a deceased taxpayer has not been distributed, any person liable to income tax under section 83 shall, in respect of an income year, submit to the Director-General, not later than 30 September following that income year, a return in such form and manner as may be determined by the Director-General, specifying –

- (a) all income derived by the estate during the preceding income year;
- (b) the full name of the beneficiaries and the respective share of their income in the estate; and
- (c) such other particulars as may be required by the Director-General.

- (z) in section 122C, by deleting the words “a penalty of 20 per cent of the tax payable, provided that the penalty payable shall not exceed 100,000 rupees” and replacing them by the words “a penalty of –
 - (a) 20 per cent of the tax payable, provided that the penalty payable shall not exceed 100,000 rupees; or
 - (b) 5,000 rupees where no tax liability is declared in the return.
- (za) in section 122D –
 - (i) in subsection (1), by deleting the words “section 100” and “sections 101” and replacing them by the words “section 50F, 100” and “sections 50F, 101” respectively;
 - (ii) in subsection (2), by deleting the words “sections 101” and replacing them by the words “sections 50F, 101”;
- (zb) in section 134, by deleting the words “sections 98” and replacing them by the words “sections 83, 98”;
- (zc) by repealing section 136 and replacing it by the following section –

136. Application of Part XI

This Part shall apply to any tax which has remained unpaid under this Act.

- (zd) in section 146B, by deleting the words “not exceeding 200,000 rupees and to imprisonment for a term not exceeding 3 years” and replacing them by the words “not exceeding 50,000 rupees and to imprisonment for a term not exceeding 2 years”;
- (ze) by inserting immediately after section 152, the following new section –

152A. Erroneous refund

(1) Where any person has benefited through error from a refund, he shall be liable to pay to the Director-General the amount of income tax which has been erroneously refunded.

(2) The Director-General may, by written notice, order the person under subsection (1) to pay, within 28 days of the date of the notice, the tax which has been erroneously refunded.

(3) Where the person fails to pay the tax within the due date specified in the notice under subsection (2), he shall be liable to pay, in addition to the tax, interest at the rate of one per cent per month as from the date immediately following the due date until the date of payment.

(zf) in section 161A –

- (i) by repealing subsections (1), (2), (3), (4), (5), (8), (9) and (11) and their headings;
- (ii) by repealing subsections (2D), (6), (6A) and (7);
- (iii) in subsection (7C), by deleting the words “the rate specified in Sub-Part C of Part II of the First Schedule” wherever they appear and replacing them by the words “the rate specified in the First Schedule”;
- (iv) in subsection (13) –
 - (A) in paragraphs (a) (b) and (c), by deleting the words “the rate specified in Sub-Part C of Part II of the First Schedule” wherever they appear and replacing them by the words “the rate specified in the First Schedule”;
 - (B) by repealing paragraphs (d), (e) and (f);
 - (C) in paragraph (g), by deleting the words “, (c) and (d)” and replacing them by the words “and (c)”;
 - (D) by repealing paragraph (h) and replacing it by the following paragraph –
 - (h) in this subsection, “freeport operator” and “private freeport developer” means a company licensed as such under the Freeport Act 2004.”
- (v) by adding immediately after subsection (16), the following new subsections –

Voluntary disclosure incentive scheme (VDIS)

(17) Where a person makes, by 31 December 2007, a voluntary disclosure of his undeclared or underdeclared income in respect of the 5 years of assessment ended 30 June 2007, he shall, at the same time, pay tax in accordance with the disclosure at the appropriate rate in force in respect of each of the years of assessment, together with interest at the rate 0.5 per cent per month as from the date the tax was due and payable.

(18) Where the tax and interest under subsection (17) is not paid at the time of the disclosure, any unpaid tax and interest shall carry interest at the rate of 14 per cent per annum.

(19) Where a person makes a voluntary disclosure under subsection (17) and the Director-General is satisfied with such disclosure, that person shall be deemed, notwithstanding sections 146, 147, 148 and 149, not to have committed an offence.

(20) The disclosure under subsection (17) shall be made in such form and manner as may be determined by the Director-General.

Tax arrears payment incentive scheme (TAPIS)

(21) Where tax arrears as at 30 June 2007 is paid by a person on or before 31 December 2007, any penalty under section 133 included therein for non-payment of the tax shall be reduced by 75 per cent.

(22) For the purposes of subsection (21), “tax arrears” means -

- (a) tax liability which is final and conclusive pursuant to section 135 and which has remained unpaid;
- (b) tax remaining unpaid and pending following an objection made under section 131A or under review by the Assessment Review Committee; or
- (c) tax remaining unpaid and pending an appeal before the Supreme Court or an appeal before the Judicial Committee of the Privy Council.

(23) Subsections (17) and (21) shall not apply to any person who has been convicted on or after 1 July 2001 or against whom any civil or criminal proceedings are pending or contemplated or enquiry is being conducted into or relating to the trafficking of dangerous drugs, arms trafficking, offences related to terrorism under the Prevention of Terrorism Act 2002, money laundering under the Financial Intelligence and Anti-Money Laundering Act 2002 or corruption under the Prevention of Corruption Act 2002.

Tax liability of companies

(24) Every company which, in respect of the year of assessment 2008-2009, has a turnover exceeding 100 million rupees and pays tax under Sub-Part AA of Part IV during that year of assessment, the company may pay any tax payable in accordance with its return of income for that year of assessment in 3 equal and consecutive yearly instalments starting as from the year of assessment 2008-2009 within the time specified in section 116.

(25) Every company which, in respect of the year of assessment 2009-2010, has a turnover not exceeding 100 million rupees and pays tax under Sub-Part AA of Part IV during that year of assessment, the company may pay any tax payable in accordance with its return of income for that year of assessment in 3 equal and consecutive yearly instalments starting as from the year of assessment 2009-2010 within the time specified in section 116.

- (zg) by repealing the First Schedule and replacing it by the First Schedule set out in the Schedule to this Act;
- (zh) in the Second Schedule –
 - (i) in Part I, by adding immediately after item 20, the following new item –

21. The Mauritius Sugar Syndicate.
 - (ii) in Part II –
 - (A) in Sub-Part A, in item 4(c), by deleting the words “6,980 rupees” and replacing them by the words “7,375 rupees”;
 - (B) in Sub-Part C –
 - (i) by repealing item 12;
 - (ii) by adding immediately after item 13, the following new item 14, the existing item 14 being renumbered 15 accordingly –

14. Alimony paid to a previous spouse whose marriage has been dissolved by a court of competent jurisdiction or in respect of maintenance paid to the spouse in accordance with an order of a court.
- (zi) in the Fourth Schedule –
 - (i) by deleting the words “(sections 2, 105 and 108)” and ‘**PART I**’ and replacing them by the words “(sections 2 and 105);
 - (ii) by repealing **PART II**;

- (zj) by repealing the Seventh Schedule and replacing it by the following Schedule –

SEVENTH SCHEDULE

(section 111M)

Area	Rate
1. In the case of apartment, flat or tenement, its floor area as specified in the title deed or contract	30 rupees per square metre
2. In the case of any other residential property, the surface area of the land	10 rupees per square metre

18. Investment Promotion Act amended

The Investment Promotion Act is amended –

- (a) in section 2 –
- (i) by deleting the definition of “IRS certificate” and replacing it by the following definition –
- “IRS certificate” means a Integrated Resort Scheme certificate issued under the Real Estate Development Scheme prescribed under this Act;
- (ii) by deleting the definition of “State-significant development”;
- (iii) by inserting in the appropriate alphabetical order, the following new definition –
- “RES certificate” means a Real Estate Scheme certificate issued under the Real Estate Development Scheme prescribed under this Act;
- (b) by repealing section 14;
- (c) in Part IV –
- (i) by deleting the heading and replacing it by the following heading –

**IRS CERTIFICATE, RES CERTIFICATE AND
FREEPORT CERTIFICATE**

- (ii) in section 16 –
 - (A) in the heading, by adding immediately after the words “**IRS certificate**”, the words “**or RES certificate**”;
 - (B) by repealing subsection (1) and replacing it by the following subsection –
 - (1) Any person who intends to engage in activities regulated under the Real Estate Development Scheme prescribed under this Act shall apply to the Managing Director for an IRS certificate or a RES certificate, as the case may be, in such form and manner as may be approved by the Managing Director.
- (iii) in section 17, by inserting immediately after the words “IRS certificate”, the words “or a RES certificate”;
- (iv) in section 18 –
 - (A) in the heading, by adding immediately after the words “IRS certificate”, the words “or RES certificate”;
 - (B) by inserting immediately after the words “an IRS certificate”, wherever they appear, the words “or a RES certificate”;
 - (C) by deleting the words “Integrated Resort Scheme” and replacing them by the words “Real Estate Development Scheme”;
- (v) in section 18A(1), by deleting the words “Every investor registered under section 12 and” and the word “Board” and replacing them by the words “Any person” and “Managing Director” respectively;
- (vi) in section 23(3)(b), by inserting immediately after the words “IRS certificate”, the words “, a RES certificate”;
- (vii) in the Schedule, by deleting the words “(sections 2, 12 and 14)” and replacing them by the words “(sections 2 and 12)”.

19. Land (Duties and Taxes) Act amended

The Land (Duties and Taxes) Act is amended –

- (a) in section 2 –
 - (i) in the definition of “deed of transfer”, by repealing paragraph (k) and replacing it by the following paragraph –
 - (k) a deed witnessing the transfer of an immovable property to a company holding a letter of approval for the implementation of a project under the Real Estate Development Scheme prescribed under the Investment Promotion Act, where the transferor holds shares in the company, the value of which is less than the value of the immovable property transferred;
 - (ii) in the definition of “property”, in paragraph (b), by repealing subparagraph (v) and replacing it by the following subparagraph –
 - (v) property transferred to a company holding a letter of approval for the implementation of a project under the Real Estate Development Scheme prescribed under the Investment Promotion Act, in respect of the difference in value of the property transferred and the value of the shares held in the company holding such letter of approval;
- (b) in section 26A(1) –
 - (i) in paragraph (b), by deleting the words “civil society, partnership, association or company” and replacing them by the words “civil society or association”;
 - (ii) by repealing paragraph (c) and replacing it by the following paragraphs –
 - (c) of shares in a partnership which reckons among its assets –
 - (i) any leasehold rights in State land; or
 - (ii) any shares which the partnership holds in any other partnership, successive partnership, company or successive company which reckons among its assets such leasehold rights;

- (d) of shares in a company which reckons among its assets –
 - (i) any leasehold rights in State land; or
 - (ii) any shares which the company holds in any other partnership, successive partnership, company or successive company which reckons among its assets such leasehold rights;
- (c) in section 28 –
 - (i) in subsection (1)(b), by repealing subparagraph (i) and replacing it by the following subparagraph –
 - (i) any property, including any immovable property which forms part of the assets of a partnership, successive partnership, company or successive company;
 - (ii) in subsection (2)(b), by repealing subparagraphs (i) and (ii) and replacing them by the following subparagraphs –
 - (i) in the case where there has been a transfer of shares in a partnership, of the value of the immovable property forming part of the assets of that partnership or of any other partnership, successive partnership, company or successive company in which that partnership holds shares for the purposes of determining the value of the shares transferred;
 - (ii) in the case where there has been a transfer of shares in a company, of the value of the immovable property forming part of the assets of that company or of any other company, successive company, partnership or successive partnership in which that company holds shares for the purposes of determining the value of the shares transferred; or
 - (iii) in any other case, of the value of the property being transferred stating the amount of duty or tax, if any.
 - (iii) by repealing subsection (4), and replacing it by the following subsections –
 - (4) Any person who is aggrieved by a notice under subsection (2)(b) may lodge written representations with the Clerk to the Committee in accordance with section 19 of the Mauritius Revenue Authority Act 2004.

(4A) Any person who lodges written representations pursuant to subsection (4) shall, at the time of lodging the representations, pay to the Registrar-General 30 per cent of the amount of duty or tax, excluding penalty, claimed in the notice under subsection (2)(b).

(4B) Where a person fails to pay the duty or tax under subsection (4A), section 37 shall apply.

(4C) Where the value assessed under subsection (2)(b) is reduced pursuant to a decision of the Committee or determination of an appeal to the Supreme Court, any amount of duty or tax paid in excess shall be refunded, together with interest at the legal rate, free of income tax, from the date the payment is effected to the Registrar-General to the date it is refunded.

- (iv) by repealing subsection (6) and replacing it by the following subsection –

(6) For the purposes of this section, the Valuer shall, not more than 7 months from the date of registration of the deed of transfer, advise the Registrar-General of the open market value of the property as at that date of registration.

- (d) in section 29, by repealing subsection (1);
- (e) by inserting immediately after section 38, the following new section –

39. Anti-avoidance provisions

(1) Where the Registrar-General is satisfied that the sole or dominant purpose of any arrangement which involves one or more transactions on properties is to reduce or avoid any payment of duty or tax which would otherwise be payable under the Registration Duty Act or this Act, the Registrar-General may, without prejudice to the validity of such transactions, make an assessment of the amount of duty or tax that would otherwise be payable and claim such amount from the parties to the transaction.

(2) Any party who is aggrieved by a claim under subsection (1) may lodge written representations with the Clerk to the Committee in accordance with section 19 of the Mauritius Revenue Authority Act 2004.

(3) A notary shall inform the parties to every notarial deed of the provisions of this section and shall insert a clause in the deed stating that he has so informed the parties.

- (f) in section 41, by adding the following new subsection, the existing provision being numbered (1) accordingly –

(2) Where the notice or letter is returned undelivered, the provision of subsection (1) shall apply to any notice or letter sent by registered post to the address of the transferor or transferee.

- (g) in section 45A, by repealing subsection (2) and replacing it by the following subsection –

(2) The provisions of subsection (1) shall apply to –

- (a) the heirs of a deceased worker collectively (*les ayants droits*) as they would have applied to a worker referred to in that subsection; or
- (b) the transfer of land by a partnership or company forming part of the same group as the employer of the worker.

20. Loans Act amended

The Loans Act is amended –

- (a) in section 2, by deleting the definition of “Consolidated Sinking Fund”;
- (b) by repealing section 18.

21. Local Government Act 2003 amended

The Local Government Act 2003 is amended in section 98 –

- (a) by repealing subsection (4) and replacing it by the following subsection –

(4) Every application under subsection (2) shall be forwarded to the Chairperson of the Permits and Business Monitoring Committee.

- (b) by inserting immediately after subsection (4), the following new subsection –

(4A) On receipt of an application under subsection (4), the Chairperson of the Permits and Committee shall, on the effective date, issue to the applicant an acknowledgement receipt in respect of the application.

- (c) by inserting immediately after subsection (8), the following new subsection –

(8A) Where an applicant has not been issued with a Building and Land Use Permit or has not been notified that his application has not been approved under subsection (6) or (7), as the case may be, within 2 working days of the expiry of the due date, the application shall, upon payment of the fee referred to in subsection (8), be deemed to have been approved by the local authority and the acknowledgement receipt together with the receipt acknowledging payment of the fee shall be deemed to be the Building and Land Use Permit.

22. Mauritius Revenue Authority Act 2004 amended

The Mauritius Revenue Authority Act 2004 is amended –

- (a) in section 3, by inserting after subsection (5), the following new subsection –

(6) In the discharge of his duties under subsection (5)(a)(i), the Head of the Internal Affairs Division shall have power to –

- (a) make enquiries or investigations as he thinks necessary;
- (b) call for any record, or document or any information;
- (c) retain for such period as may be considered reasonable for their examination any such record or document;
- (d) make a copy of any such record or document; or
- (e) require any person to attend before him to give such information as may be required.

- (b) in section 14, by repealing subsection (4) and replacing it by the following subsections –

(4) Notwithstanding subsection (3), the Director-General may, where he has reason to believe that an officer has made a false declaration, or has concealed the existence of an asset which he has to declare, or has otherwise omitted to make such a declaration, require an officer to make a declaration of assets at any time.

(5) The Head of the Internal Affairs Division, or any officer deputed by him, may, for the purposes of verifying any declaration of assets lodged under this section, require from the person making the declaration for any document or for any oral or written information.

(6) The powers exercisable by the Head of the Internal Affairs Division shall, in relation to a requirement under subsection (5) in respect of himself, be exercised by the Director-General.

- (c) in section 25(1) –
 - (i) by repealing paragraph (a) and replacing it by the following paragraph –
 - (a) fails to comply with a requirement under section 3(6)(b) or (e) or contravenes section 13;
 - (ii) in paragraph (b), by deleting the words “section 14(4) or 15(1)(b)” and replacing them by the words “section 3(6), 14(5) or 15(1)(b)”;
 - (iii) in paragraph (d), by deleting the words “section 15” and replacing them by the words “section 3(6) or 15”.

23. Morcellement Act amended

The Morcellement Act is amended in section 3 –

- (a) in subsection (1), by deleting the words “Subject to subsection (2)” and replacing them by the words “Subject to subsections (2) and (3)”;
- (b) by repealing subsection (3) and replacing it by the following subsection –
 - (3) This Act shall not apply to –
 - (a) an excision of land for transfer to a company; or
 - (b) a morcellement by a company,

holding a letter of approval for the implementation of a project in relation to that excision or morcellement under the Real Estate Development Scheme prescribed under the Investment Promotion Act.

24. National Economic and Social Council Act 2001 amended

The National Economic and Social Council Act 2001 is amended in section 6(1), by repealing paragraph (e) and replacing it by the following paragraph –

- (e) the Financial Secretary;

25. Non-Citizens (Employment Restriction) Act amended

The Non-Citizens (Employment Restriction) Act is amended in section 3, by adding immediately after subsection (5), the following new subsection –

(6) Notwithstanding subsections (1) and (2), a holder of an occupation permit issued under the Immigration Act, or a non-citizen who has been granted a permanent residence permit under section 5AA of the Immigration Act, may engage in any occupation for reward or profit, or be employed, without a permit issued under this Act during the period covered by the occupation permit or permanent residence permit, as the case may be.

26. Non-Citizens (Property Restriction) Act amended

The Non-Citizens (Property Restriction) Act is amended in section 3(3)(c) –

- (a) in subparagraph (iii), by adding immediately after the words “Integrated Resort Scheme”, the words “under the Real Estate Development Scheme”;
- (b) in subparagraph (iv), by deleting the words “a certificate” and replacing them by the words “an authorisation”;
- (c) in subparagraph (v), by deleting the words “or a retired non-citizen” and the words “a certificate” and replacing them by the words “, a retired non-citizen or a non-citizen referred to in section 5AA of the Immigration Act” and “an authorisation” respectively.

27. Registration Duty Act amended

The Registration Duty Act is amended –

- (a) in section 3(1)(a), by inserting immediately after the words “Parts I to IV”, the words “and Part VIII”;
- (b) in section 36 –
 - (i) by deleting the words “No deed of transfer” and “the transfer of immovable property” and replacing them by the words “No deed of transfer of immovable property” and “a loan or instrument of charges or any deed of transfer of any immovable property” respectively;

- (ii) in paragraph (b), by adding immediately after subparagraph (xi), the following new subparagraph, the full stop at the end of subparagraph (xi) being deleted and replaced by a semi-colon –
 - (xii) a certificate from a quantity surveyor or an architect certifying the description and cost of works carried out as at the date of transfer of a building or structure under construction, the gross external area of which, as per the approved plan, exceeds 500 square metres.
- (iii) in paragraph (h), by repealing subparagraph (ii), and replacing it by the following subparagraph –
 - (ii) in case the company reckons among its assets –
 - (A) any freehold or leasehold immovable property; or
 - (B) any shares in a partnership which reckons among its assets such property or any shares that the partnership holds in any other partnership, successive partnership, company or successive company which reckons among its assets such property; or
 - (C) any shares in a company which reckons among its assets such property, or any shares that the company holds in any other company, successive company, partnership or successive partnership which reckons among its assets such property –
 - (I) a description of the immovable property together with a site plan;
 - (II) a copy of the latest balance sheet of the company duly certified by the parties;
 - (III) the open market value of the immovable property; and
 - (IV) the total number of shares issued by the company indicating the number of shares issued to the transferee during the period of 3 years immediately preceding the date of the transfer.
- (iv) in paragraph (i)(a), by inserting immediately after the words “said transfer”, the words “except where the lease agreement in respect of a campement site provides for the payment of a premium and a new rental”;

- (v) by repealing paragraph (k) and replacing it by the following paragraphs –
 - (k) in respect of a transfer to, or by, a company holding a letter of approval for the implementation of a project under the Real Estate Development Scheme prescribed under the Investment Promotion Act, a certified copy of the letter of approval;
 - (l) in respect of any document presented for transcription and inscription, a summary of the transaction in accordance with such form as may be prescribed;
 - (m) in respect of any transfer of immovable property, a certified copy of the site plan attached to the transcription of the deed of transfer.
- (c) in section 36B, by deleting the words “section 8E of the Unified Revenue Act 1983” and replacing them by the words “section 19 of the Mauritius Revenue Authority Act 2004”.

28. Stamp Duty Act amended

The Stamp Duty Act is amended in section 3, by repealing subsections (4) and (5).

29. Sugar Industry Efficiency Act 2001 amended

The Sugar Industry Efficiency Act 2001 is amended –

- (a) in section 11, by adding immediately after subsection (13), the following new subsection –
 - (14) No land shall be exchanged under subsection (11) or sold to the specified entity in item 5 of the Fourth Schedule under subsection (13), unless the exchange or sale is approved by the Minister to whom responsibility for the subject of finance is assigned.
- (b) in section 28, by repealing subsection (2) and replacing it by the following subsections –
 - (2) Subsection (1) shall apply to any agricultural land, whether forming part of a larger plot of land or not, which has been under cultivation at any point in time during the past 10 years immediately preceding the effective date of an application under subsection (3).
 - (2A) Where the owner of a plot of land intends to put that plot of land to non-agricultural use and that plot of land has not been under cultivation at any point in time during the past 10 years, he may make a declaration to that effect to the Ministry in such form as the Ministry thinks fit.

(2B) On the basis of the declaration made under subsection (2A), the Ministry shall, within 2 weeks of the date of the declaration, confirm in writing the status of the land.

30. Tertiary Education Commission Act amended

The Tertiary Education Commission Act is amended –

- (a) in section 2, by inserting in the appropriate alphabetical order, the following new definition –

“effective date”, in relation to an application under section 12A, means the date on which the application and all the required relevant documents, reports and other information specified in the guidelines are submitted;

- (b) in section 4A(1) –
 - (i) by repealing paragraph (b) and replacing it by the following paragraph –
 - (b) determine applications for the establishment of private institutions, or centres or branch campuses of overseas institutions, offering post-secondary education in Mauritius;
 - (ii) by inserting immediately after paragraph (e), the following new paragraph, the existing paragraphs (f), (g) and (h) being relettered (g), (h) and (i) accordingly –
 - (f) register and accredit private universities and other institutions offering post-secondary education in Mauritius and accredit their programmes;
- (c) by repealing section 12A and replacing it by the following new section –

12A. Establishment, registration and accreditation

- (1) No person shall –
 - (a) establish a post-secondary educational institution or a centre, or branch campus, of an overseas institution unless it has been approved by the Commission; or
 - (b) operate a post-secondary educational institution or a centre, or a branch campus, of an overseas institution unless it has been registered with, and its programmes accredited by, the Commission.

- (2) (a) Every person who intends to establish a post-secondary educational institution or a centre, or branch campus, of an overseas institution shall apply to the Commission in accordance with the guidelines issued by the Commission and in such form and manner as may be determined by the Commission.
 - (b) Every application made under paragraph (a) shall be accompanied by all the required relevant documents, reports and other information, as specified in the guidelines.
- (3) The Commission shall, on the effective date, issue to the applicant an acknowledgement receipt in respect of the application.
- (4) (a) The Commission shall examine the application made under subsection (2), shall approve or reject the application and shall notify in writing the applicant accordingly within 15 working days of the effective date.
 - (b) Where the Commission rejects an application, it shall give reasons therefor.
 - (c) Where an applicant has not received a notification under paragraph (a) after 5 working days of the expiry of the due date, the application shall be deemed to have been approved by the Commission and the acknowledgement receipt shall be deemed to be the letter of approval.
- (5) No person shall operate a post-secondary educational institution or a centre, or branch campus, of an overseas institution unless every academic staff or trainer in the institution is registered with the Commission.
- (6) The owner or manager of an institution shall, where an application has been approved pursuant to subsection (4)(a) or (c), apply to the Commission –
 - (a) for the registration of his post-secondary educational institution and every academic staff or trainer in such institution; and
 - (b) for the accreditation of every programme leading to an award offered by his post-secondary educational institution,

in accordance with the guidelines issued by the Commission and in such form and manner as may be determined by the Commission.

(7) The Commission shall, on the effective date, issue to the applicant an acknowledgement receipt in respect of the application.

- (8) (a) The Commission shall examine the application made under subsection (6), shall approve or reject the application and shall notify in writing the applicant accordingly within 42 working days of the effective date.
- (b) Where the Commission rejects an application, it shall give reasons therefor.
- (c) Where an applicant has not received a notification under paragraph (a) after 5 working days of the expiry of the due date, the application shall be deemed to have been approved by the Commission and the acknowledgement receipt shall be deemed to be the letter of approval.

(9) The approval of an application under subsection (4)(a) or (c) or (8)(a) or (c) shall be subject to such terms and conditions as may be determined by the Commission.

(10) The guidelines referred to in subsections (2) and (6) shall be posted on the website of the Commission.

- (d) by repealing section 12B and replacing it by the following section –

12B. Use of word “University” or similar word

(1) No institution offering post-secondary education shall, without the written approval of the Commission, use in relation to its name the word or words “Academy”, “College of Advanced Education”, “College of Further Education”, “College of Higher Education”, “Institute of Higher Education”, “Institute of Science and Technology”, “Polytechnic”, “University” or any word or words which, in the opinion of the Commission, are similar to or closely resemble those words.

(2) No centre or branch campus of an overseas institution shall include the name of that institution as part of its name unless the centre or branch campus is established and operated by that overseas institution.

- (e) by repealing section 13A and replacing it by the following section –

13A. Offences

(1) Any person who contravenes section 12A(1) or (5) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 300,000 rupees and to imprisonment for a term not exceeding 3 years.

(2) Any person who, in relation to an application under section 12A(2) or (6) submits any information or document which is false or misleading in any material particular shall commit an offence and shall, on conviction, be liable to a fine not exceeding 500,000 rupees and to imprisonment for a term not exceeding 5 years.

(3) Any person who contravenes any provision of this Act, other than section 12A(1), (2), (5) or (8), shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 2 years.

(f) by repealing section 14 and replacing it by the following section –

14. Regulations

(1) The Minister may, on the recommendation of the Commission –

- (a) make such regulations as he thinks fit for the purposes of this Act;
- (b) by regulations, amend the Schedule.

(2) Regulations made under subsection (1) may –

- (a) provide for the levying of fees and the taking of charges;
- (b) provide that any person who contravenes them shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding one year.

31. Value Added Tax amended

The Value Added Tax Act is amended –

(a) in section 15, by repealing subsection (3) and replacing it by the following subsection –

(3) Where the turnover of a person is made up exclusively of –

- (a) zero-rated supplies; or
- (b) zero-rated supplies and exempt supplies,

that person shall not be bound to apply for registration under this section.

- (b) in section 21, by inserting immediately after subsection (8), the following new subsections –

(9) Notwithstanding subsection (5), but subject to subsection (10), where a person is registered for VAT under section 15, he may, subject to subsection (2), take credit in his first VAT return of the VAT paid or payable on his trading stocks and capital goods, being plant, machinery or equipment of a capital nature, held on the date immediately preceding the date of his registration.

- (10) No credit shall be allowed under subsection (9) unless –

- (a) the registered person submits to the Director-General at the time of submission of his first VAT return, an inventory duly certified by a qualified auditor, of –

- (i) his trading stocks; and
- (ii) his capital goods, being plant, machinery or equipment of a capital nature,

on the date immediately preceding the date of his registration;

- (b) the goods forming part of his trading stocks and the capital goods were acquired within a period not exceeding 3 months immediately preceding the date of his registration;
- (c) the VAT paid or payable is substantiated by receipts or invoices issued by VAT registered persons or by customs import declarations; and
- (d) credit for input tax in respect of the goods has not been taken under section 23.

- (c) in section 23, by repealing subsection (2) and replacing it by the following subsection –

(2) Notwithstanding section 21(5)(a), any registered person may, in the statement under subsection (1), take as a credit against his output tax for the taxable period, the amount of input tax allowable to him during that period provided that –

- (a) the amount of tax is duly supported by receipts or invoices issued by VAT registered persons and the amount of VAT is separately shown thereon; and
- (b) credit has not been taken under section 21(9).

- (d) in section 24(4) –

- (i) by inserting immediately after paragraph (a), the following new paragraph –

(aa) Where a registered person proves to the satisfaction of the Director-General that any excess amount in his VAT return is unlikely to be set off against subsequent output tax, the Director-General may allow, in such circumstances as may be prescribed, the repayment of the whole or part of the excess amount.

- (ii) in paragraph (b), by deleting the words “paragraph (a)” and replacing them by the words “paragraphs (a) and (aa)”;

- (e) in section 38(5), by deleting the words “subsection (2)(a) or (b)” and replacing them by the words “subsection (2)”;

- (f) by deleting the heading “**PART X – VAT RELATING TO BONDED WAREHOUSES, FREEPORT ZONE, EXPORT PROCESSING ZONES AND DUTY FREE SHOPS**” and replacing it by the following heading –

**PART X – VAT RELATING TO BONDED WAREHOUSES,
FREEPORT ZONE AND DUTY FREE SHOPS OR SHOPS UNDER
THE DEFERRED DUTY AND TAX SCHEME**

- (g) in section 53 –

- (a) in subsection (1), by inserting immediately after paragraph (a), the following new paragraph –

(aa) on jewellery manufactured by a VAT registered company and supplied to a duty free shop;

- (b) by repealing subsection (2) and replacing it by the following subsection –

(2) No VAT shall be payable on –

- (a) any goods imported for sale in; or
- (b) jewellery manufactured by a VAT registered company and supplied to,

a shop operating under the Deferred Duty and Tax Scheme referred to in section 22 of the Customs Act.

- (h) by repealing section 53G and replacing it by the following section –

53G. Assessment and recovery of levy

The provisions of Parts VII, VIII, and IX and sections 65, 67, 68, 69, 70 and 71 of the Value Added Tax Act shall apply to the levy with such modifications, adaptations and exceptions as may be necessary to bring them in conformity with this Part.

- (i) in section 72, by repealing subsection (2) and replacing them by the following subsection –

(2) Any regulations made under this section may provide for –

- (a) the proper implementation of any International Convention, Treaty or Agreement to which Mauritius is a contracting party; or
- (b) the levying of fees and charges.

- (j) in section 73, by adding immediately by after subsection (6), the following new subsections –

(7) Where a taxable person makes, by 31 December 2007, a voluntary disclosure of his undeclared or underdeclared VAT liability in respect of any taxable period falling within the 5 years ended 30 June 2006, he shall, at the same time, pay VAT in accordance with the disclosure at the appropriate rate in force in respect of each of the taxable periods, together with interest at the rate 0.5 per cent per month as from the date the VAT was due and payable.

(8) Where the VAT and interest under subsection (7) is not paid at the time of the disclosure, any unpaid VAT and interest shall carry interest at the rate of 14 per cent per annum.

(9) Where a person makes a voluntary disclosure under subsection (7) and the Director-General is satisfied with such disclosure, that person shall be deemed, notwithstanding sections 54 to 61, not to have committed an offence.

(10) The disclosure under subsection (7) shall be made in such form and manner as may be determined by the Director-General.

(11) Where VAT arrears as at 30 June 2007 is paid by a person on or before 31 December 2007, any penalty included therein for non-payment of the VAT shall be reduced by 75 per cent.

(12) For the purposes of subsection (11), “VAT arrears” means –

- (a) tax remaining unpaid on submission of a return under section 22 or a statement made under section 23;
- (b) tax liability which is final and conclusive pursuant to section 41 and which has remained unpaid;
- (c) tax remaining unpaid and pending following an objection made under section 38 or under review by the Assessment Review Committee; or
- (d) tax remaining unpaid and pending an appeal before the Supreme Court or an appeal before the Judicial Committee of the Privy Council.

(13) Subsections (7) and (11) shall not apply to any person who has been convicted on or after 1 July 2001 or against whom any civil or criminal proceedings are pending or contemplated or enquiry is being conducted into or relating to the trafficking of dangerous drugs, arms trafficking, offences related to terrorism under the Prevention of Terrorism Act 2002, money laundering under the Financial Intelligence and Anti-Money Laundering Act 2002 or corruption under the Prevention of Corruption Act 2002.

(k) in the Fifth Schedule –

- (a) by repealing item 1, and replacing it by the following item –
 - 1. Goods exported from Mauritius under Customs control.
- (b) in item 2, by repealing paragraphs (l) and (m);
- (c) by repealing the notes appearing immediately after item 24.

32. Repeal

The following enactments are repealed –

- (a) Local Bodies (Entertainment Duty) Act;
- (b) Black River District Council (Entertainments Duty) Regulations 1993;
- (c) Grand Port/Savanne District Council (Entertainments Duty) Regulations 1952;
- (d) Moka/Flacq District Council (Entertainments Duty) Regulations 1952;
- (e) Municipality (Entertainments Duty) Regulations 1949;
- (f) Municipal Council of Beau Bassin/Rose Hill (Entertainments Duty) Regulations 1949;
- (g) Municipal Council of Curepipe (Entertainments Duty) Regulations 1949;
- (h) Municipal Council of Quatre Bornes (Entertainments Duty) Regulations 1949;
- (i) Pamplemousses/Rivière du Rempart District Council (Entertainments Duty) Regulations 1953; and
- (j) Town Council of Vacoas/Phoenix (Entertainments Duty) Regulations 1964.

33. Commencement

(1) Section 8 shall come into operation on 1 December 2007 in respect of the month commencing 1 December 2007 and in respect of every subsequent month.

(2) Section 11 shall be deemed to have come into operation on 28 February 2007.

(3) Section 12 shall come into operation on 1 September 2007 in respect of the month commencing 1 September 2007 and in respect of every subsequent month.

(4) Sections 13, 17(m), (n), (o), (p), (zf)(v) in relation to section 161A(17) to (23), and (zi), 20 and 31(j) shall be deemed to have come into operation on 1 July 2007.

(5) Section 17(a)(i), (k) in relation to Sub-Part AA of Part IV and (za) shall come into operation on 1 July 2008.

(6) Section 17(a)(ii), (b) in relation to individuals, (c), (zg) in relation to individuals and (zh)(ii)(B) shall be deemed to have come into operation on 1 July 2007 in respect of the income year commencing 1 July 2007 and in respect of every subsequent income year.

(7) Section 17(a)(iii), (f), (k) in relation to Sub-Part AB of Part IV, (r), (s), (t), (u) and (zj) shall be deemed to have come into operation on 1 July 2007 in respect of the year of assessment commencing 1 July 2007 and in respect of every subsequent year of assessment.

(8) Section 17(b) in relation to companies, (e), (g), (h), (i), (j), (v), (w), (zf)(iii), (iv)(A) and (v) in relation to section 161A(24) and (zg) in relation to companies shall come into operation on 1 July 2008 in respect of the year of assessment commencing 1 July 2008 and in respect of every subsequent year of assessment.

(8A) Section 17(zf)(v) in relation to section 161A(25) shall come into operation on 1 July 2009 in respect of the year of assessment commencing 1 July 2009 and in respect of every subsequent year of assessment.

(9) Section 17(d) and (zh)(ii)(A) shall be deemed to have come into operation on 1 July 2006 in respect of the income year commencing 1 July 2006 and in respect of every subsequent income year.

(10) Section 31(g) and (k) shall be deemed to have come into operation on 1 October 2006.

Passed by the National Assembly on the seventh day of August two thousand and seven.

Ram Ranjit Dowlutta
Clerk of the National Assembly

SCHEDULE
(section 17(zg))

FIRST SCHEDULE
(section 4)

Rate of income tax 15 per cent