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THE FINANCE (MISCELLANEOUS PROVISIONS) ACT 2009

Act No.14 of 2009

I assent

30th July 2009

SIR ANEEROOD JUGNAUTH
President of the Republic

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An Act

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

ENACTED by the Parliament of Mauritius, as follows –

1. Short title

This Act may be cited as the Finance (Miscellaneous Provisions) Act 2009.

2. Bail Act amended

The Bail Act is amended in section 5(5), by inserting, after the words “Court fees or costs”, the words “or payment of any duty or charge”.

3. Banking Act amended

The Banking Act is amended –

(a) in section 2 –

- (i) in the definition of “cash dealer”, by deleting the word “person” and replacing it by the words “body corporate”;
- (ii) in the definition of “foreign exchange dealer”, by deleting the word “person” and replacing it by the words “body corporate”;
- (iii) in the definition of “money-changer”, by deleting the word “person” and replacing it by the words “body corporate”;
- (iv) by repealing the definition of “net-owned funds”;

(b) in section 5 –

- (i) in subsection (8), by inserting, after the words “the central bank shall,”, the words “subject to subsection (8A),”;
- (ii) by inserting, after subsection (8), the following new subsection (8A), the existing subsections (8A), (8B) and (8C) being renumbered as (8B), (8C) and (8D) respectively –

(8A) Where the information or documents, other than those specified in subsection (4)(a) and (c), are submitted to the central bank and the central bank is satisfied that the applicant is eligible for a licence, the central bank may grant an in-principle approval to the applicant.

- (c) in section 12, by adding, after subsection (6), the following new subsection –
- (7) No non-bank deposit taking institution shall –
- (a) be permitted to extend its network of branches; or
- (b) close or keep closed a place of business or change the location of its business,
- without the prior written approval of the central bank.
- (d) in section 24 –
- (i) by deleting the heading and replacing it by the following heading –
- Minimum capital requirements**
- (ii) by repealing subsection (1) and replacing it by the following subsection –
- (1) Every cash dealer shall, at all times, maintain in Mauritius such amount paid as stated capital as may be approved by the central bank or such higher amount as may be prescribed, after deduction of accumulated losses of the cash dealer.
- (iii) in subsection (2)(a), by deleting the words “net-owned funds” and replacing them by the words “minimum capital”;
- (e) in section 54, by deleting the words “Every bank” and replacing them by the words “Every financial institution”;
- (f) in section 64(3)(j) and (k), by deleting the word “bank” and replacing it by the words “financial institution”;
- (g) in section 92, by deleting the word “bank” wherever it appears and replacing it by the words “bank and non-bank deposit taking institution”;
- (h) in the Second Schedule, by deleting the words “[Section 64(1)(b)]” and replacing them by the words “[Section 64(1)(a)]”.

4. Bank of Mauritius Act amended

The Bank of Mauritius Act is amended –

- (a) in section 52, by inserting, after subsection (2B), the following new subsection –
- (2C) A utility body may, for the purposes of providing credit information to the Credit Information Bureau, require any of its customers to provide it with the necessary identification details.

- (b) in section 54(1)(d), by deleting the words “3 other persons” and replacing them by the words “4 other persons”;
- (c) by inserting, after Part IX, the following new Part –

PART IXA – FINANCIAL STABILITY COMMITTEE

55A. Financial Stability Committee

- (1) There is set up a Financial Stability Committee which shall consist of –
 - (a) the Minister, who shall be the Chairperson of the Committee;
 - (b) the Governor;
 - (c) the Financial Secretary; and
 - (d) the Chief Executive of the Financial Services Commission established under the Financial Services Act.

(2) The functions of the Committee shall be to regularly review and ensure the soundness and stability of the financial system.

(3) The Committee shall meet as often as is necessary and shall regulate its meetings and proceedings in such manner as it thinks fit.

5. Business Registration Act amended

The Business Registration Act is amended –

- (a) in section 6(4), by deleting the words “14 days” and replacing them by the words “2 days”;
- (b) in section 8 –
 - (i) by repealing subsections (7) and (8);
 - (ii) in subsection (9), by deleting the words “or renew the registration of a person or the business registration card”;
 - (iii) in subsection (10), by deleting the words “, or the renewal of the registration of a person or the business registration card,”;
- (c) in section 9(5), by deleting the words “Sections 6, 7 and 8(7) and (8)” and replacing them by the words “Sections 6 and 7”;
- (d) in the Second Schedule, by deleting the words “or for renewal of registration under section 8(8)”.

6. Code Civil Mauricien amended

The Code Civil Mauricien is amended in article 1601-42, by deleting the words “5 pour cent” and replacing them by the words “25 pour cent”.

7. Companies Act amended

The Companies Act is amended –

- (a) in section 2 –
 - (i) in subsection (1), by inserting, in the appropriate alphabetical order, the following new definitions –
 - “law firm” has the same meaning as in the Law Practitioners Act;
 - “legal consultant” has the same meaning as in the Law Practitioners Act;
 - (ii) in subsection (5)(a), by deleting the words “30 million rupees” and replacing them by the words “50 million rupees”;
- (b) in section 12(8), by repealing paragraph (b) and replacing it by the following paragraph –
 - (b) the procedure to be followed in registering documents or performing any act or thing required to be done under this Act.
- (c) in section 42(3), by deleting the words “a law practitioner” and replacing them by the words “a law practitioner, a legal consultant or a law firm”;
- (d) in section 108(a), by repealing subparagraph (ii) and replacing it by the following subparagraph –
 - (ii) section 105(1)(c) or (d); and
- (e) in section 165(1)(a), by deleting the words “a law practitioner” and replacing them by the words “a law practitioner, a legal consultant, a law firm”;
- (f) in section 198(1) –
 - (i) in paragraph (a) –
 - (A) in subparagraph (iv), by deleting the word “or”;
 - (B) in subparagraph (v), by adding the word “or” at the end;
 - (C) by adding, after subparagraph (v), the following new subparagraph –

- (vi) the South African Institute of Chartered Accountants,
and is licensed under section 33 of the Financial Reporting Act;
- (ii) by repealing paragraph (b) and replacing it by the following paragraph –
 - (b) a person who possesses such qualifications as are, in the opinion of the Minister, equivalent to those of a member of any body specified in paragraph (a), hereinafter referred to as an “approved auditor” and who is licensed under section 33 of the Financial Reporting Act; or
- (iii) in paragraph (c), by deleting the words “it is”;
- (g) in section 215, by adding, after subsection (5), the following new subsection –
 - (6) Every company required to file with the Registrar financial statements and the auditor’s report under subsection (1) shall, at the same time, file a copy of the annual report required to be sent to shareholders.
- (h) in section 220, by deleting the words “21 days” and replacing them by the words “14 days”;
- (i) in section 312, by inserting, after subsection (1), the following new subsections –
 - (1A) Where a person delivers an objection under subsection (1), he shall, at the same time, serve a copy of same on the company.
 - (1B) Where a person delivers an objection under subsection (1), he shall file proof of the ground of objection with the Registrar within 6 weeks of the date of the objection and shall, at the same time, serve a copy thereof on the company.
 - (1C) Where a person fails to comply with subsection (1B), the objection delivered under subsection (1) shall be deemed to have lapsed.
- (j) in section 319(1), by deleting the words “shall, on the application of a person referred to in subsection (2), and may” and replacing them by the words “may, on the application of a person referred to in subsection (2), or”.

8. Customs Act amended

The Customs Act is amended –

- (a) in section 14, by inserting, after subsection (1A), the following new subsection –
 - (1B) (a) The Director-General may waive the whole or part of any interest imposed under subsection (1A) where he is satisfied that failure to comply with this Act was attributable to a just or reasonable cause.

(b) In the exercise of his power under paragraph (a), the Director-General shall, in writing, record the reasons for waiving the whole or part of the interest.

- (b) in section 17(1)(a), by deleting the words “3 years” and replacing them by the words “5 years”;
- (c) in section 76, by adding the following new subsection, the existing provision being numbered (1) accordingly –

(2) Notwithstanding subsection (1), any motor vehicle lying in a bonded warehouse as at 1 October 2008 or entered into a bonded warehouse during the period 1 October 2008 to 31 December 2009 shall, unless cleared, be allowed to remain in the bonded warehouse until 31 December 2010.

- (d) by repealing sections 126A, 126B, 126C and 126D;
- (e) by inserting, after section 127A, the following new section –

127B. Power to access computers and other electronic devices

For the purposes of section 127A, the Director-General may, at any reasonable time –

- (a) have access to –
 - (i) any computer, computer software, whether installed in the computer or otherwise, electronic till or any other device, used in connection with any document which the person is required to produce; or
 - (ii) any information, code or technology which has the capability of retransforming or unscrambling encrypted data contained or available to such computers or devices into readable and comprehensive format or text;
- (b) inspect and check the operation of any such computer or other device and make extracts of any computer software, computer output or such other document used in connection therewith;
- (c) require any person by whom or on whose behalf the computer or other electronic device is operated, or any person concerned with the operation of the equipment, to give such assistance as is necessary for the purposes of this section; and

- (d) require any person in possession of decryption information to grant him access to such decryption information necessary to decrypt data required for the purposes of this section.
- (f) in section 131A –
- (i) by repealing subsection (1) and replacing it by the following subsection –
- (1) Any person making a physical cross-border transportation of currency or bearer negotiable instruments of an amount of more than 500,000 rupees or such other amount as may be prescribed or its equivalent in any foreign currency shall make a declaration to the proper officer, in such manner as may be prescribed, of the amount of the currency or bearer negotiable instruments in his possession, their origin and intended use.
- (ii) by inserting, after subsection (1), the following new subsections –
- (1A) Where the proper officer reasonably suspects that the amount of currency or bearer negotiable instruments in the possession of a person making a physical cross-border transportation –
- (a) is more than 500,000 rupees or such other amount as may be prescribed or its equivalent in foreign currency and that person has not made a declaration under subsection (1); or
- (b) may involve money laundering or financing of terrorism,
- he shall require the person to make a declaration to the proper officer, in such manner as may be prescribed, of the amount of the currency or bearer negotiable instruments in his possession, their origin and intended use.
- (1B) For the purposes of ascertaining the amount of foreign currency referred to in subsections (1) and (1A), the rate of exchange applicable shall be determined in accordance with section 7 of the Customs Tariff Act.
- (iii) in subsection (2), by deleting the words “a disclosure under subsection (1)” and replacing them by the words “a declaration under subsection (1) or (1A)”;
- (iv) in subsection (3), by deleting the words “an officer” and “the disclosure made by a person under subsection (1)” and replacing them by the words “a proper officer” and “the declaration made by a person under subsection (1) or (1A)”, respectively;
- (v) by repealing subsection (4) and replacing it by the following subsection –
- (4) Where a proper officer reasonably suspects that the amount of currency or bearer negotiable instruments declared under subsection (1) or (1A)

and detected, if any, pursuant to subsection (3), may involve money laundering or the financing of terrorism, he shall forthwith refer the matter to the Police and, at the same time, pass on the relevant information to the FIU.

- (vi) in subsection (5)(a) and (b), by deleting the words “a disclosure under subsection (1)” and replacing them by the words “a declaration under subsection (1) or (1A);
- (vii) in subsection (6), by inserting, in the appropriate alphabetical order, the following new definitions –

“financing of terrorism”, in relation to section 131A, has the meaning assigned to it in section 11 of the Prevention of Terrorism Act;

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

“money laundering”, in relation to section 131A, has the meaning assigned to it in section 3 of the Financial Intelligence and Anti-Money Laundering Act;

- (g) in section 144(2), by deleting the words “for the public service” and replacing them by the words “for benevolent and charitable institutions affiliated with the Mauritius Council of Social Services or receiving a subsidy from Government, foreign Governments, Ministries and Departments or for other public service”;
- (h) in section 155(b), by deleting the words “obtaining any reward” and replacing them by the words “the police officer obtaining any reward”;
- (i) by repealing section 166.

9. Dangerous Drugs Act amended

The Dangerous Drugs Act is amended –

- (a) in section 2 –
- (i) by repealing the definition of “possessions” and replacing it by the following definition –
- “possessions” –
- (a) means property of any kind, nature or description, whether movable or immovable, tangible or intangible; and
- (b) includes –
- (i) any cash in a bank account or bank deposit, whether in a person’s own name or in a fictitious name;
- (ii) any currency, whether or not the currency is legal tender in Mauritius, and any bill, security, bond, negotiable instrument or any instrument capable of being negotiated which is payable to bearer or endorsed payable to bearer, whether expressed in Mauritius currency or otherwise;
- (iii) any balance held in Mauritius currency or in any other currency in accounts with any bank which carries on business in Mauritius or elsewhere;
- (iv) any balance held in any currency with any bank outside Mauritius;
- (v) motor vehicles, ships, aircraft, boats, works of art, jewellery, precious metals or any other item of value; and
- (vi) any right or interest in property;
- (ii) by inserting, in the appropriate alphabetical order, the following new definitions –
- “bank” has the same meaning as in the Banking Act;
- “financial institution” has the same meaning as in the Banking Act;

- (b) by repealing section 39 and replacing it by the following section –

39. Money Laundering

- (1) Every person who unlawfully –
- (a) acquires, possesses, uses, converts or transfers goods, resources or rights thereto derived or realised, in whole or in part, directly or indirectly, from any offence under this Act;
 - (b) conceals or disguises the genuine nature, origin, location, disposition, movement or ownership of the goods, resources or rights thereto derived or realised, in whole or in part, directly or indirectly, from any offence under this Act,

where he suspects or has reasonable grounds for suspecting that the goods, resources or rights thereto are derived or realised, in whole or in part, directly or indirectly, from any offence under this Act, shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 20 years.

(2) A person may be convicted for an offence under this section notwithstanding the absence of a conviction in respect of an offence under this Act, which generated the goods, resources or rights thereto alleged to have been laundered.

(3) In this section, “goods” or “resources” includes possessions.

- (c) in section 45(4)(a), by deleting the word “bank” and replacing it by the words “financial institution”.

10. Data Protection Act amended

The Data Protection Act is amended –

- (a) in section 5(e), by inserting, after the words “data controllers”, the words “and data processors”;

- (b) by repealing section 8 and replacing it by the following section –

8. Powers to obtain information

Subject to section 26 of the Bank of Mauritius Act, section 64 of the Banking Act, section 83 of the Financial Services Act and section 30 of the Financial Intelligence and Anti-Money Laundering Act –

- (a) the Commissioner may, by notice in writing served on any person, request from that person, such information as is necessary or expedient for the performance of his functions and exercise of his powers and duties under this Act; and
 - (b) where the information requested by the Commissioner is stored in a computer, disc, cassette, or on microfilm, or preserved by any mechanical or electronic device, the person named in the notice shall produce or give access to the information in a form in which it can be taken away and in which it is visible and legible.
- (c) in section 14, by inserting, after the words “data controller” wherever they appear, the words “or data processor”;
- (d) in section 15, by inserting, after the words “data controllers”, the words “or data processors”;
- (e) in section 17(3), by deleting the words “Subject to section 64(3)(h) of the Banking Act in the case of a financial institution, an authorised officer” and replacing them by the words “Subject to section 26 of the Bank of Mauritius Act, section 64 of the Banking Act, section 83 of the Financial Services Act and section 30 of the Financial Intelligence and Anti-Money Laundering Act, an authorised officer”;
- (f) in section 31(1), by deleting the words “a third” and replacing them by the word “another”;
- (g) by inserting, after section 35A, the following new section –

35B. Registration of changes in particulars

(1) Where, following the granting of an application under section 34, there is a change in any of the particulars referred to in section 35 or 35A, the data controller or data processor, as the case may be, shall, within 14 days of the date of the change, notify the Commissioner in writing, of the nature and the date of the change.

(2) On receipt of a notification under subsection (1), the Commissioner, on being satisfied that the change must be made, shall amend the appropriate entry in the register.

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

- (h) in section 65(2)(a) and (b), by inserting, after the words “data controller”, the words “or data processor”;
- (i) in the First Schedule, in the Eighth Principle, by deleting the words “a third” and replacing them by the word “another”.

11. Employment Relations Act 2008 amended

The Employment Relations Act 2008 is amended –

- (a) in section 2, by repealing the definition of “Pay Research Bureau”;
- (b) in section 65(3), by deleting the words “of the date of report” and replacing them by the words “of receipt of the report”;
- (c) in section 68(4), by deleting the words “provided by the Supervising Officer of the Ministry to which responsibility for the subject of civil service affairs is assigned” and replacing them by the words “headed by a suitable independent person appointed by the Minister”.

12. Employment Rights Act 2008 amended

The Employment Rights Act 2008 is amended –

- (a) in section 3(2)(b) –
 - (i) in the first line, by deleting the words “a worker of a statutory corporation” and replacing them by the words “a worker of a statutory body who is governed by the recommendations made by the Pay Research Bureau”;
 - (ii) by deleting the words “to a worker of a statutory corporation” and replacing them by the words “to that worker”;
- (b) in section 14, by repealing subsection (7) and replacing it by the following subsection –

(7) Every worker shall be entitled to a rest of not less than 11 consecutive hours in any day.
- (c) in section 30, by repealing subsection (5) and replacing it by the following subsection –

(5) (a) Where a female worker, who has been in continuous employment with the same employer for a period of 12 consecutive months immediately preceding the beginning of leave under this section, gives birth to a still-born child, she shall, on production of a medical certificate, be entitled to 12 weeks’ leave on full pay.

(b) A female worker who reckons less than 12 months' continuous employment shall be entitled to the leave specified in paragraph (a) without pay.

(d) in section 31 –

(i) by repealing subsection (1) and replacing it by the following subsection –

(1) Notwithstanding any remuneration regulations or any other enactment, a male worker, other than a male part-time worker, shall, subject to subsection (1B), be entitled to 5 continuous working days' leave, to be known as paternity leave.

(ii) by inserting, after subsection (1), the following new subsections –

(1A) A male part-time worker shall, subject to subsection (1B), be entitled to the number of days of paternity leave in accordance with the formula specified as follows –

$$\frac{N}{W} \times 5 \text{ normal working days}$$

Where N = Number of days of work the worker is required to perform in a week

W = Number of working days in a week of a comparable full-time worker

(1B) The entitlement of paternity leave under subsection (1) or (1A) shall be subject to the production by the worker of –

(a) a medical certificate certifying that his spouse has given birth to his child; and

(b) a written statement signed by him that he is living with his spouse under a common roof.

(iii) in subsection (2), by inserting, after the words “subsection (1)”, the words “and (1A)”;

(e) in section 37, by repealing subsection (6) and replacing it by the following subsection –

(6) (a) Where an employer intends to reduce any number of workers or to close down his enterprise for reasons of an economic, technological, structural or similar nature, he shall immediately give written notice thereof to the Minister.

(b) Where an employer terminates the employment of a worker for any other reason, he shall, on the date of termination of the employment, give written notice thereof to the Minister.

- (f) in section 40, in the definition of “worker” –
 - (i) by repealing paragraph (b) and replacing it by the following paragraph –
 - (b) a person employed by a statutory body or by a local authority, other than a worker who is an insured person under section 13(1) of the National Pensions Act;
 - (ii) in paragraph (d), by adding, after the words “a migrant worker”, the words “or a non-citizen”;
- (g) in section 42(2)(b), by deleting the word “time” and replacing it by the words “time limit”;
- (h) in section 43 –
 - (i) in subsection (2) –
 - (A) by deleting the words “to either” and replacing them by the word “to”;
 - (B) by repealing paragraphs (b) and (c) and replacing them by the following paragraph –
 - (b) such institutions as may be prescribed for –
 - (i) assistance in finding training or re-skilling opportunities; or
 - (ii) self employment activities, including starting up of a small business.
 - (ii) by adding, after subsection (4), the following new subsection –
 - (5) The Permanent Secretary may, on good cause shown to his satisfaction, extend the time limit referred to in subsection (2).
- (i) in section 44 –
 - (i) by inserting, after subsection (1), the following new subsection –
 - (1A) Where a worker is admitted to a training or re-skilling scheme, he shall, at the time of his admission, opt –
 - (a) to continue to draw his Transition Unemployment Benefit until he becomes entitled to the minimum benefit specified in the Sixth Schedule; or

- (b) to cease to draw his Transition Unemployment Benefit and be paid the training or re-skilling stipend by the institution referred to in section 43(2)(b)(i).
- (ii) in subsection (4) –
 - (A) by repealing paragraph (d) and replacing it by the following paragraph –
 - (d) where he has opted for training or re-skilling –
 - (i) becomes entitled to the minimum benefit specified in the Sixth Schedule or the stipend referred to in subsection (1A)(b);
 - (ii) refuses an offer for a training or re-skilling scheme for a second time;
 - (iii) drops out from the training or re-skilling scheme to which he was admitted;
 - (B) by repealing paragraph (e) and replacing it by the following paragraph –
 - (e) sets up a small business with the assistance of the institutions referred to in section 43(2)(b)(ii); or
- (iii) by repealing subsection (7) and replacing it by the following subsection –
 - (7) The institutions referred to in section 43(2)(b)(i) shall notify the Permanent Secretary within 7 days from the date the worker –
 - (a) is admitted to a training or re-skilling scheme and whether he has opted for the Transition Unemployment Benefit under section 44(1A)(a) or the stipend under section 44(1A)(b);
 - (b) refuses an offer for a training or re-skilling scheme for a second time; or
 - (c) drops out from the training or re-skilling scheme to which he was admitted.
- (iv) by repealing subsection (8) and replacing it by the following subsection –
 - (8) The institutions referred to in section 43(2)(b)(ii) shall notify the Permanent Secretary within 7 days from the date the worker has set up a small business.

- (v) by repealing subsection (9) and replacing it by the following subsection –

(9) Where a worker has made an option under subsection (1A) or ceases to be entitled to the Transition Unemployment Benefit under subsection (4), the Permanent Secretary shall, not later than the next working day following the receipt of notification under subsection (5), (6), (7) or (8), notify on an approved form the Permanent Secretary responsible for the subject of social security.

- (j) in section 46 –

(i) in subsection (4), by inserting, after the word “worker”, the words “referred to in section 40”;

- (ii) in subsection (5) –

(A) by adding, after paragraph (d), the following new paragraph, the comma at the end of paragraph (d) being deleted and replaced by a semicolon –

(e) notwithstanding paragraphs (a), (b), (c) and (d), the termination of agreement of the worker was unjustified,

(B) in paragraph (ii), by deleting the words “for every period less than 12 months” and replacing them by the words “for any additional period of less than 12 months”;

- (iii) in subsection (9) –

(A) by deleting the words “or a migrant worker” and replacing them by the words “, a migrant worker or a non-citizen”;

(B) in paragraph (b), by deleting the words “for every period less than 12 months” and replacing them by the words “for any additional period of less than 12 months”;

- (k) in section 47(1)(a), by inserting, after the words “terminates the agreement of a worker”, the words “ referred to in section 40”;

- (l) in section 55(5)(b), by deleting the words “subsection (3)(b)” and replacing them by the words “subsection (3)(a)”;

- (m) in section 67(1)(e)(i), by deleting the words “37(2)” and replacing them by the words “37(2) and (6)”;

- (n) in the Fifth Schedule, in paragraph 2, by adding, after subparagraph (f), the following new subparagraph –
 - (g) Activity opted under section 43(2)
- (o) in the Sixth Schedule, by deleting the words “(section 44(1))” and replacing them by the words “(sections 44(1) and 45(3)(a))”;
- (p) by repealing the Seventh Schedule and replacing it by the Seventh Schedule set out in the First Schedule to this Act.

13. Excise Act amended

The Excise Act is amended –

- (a) in section 6, by deleting the words “3 years” and replacing them by the words “not less than 5 years”;
- (b) in section 24(2), by deleting the words “at least 3 years” and replacing them by the words “5 years”;
- (c) in the First Schedule, in Part I –
 - (i) by deleting the items and their corresponding entries, specified in Part A of the Second Schedule to this Act;
 - (ii) by inserting, in the appropriate numerical places, the items and their corresponding entries, specified in Part B of the Second Schedule to this Act.

14. Finance and Audit Act amended

The Finance and Audit Act is amended in section 23A, by adding, after subsection (3), the following new subsection –

(4) (a) Sections 19 and 20 and the other relevant provisions of this Act shall apply to the estimates of revenue and estimates of expenditure referred to in section 21 of the Finance and Audit (Amendment) Act 2008.

(b) Sections 19 and 20 and the other relevant provisions of this Act and Part IV of the Rodrigues Regional Assembly Act shall apply to the draft estimates of recurrent revenue and recurrent expenditure and capital revenue and capital expenditure referred to in section 44(6) and (7) of the Rodrigues Regional Assembly Act.

15. Financial Intelligence and Anti-Money Laundering Act amended

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

- (a) in section 2 –
 - (i) in the definition of “crime”, by repealing paragraph (a) and replacing it by the following paragraph –
 - (a) means an offence punishable by –
 - (i) penal servitude;
 - (ii) imprisonment for a term exceeding 10 days ;
 - (iii) a fine exceeding 5,000 rupees;
 - (ii) in the definition of “investigatory authorities”, by deleting the words “Comptroller of Customs” and replacing them by the words “Director, Customs Department”;
 - (iii) in the definition of “member of the relevant profession or occupation”, by repealing paragraph (b) and replacing it by the following paragraph –
 - (b) includes –
 - (i) any person licensed to operate a casino, gaming house A, interactive gambling, totalisator or as a bookmaker under the Gambling Regulatory Authority Act;
 - (ii) any dealer under the Jewellery Act; and
 - (iii) any Land Promoter and Property Developer, Agent in Land, Building or Estate Agent, under the Local Government Act 2003;
 - (iv) by inserting, in the appropriate alphabetical order, the following new definition –

“Customs Department” means the Customs Department referred to in section 3(4) of the Mauritius Revenue Authority Act;
- (b) in section 3 –
 - (i) in subsection (2), by inserting, after the words “money laundering offence”, the words “or the financing of terrorism”;

(ii) by adding, after subsection (2), the following new subsection –

(3) In this Act, reference to concealing or disguising property which is, or in whole or in part, directly or indirectly, represents, the proceeds of any crime, shall include concealing or disguising its true nature, source, location, disposition, movement or ownership of or rights with respect to it.

(c) in section 17 –

(i) in paragraph (b), by deleting the word “and” appearing at the end ;

(ii) in paragraph (c), by deleting the full stop and replacing it by the following words “; and”;

(iii) by adding, after paragraph (c), the following new paragraph –

(d) put in place appropriate screening procedures to ensure high standards when recruiting employees.

(d) in section 19A(2), by repealing paragraph (h) and replacing it by the following paragraph –

(h) the head of Customs Department or his representative;

16. Financial Reporting Act amended

The Financial Reporting Act is amended –

(a) in section 2, by repealing the definitions of “financial statement” and “auditing standards” and replacing them by the following definitions –

“financial statements” has the meaning assigned to it in the International Financial Reporting Standards (IFRS) adopted by the International Accounting Standards Board (IASB);

“auditing standards” means the auditing standards adopted by the International Auditing and Assurance Standards Board (IAASB);

(b) in section 33 –

(i) in subsection (1), by deleting the words “Subject to subsection (1A)” and replacing them by the words “Subject to the other provisions of this section”;

- (ii) by repealing subsection (1A) and replacing it by the following subsection –

(1A) Subsection (1) shall not apply to the auditor of a small private company under the Companies Act.

- (iii) by inserting, after subsection (1A), the following new subsections –

(1B) No foreign auditor shall be, or shall act as, the auditor of a company holding a Category 1 Global Business Licence under the Financial Services Act, unless –

- (a) he is authorised or licensed to be, or to act as, an auditor by the regulatory body of the foreign jurisdiction;
- (b) the authorisation or licence, together with a photocopy, is submitted to the Council; and
- (c) he obtains the prior written approval of the Council.

(1C) Where a foreign auditor obtains an approval under subsection (1B), he shall –

- (a) be deemed to be an auditor licensed under this section; and
- (b) be governed by this Act.

- (c) in section 39(2), by deleting the words “issued by the Council under section 73”;
- (d) in section 72(1), by inserting, after the words “The Council shall”, the words “, in relation to statutory bodies exempted pursuant to section 6A(5) of the Statutory Bodies (Accounts and Audit) Act,”;
- (e) in section 73 –
 - (i) by repealing subsection (1);
 - (ii) by repealing subsection (2) and replacing it by the following subsection –

(2) The Council may issue rules and guidelines for the purposes of implementing –

 - (a) the financial reporting and accounting standards referred to in section 72 ; and
 - (b) the auditing standards.

- (f) in section 74 –
- (i) in the heading, by adding, after the word “**standards**”, the words “, **rules and guidelines**”;
 - (ii) in subsection (1), by deleting the words “or any auditing standards” and replacing them by the words “referred to in section 72 or any rules and guidelines referred to in section 73”;
 - (iii) in subsection (3), by deleting the words “to approve the standards” and replacing them by the words “to approve the financial reporting and accounting standards referred to in section 72 or any rules and guidelines referred to in section 73”;
- (g) by repealing section 75 and replacing it by the following section –

75. Compliance by public interest entities

(1) Where a public interest entity is required under any enactment to prepare a financial statement or report, it shall ensure that the financial statement or report is in compliance with the financial reporting requirements of this Act or any other relevant enactment, any regulations or rules made under this Act and with the IFRS.

(2) Every public interest entity shall, subject to section 6A(5) of the Statutory Bodies (Accounts and Audit) Act, adopt corporate governance in accordance with the National Code of Corporate Governance.

(3) Where a public interest entity does not adopt corporate governance under subsection (2), it shall explain its reasons in any financial statement or report referred to in subsection (1).

17. Financial Services Act amended

The Financial Services Act is amended –

- (a) in section 7(4), by adding, after the word “imparted”, the words “, in case such a condition of confidentiality is imposed by the Commission”;
- (b) in section 30 –
 - (i) by repealing subsection (2) and replacing it by the following subsection –
 - (2) A corporation holding a Category 2 Global Business Licence shall file with the Commission once in every year a financial summary in the form set out in the Ninth Schedule to the Companies Act.

(ii) by repealing subsection (5) and replacing it by the following subsection –

(5) Notwithstanding any other enactment, the Commission may exempt any class of corporation holding –

- (a) a Category 1 Global Business Licence from the requirements of subsection (1);
- (b) a Category 2 Global Business Licence from the requirements of subsection (2),

on such terms and conditions as may be specified in FSC Rules.

(c) in section 54 –

(i) in subsection (2), by repealing paragraph (a) and replacing it by the following paragraph –

(a) on application by a person aggrieved by a decision of the Enforcement Committee, review such decision;

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

(3) Notwithstanding subsection (2) and for the avoidance of doubt, the Review Panel shall not hear an application relating to –

- (a) a decision not to grant a licence, approval, authorisation, recognition or registration for the conduct of a financial services activity under any relevant Act;
- (b) a decision to conduct an investigation under any relevant Act;
- (c) a decision under Part VII;
- (d) any interim decision or direction under any relevant Act;
- (e) a decision, or a revocation of a decision, under section 8(3), 24(4) or 26(1) of the Insurance Act;
- (f) a decision under section 13, 27(1), 37, 40 or 42 of the Insurance Act;
- (g) the suspension of a licence under section 97 of the Insurance Act;

- (h) the appointment of an administrator or a conservator under the Insurance Act; or
 - (i) a decision under section 146 of the Securities Act.
- (d) in section 66(1), by repealing paragraphs (a) and (b) and replacing them by the following paragraphs –
 - (a) where the review is conducted pursuant to section 54(2)(a) –
 - (i) confirm, amend or cancel a decision made by the Enforcement Committee; or
 - (ii) remit the matter to the Enforcement Committee for reconsideration;
 - (b) where the review is conducted pursuant to section 54(2)(b) –
 - (i) confirm, amend or cancel a decision which may be reviewed by the Review Panel in accordance with the powers conferred upon it; or
 - (ii) remit the matter to the person who made the decision for reconsideration; or
- (e) in section 83(7), by repealing paragraph (c) and replacing it by the following paragraph –
 - (c) disclosure, pursuant to an agreement or arrangement for the exchange of information and under condition of confidentiality, for the purpose of exercising its functions, in relation to a corporation holding a Category 1 Global Business Licence or a Category 2 Global Business Licence or in relation to a financial institution carrying out any services or business activities under any of the relevant Acts –
 - (i) to a public sector agency; or
 - (ii) to any other institution which performs in a foreign country functions similar to those of the Commission under this Act.
- (f) in section 87 –
 - (i) in subsection (1) –
 - (A) by deleting the words “may exchange information” and replacing them by the words “may exchange”;
 - (B) by inserting, after the words “supervisory body”, the words “or any other public sector agency”;

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

(3) The Commission may, in furtherance of its objects and functions, enter into any agreement or arrangement for the exchange of information with a public sector agency, a foreign supervisory institution, a law enforcement agency or an international organisation, where the Commission is satisfied that the public sector agency, the foreign supervisory institution, the law enforcement agency or the international organisation, as the case may be, has the capacity to protect the confidentiality of the information imparted, in case such a condition of confidentiality is imposed by the Commission.

18. Freeport Act amended

The Freeport Act is amended –

- (a) in section 2 –
 - (i) by repealing the definitions of “export enterprise”, “freeport licence” and “licensee”;
 - (ii) in the definitions of “freeport operator”, “private freeport developer” and “third party freeport developer”, by deleting the words “and licence”;
 - (iii) in the definition of “occasional operator”, by deleting the words “a person duly licensed” and replacing them by the words “the holder of a certificate”;
 - (iv) by inserting, in the appropriate alphabetical order, the following new definition –

“licensed auditor” has the same meaning as in the Financial Reporting Act;
- (b) in section 3(5), by deleting the word “licensee” and replacing it by the words “holder of a certificate”;
- (c) in section 7 –
 - (i) in subsection (3) –
 - (A) in paragraph (a)(ii), by deleting the word “licensee” and replacing it by the words “holder of a certificate”;
 - (B) in paragraph (b), by deleting the words “and a licence”;
 - (ii) in subsection (5)(a), by deleting the words “20 per cent” wherever they appear and replacing them by the words “50 per cent”;
 - (iii) in subsection (6), by deleting the word “licence” and replacing it by the word “certificate”;

- (d) in section 8 –
- (i) in subsection (1), by deleting the words “and is duly licensed”;
 - (ii) by repealing subsections (2) and (4);
- (e) in section 10 –
- (i) in subsection (1), by inserting, after the words “the Managing Director shall”, the words “, subject to Part IV,”;
 - (ii) by adding, after subsection (3), the following new subsection –
 - (4) Every holder of a freeport certificate shall display his freeport certificate in a conspicuous place at his business premises.
- (f) in Part IV –
- (i) by repealing the heading and replacing it by the following heading –

PART IV – PAYMENT OF FEES
 - (ii) by repealing section 11 and replacing it by the following section –

11. Payment of fees

 - (1) Subject to subsection (3), where an application for a freeport certificate is approved by the Board of Investment, the applicant shall pay to the Managing Director the appropriate annual fee specified in the Third Schedule.
 - (2) The annual fee under subsection (1) shall be paid –
 - (a) at the time of issue of the freeport certificate; and
 - (b) in respect of every period of 12 months as from the date of issue of the freeport certificate.
 - (3) The fee payable by an occasional operator referred to in item 4 of the Third Schedule shall be paid at the time of issue of the certificate.
 - (4) Any fee collected under this section shall, as soon as is reasonably practicable, be paid by the Managing Director into the Consolidated Fund.

- (g) in section 12 –
 - (i) by deleting the words “freeport licence” wherever they appear and replacing them by the word “certificate”;
 - (ii) by deleting the word “licence” wherever it appears and replacing it by the word “certificate”;
 - (iii) by deleting the word “Director-General” wherever it appears and replacing it by the words “Managing Director”;
 - (iv) by deleting the words “Board of Investment” and replacing them by the word “Director-General”;
- (h) in section 13 –
 - (i) by deleting the words “freeport licence” and replacing them by the word “certificate”;
 - (ii) by deleting the words “and licence”;
- (i) in section 14 –
 - (i) in subsection (3), by adding, after the word “Director-General”, the words “and Managing Director”;
 - (ii) in subsection (5) –
 - (A) by repealing paragraph (a) and replacing it by the following paragraph –
 - (a) in respect of every period of 12 months, carry out, not later than one month after the end of that period, a physical stocktaking of all goods in his freeport zone;
 - (B) by inserting, after paragraph (a), the following new paragraph –
 - (aa) submit to the Director-General, not later than one month after the end of the month during which the stocktaking was carried out, a statement of that stock duly certified by an independent licensed auditor; and
- (j) in section 15, by repealing subsection (1) and replacing it by the following subsection –
 - (1) (a) Every freeport zone shall be under the overall control and administration of a private freeport developer or third party freeport developer, as the case may be, on such terms and conditions as may be determined by the Director-General, after consultation with the Managing Director.

(b) Every private freeport developer or third party freeport developer shall, in respect of every freeport zone, implement a warehouse management information system in accordance with guidelines issued by the Director-General, after consultation with the Managing Director.

(c) For control purposes, the Director-General or the Managing Director shall have online access to the warehouse management information system with regard to goods entering and leaving the freeport zone and the stocktaking of goods in the freeport zone.

- (k) in sections 16, 18, 20 and 21, by deleting the word “licensee” wherever it appears and replacing it by the words “holder of a certificate”;
- (l) in section 22, by deleting the words “freeport licence” and “licence” and replacing them by the word “certificate”;
- (m) in section 24(1), by repealing paragraph (b) and replacing it by the following paragraph –
 - (b) on the recommendation of the Board of Investment, amend, by regulations, the Schedules.
- (n) in section 26, by inserting, after subsection (11), the following new subsections –
 - (11A) Any licence issued and in force prior to the commencement of section 11 shall remain valid after the commencement of that section until its expiry.
 - (11B) The authorisation granted under the repealed subsection (2) of section 8 shall lapse on 30 June 2011.
- (o) in the Third Schedule –
 - (i) in the heading, by deleting the words “**LICENCE FEE**” and replacing them by the word “**FEES**”;
 - (ii) in the first column, by deleting the word “*Licence*” and replacing it by the words “*Certificate held by*”;
 - (iii) in the third column, by deleting the words “*Annual licence fee payable –*” and replacing them by the words “*Annual fee payable –*”.

19. Gambling Regulatory Authority Act amended

The Gambling Regulatory Authority Act is amended –

- (a) in section 54, by repealing subsection (1) and replacing it by the following subsection –
 - (1) No local pool promoter or agent of a foreign pool promoter shall conduct, promote or organise pool betting on any event or contingency unless the event or contingency is approved by the Board.
- (b) in section 101, by inserting, after the words “bank guarantee”, the words “or a deposit”;
- (c) in section 103(2), by deleting the word “Authority” and replacing it by the words “Mauritius Revenue Authority”;
- (d) in section 114(1), by deleting the words “gross stakes” and replacing them by the words “gross takings”.

20. Ground Water Act amended

The Ground Water Act is amended in section 10, by adding the following new subsection, the existing provision being numbered (1) accordingly –

- (2) Any fee or charges collected by the Authority shall, as soon as is reasonably practicable, be paid into the Consolidated Fund.

21. Income Tax Act amended

The Income Tax Act is amended –

- (a) in section 2 –
 - (i) in the definition of “dividends”, in paragraph (b), by deleting the words “section 45(3)” and replacing them by the words “sections 45(3) and 45A(4)”;
 - (ii) in the definition of “income tax”, in paragraph (b) –
 - (A) in subparagraph (ii), by inserting, after the words “Sub-Part AB”, the words “or Sub-Part AC”;
 - (B) by inserting, after subparagraph (ii), the following new subparagraph –
 - (iia) the CSR charge on book profit under Sub-Part AD of Part IV;
 - (iii) by repealing the definitions of “inter-crop season” and “tax incentive companies”;

- (iv) in the definition of “year”, by deleting the words “1 July” and replacing them by the words “1 January”;
- (b) in section 6 –
- (i) in subsection (1), by inserting, after the word “shall”, the words “, subject to subsection (5),”;
 - (ii) by repealing subsection (4) and replacing it by the following subsection –
 - (4) Notwithstanding subsections (2) and (3) but subject to subsection (5), any income tax payable by –
 - (a) a corporation holding a Category 1 Global Business Licence under the Financial Services Act; or
 - (b) a bank holding a banking licence under the Banking Act in respect of its banking transactions with non-residents and corporations holding a Global Business Licence under the Financial Services Act,

shall be converted into Mauritius currency at the exchange rate in force at the date on which payment of the tax is made to the Director-General.
 - (iii) by adding, after subsection (4), the following new subsection –
 - (5) Notwithstanding this section, where a corporation holding a Category 1 Global Business Licence under the Financial Services Act prepares its financial statements in either US dollar, Euros or GB pound sterling it shall submit –
 - (a) its APS Statement under section 50B; and
 - (b) its return of income under section 116,

and pay any tax specified therein in that currency.

(c) in section 50H, by repealing subsection (2) and replacing it by the following subsection –

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

(a) (i) 1 July 2009	3.4 per cent on book profit; and 1.0 per cent on operating income
(ii) 1 January 2010	3.4 per cent on book profit; and 1.0 per cent on operating income
(b) 1 January 2011 and in respect of every subsequent year of assessment	1.70 per cent on book profit; and 0.50 per cent on operating income

(d) in Part IV, by inserting, after Sub-Part AB, the following new Sub-Parts –

Sub-Part AC – Solidarity levy on telephony service providers

50I. Interpretation

In this Sub-Part –

“operator” –

- (a) means a provider of public fixed or mobile telecommunication networks and services; and
- (b) includes information and communication services such as value added services and mobile internet; but
- (c) does not include a provider engaged exclusively in the provision of internet services or internet telephony services or international long distance services as referred to in the Information and Communication Technologies Act;

“book profit” means the profit derived by an operator from all its activities and computed in accordance with the International Financial Reporting Standards;

“levy” –

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

“turnover” means the gross receipts derived by the operator from all its activities.

50J. Liability to solidarity levy

(1) Subject to this section, every operator shall be liable to pay to the Director-General a solidarity levy calculated by reference to its book profit and turnover in respect of the preceding year at the rate specified in subsection (2).

(2) The levy under subsection (1) shall be calculated at the rate of 5 per cent of the book profit and 1.5 per cent of the turnover of the operator in respect of each of the years of assessment commencing on 1 July 2009 and 1 January 2010.

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

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

(a) the operator incurred a loss; or

(b) the book profit of the operator did not exceed 5 per cent of its turnover.

Sub-Part AD – Corporate Social Responsibility

50K. Interpretation

In this Sub-Part –

“book profit” means the profit computed in accordance with International Financial Reporting Standards, after income tax and –

(a) as reduced by profit on disposal or revaluation of fixed assets, where any such profit or revaluation is credited to profit and loss account; and

(b) as increased by loss on disposal or revaluation of fixed assets, where any such loss or revaluation is debited to profit and loss account;

"company" has the same meaning as in section 2 but does not include –

(a) a company holding a Category 1 Global Business Licence under the Financial services Act;

- (b) a bank holding a banking licence under the Banking Act, in respect of its income derived from its banking transactions with –
 - (i) non-residents; or
 - (ii) corporations holding a Global Business Licence under the Financial Services Act;
- (c) an IRS Company referred to in the Investment Promotion (Real Estate Development Scheme) Regulations 2007; and
- (d) a non-resident *société*, a trust or a trustee of a unit trust scheme;

“CSR” means Corporate Social Responsibility.

50L. CSR Fund

(1) Every company shall, in every year, set up a CSR Fund equivalent to 2 per cent of its book profit derived during the preceding year to –

- (a) implement an approved programme by the company;
- (b) implement an approved programme under the National Empowerment Foundation; or
- (c) finance an approved NGO.

(2) A programme under subsection (1)(a) or (b) or an NGO under subsection (1)(c) shall be deemed to be an approved programme or an approved NGO, as the case may be, where it falls within the guidelines issued, with the approval of the Minister, by a committee set up under subsection (3).

(3) The committee referred to in subsection (2) shall be appointed by the Minister and shall consist of a Chairperson and not more than 6 other members comprising of representatives from the public sector, private sector and civil society.

(4) Where, in respect of a year, the amount paid out of the CSR Fund under subsection (1) is less than the amount provided under the Fund, the difference shall be remitted to the Director-General at the time the company submits its return of income under section 116.

- (e) in section 76 –
 - (i) in the heading, by adding, after the words “**double taxation**”, the words “**and for the exchange of information**”;
 - (ii) in subsection (1)(a), by deleting the word “and” appearing at the end and replacing it by the word “or”;
 - (iii) in subsection (3), by adding, after paragraph (f), the following new paragraph, the word “and” at the end of paragraph (e) being deleted and the full stop at the end of paragraph (f) being deleted and replaced by the words “; and” –
 - (g) for exchange of information in respect of any person not resident in Mauritius.

- (f) by inserting, after section 76, the following new section –

76A. Arrangements for assistance in the recovery of foreign tax

The Minister may enter into arrangements with the Government of a foreign country for the purposes of providing assistance in the collection and recovery of foreign tax in the same manner as is provided under Part XI.

- (g) in section 91, by deleting the words “1 July” and replacing them by the words “1 January”;
- (h) in section 106, by repealing subsection (1) and replacing it by the following subsection –
 - (1) Every individual who, in a CPS quarter, derives gross income falling under this Sub-Part –
 - (a) which exceeds the CPS threshold, whether or not he has a chargeable income for that CPS quarter; or
 - (b) which does not exceed the CPS threshold but he has a chargeable income for that quarter,

shall submit to the Director-General, in respect of that CPS quarter, a Statement of Income in such form and manner as may be approved by the Director-General and at the same time pay the tax, if any, as follows –

In respect of quarter	Due date for submission of Statement of Income and payment of tax
1 January to 31 March	30 June
1 April to 30 June	30 September
1 July to 30 September	31 December

- (i) in section 111K(1), by deleting the words “31 July” and replacing them by the words “15 February”;
- (j) in section 112, by deleting the words “30 September” and replacing them by the words “31 March”;
- (k) in section 116(3), by deleting the words “30 million rupees” and replacing them by the words “10 million rupees”;
- (l) in section 117A –
 - (i) in subsection (1) –
 - (A) by deleting the words “section 112 or 116” and replacing them by the words “section 116”;
 - (B) by deleting the words “12 months” and replacing them by the words “18 months”;
 - (ii) by repealing subsection (2) and replacing it by the following subsection –
 - (2) Where the annual balance of accounts in respect of the commencement year of income ends on a date other than 31 December, that date shall be deemed to be an approved return date under section 118.
- (m) in section 118 –
 - (i) in subsection (2), by deleting the words “section 112 or 116” and replacing them by the words “section 116”;
 - (ii) by repealing subsection (5);

- (n) by adding, after section 118, the following new section –

118A. Return of income in respect of approved return date

Subject to the other provisions of this Act –

- (a) where a person has an approved return date ending on any date falling on or between 1 January and 30 June, a return submitted under section 116 shall be deemed to have been made in relation to the income year ending on 31 December preceding that return date; and
 - (b) where a person has an approved return date ending on any date falling on or between 1 July and 30 December, a return submitted under section 116 shall be deemed to have been made in relation to the income year ending on 31 December following that return date.
- (o) in section 119 –
- (i) by deleting the words “30 September” wherever they appear and replacing them by the words “31 March”;
 - (ii) in subsection (2), by deleting the word “Every” and replacing it by the words “Notwithstanding section 47, every”;
- (p) in section 120 (1), by deleting the words “30 September” and replacing them by the words “31 March”;
- (q) in section 121 –
- (i) in subsection (1), by deleting the words “ section 112, 116, 129 or 131” and replacing them by the words “section 112, 116 or 119”;
 - (ii) by repealing subsection (2) and replacing it by the following subsection –
 - (2) Where a company, *société*, trust or trustee submits a return under section 116 but does not fill in all the parts of the return, it shall be deemed not to have submitted a return under section 116 and it shall be liable to pay to the Director-General the penalty specified in subsection (1).
- (r) in section 122(1), by inserting, after the words “116,”, the words “119,”;
- (s) in section 122D(2), by deleting the words “and 122C” and replacing them by the words “, 122C and 129(1A)”;
- (t) in section 129(1)(a), by deleting the words “section 112, 113 or 116” and replacing them by the words “section 112, 113, 116 or 119”;

- (u) in section 147(2), by deleting the words “be equivalent to” and replacing them by the words “not exceed”;
- (v) in section 161(1)(b), by deleting the words “Part I, Part II, and Part III of ”;
- (w) in section 161A –
 - (i) in subsection (13), by adding, after paragraph (h), the following new paragraph, the full stop at the end of paragraph (h) being deleted and replaced by a semicolon –
 - (i) any income derived by a private freeport developer or freeport operator from paper trading activities shall be exempt from income tax payable for all income years commencing on 1 July 2003 and ending on 30 June 2011.
 - (ii) in subsection (27), in paragraphs (a) and (b), by deleting the words “a plot of land” and replacing them by the words “a plot of freehold land”;
 - (iii) by adding, after subsection (33), the following new subsections –

Application of subsections (27) to (33) to leasehold land

- (34) Subsections (27) to (33) shall, subject to subparagraph (b), apply to leasehold land.

Taxation of income derived by individuals during the period 1 July to 31 December 2009

- (35) Notwithstanding the other provisions of this Act –
 - (a) income derived by an individual in the period 1 July to 31 December 2009 shall be deemed to be derived in the income year ending on 31 December 2009 and shall be taxable in the year of assessment ending on 31 December 2010;
 - (b) subject to the conditions provided under section 27, an individual shall be entitled to an income exemption threshold as follows –
 - (i) Category A - 129,230 rupees
 - (ii) Category B - 188,460 rupees
 - (iii) Category C - 220,770 rupees
 - (iv) Category D - 242,310 rupees
 - (v) Category E - 153,460 rupees
 - (vi) Category F - 212,690 rupees

- (c) an individual shall not be entitled to claim an income exemption threshold in respect of –
- (i) Category B or Category F, where the net income and exempt income of his dependent exceeds 59,230 rupees;
 - (ii) Category C, where the net income and exempt income of his second dependent exceeds 32,310 rupees;
 - (iii) Category D, where the net income and exempt income of his third dependent exceeds 21,540 rupees;
- (d) where the net income and exempt income of the first dependent, second dependent and third dependent of an individual claiming an income exemption threshold does not exceed 59,230 rupees, 32,310 rupees and 21,540 rupees respectively, the net income of the dependent or dependents shall be deemed to be, and shall be added to, the net income of that individual;
- (e) every individual who, in the CPS quarter ending 30 September 2009, derives gross income falling under Sub-Part B of Part VIII –
- (i) which exceeds the CPS threshold, whether or not he has a chargeable income for that CPS quarter; or
 - (ii) which does not exceed the CPS threshold but he has a chargeable income for that CPS quarter,
- shall submit to the Director-General in respect of that CPS quarter, a Statement of Income not later than 31 December 2009 and at the same time pay any tax payable in accordance with that Statement of Income;
- (f) the computation of chargeable income and tax thereon under paragraph (e) shall be governed by the conditions specified under Sub-Part B of Part VIII;
- (g) the due date for the submission of return and payment of tax under section 112 for the income year ending on 31 December 2009 shall be 5 April 2010;

- (h) for the purposes of Sub-Part BB of Part VIII and section 112(c), the income threshold of 385,000 rupees is reduced to 207,310 rupees in respect of the income year ending on 31 December 2009;
- (i) the National Residential Property Tax imposed by section 111M on an individual owning a residential property referred to in Sub-Part BB of Part VIII shall be calculated in respect of the income year ending on 31 December 2009 at 50 per cent of the rates specified in the Seventh Schedule.
- (j) an individual shall be deemed to be resident in Mauritius in the income year ending on 31 December 2009 where he –
 - (i) has his domicile in Mauritius unless his permanent place of abode is outside Mauritius;
 - (ii) has been present in Mauritius in that income year, for a period of, or an aggregate period of, 90 days or more; or
 - (iii) has been present in Mauritius in that income year and the 2 preceding income years, for an aggregate period of 225 days or more;

CSR Fund

(36) The amount of profit that a company is required to transfer to the CSR Fund under section 50L out of its book profit derived in the year forming the basis for the year of assessment ending on 30 June 2010 shall be calculated by applying the following formula –

$$\frac{2}{100} \times \frac{b}{12} \times n$$

Where –

- b is the book profit derived by the company in the year forming the basis for the year of assessment ending on 30 June 2010;
 - n is the number of months starting on 1 July 2009 to the end of the accounting year of the company forming the basis for the year of assessment ending on 31 December 2010.
- (x) in the Second Schedule, in Part II, in item 6(d), by deleting the words “Labour Act” and replacing them by the words “Employment Rights Act 2008”;

- (y) by deleting the Fourth Schedule and replacing it by the following Schedule –

FOURTH SCHEDULE
[Sections 2 and 105]

Gross income specified in section 10(1)(b) and rent specified in section 10(1)(c)

	CPS threshold
Turnover	500,000 rupees for the CPS quarter
Gross income from profession, vocation or occupation	100,000 rupees for the CPS quarter
Rent	25,000 rupees per month

22. Insurance Act amended

The Insurance Act is amended –

- (a) in section 116(2)(c), by deleting the words “where this Act” and replacing them by the words “where the Financial Services Act”;
- (b) by repealing sections 117 and 118.

23. Investment Promotion Act amended

The Investment Promotion Act is amended –

- (a) in section 2, by inserting, in the appropriate alphabetical order, the following new definition –
- “IHS certificate” means an Invest Hotel Scheme certificate issued under the Invest Hotel Scheme prescribed under this Act;
- (b) in section 15(1), by deleting the words “or 13”;
- (c) in Part IV, in the heading, by inserting, after the words “**RES CERTIFICATE**”, the words “, **IHS CERTIFICATE**”;
- (d) in section 16 –
- (i) in the heading, by deleting the words “**or RES certificate**” and replacing them by the words “, **RES certificate or IHS certificate**”;

- (ii) in subsection (1) –
 - (A) by inserting, after the words “Real Estate Development Scheme”, the words “or Invest Hotel Scheme”;
 - (B) by deleting the words “or a RES certificate” and replacing them by the words “, a RES certificate or an IHS certificate”;
- (e) in section 17(1), by deleting the words “or a RES certificate” and replacing them by the words “, a RES certificate or an IHS certificate”;
- (f) in section 18 –
 - (i) in the heading, by deleting the words “**or RES certificate**” and replacing them by the words “, **RES certificate or IHS certificate**”;
 - (ii) by deleting the words “or RES certificate” wherever they appear and replacing them by the words “, a RES certificate or an IHS certificate”;
- (g) in section 23(3)(b), by inserting, after the words “a RES certificate”, the words “, an IHS certificate”.

24. Land (Duties and Taxes) Act amended

The Land (Duties and Taxes) Act is amended –

- (a) in section 2, in the definition of “deed of transfer”, in paragraph (l) –
 - (i) by inserting, after the words “witnessing the transfer of shares”, the words “or successive transfers of shares”;
 - (ii) by adding, after the words “change of control of that company”, the words “or any increase in shareholding of the controlling shareholder within a period of 12 months from the date of the change of control”;
 - (iii) by repealing the definition of “control” and replacing it by the following definition –

“control” has the meaning assigned to it in section 5 of the Companies Act and includes control by a shareholder who is an individual or a société;

- (b) in section 4 –
- (i) in subsection (1), by inserting, after paragraph (c), the following new paragraph –
- (ca) where the property transferred is a share in a company or successive companies, the value of the shares transferred where the transfer of the shares results in a change of control or any increase in shareholding of the controlling shareholder within a period of 12 months from the date of the change of control;
- (ii) by inserting, after subsection (6), the following new subsections –
- (6A) Where the transfer under the Real Estate Development Scheme prescribed under the Investment Promotion Act is made in accordance with subsection (6)(b), the land transfer tax leviable on the transfer may be paid in 4 consecutive equal 6-monthly instalments, the first instalment being payable at the time of registration of the deed of transfer.
- (6B) Where payment is made in accordance with subsection (6A), the transferor shall furnish to the Registrar-General, at the time of registration of the deed of transfer, a bank guarantee equivalent to the remaining balance of the land transfer tax leviable.
- (c) in section 45A –
- (i) in subsection (5), in paragraphs (a) and (b), by deleting the words “a plot of land” and replacing them by the words “ a plot of freehold land”;
- (ii) by inserting, after subsection (6), the following new subsection –
- (6A) (a) Subject to paragraph (b), subsections (5) to (8) shall apply to leasehold land.
- (b) The exemption from the duty and tax leviable under Part II and Part III shall not apply in respect of any transfer referred to in subsection (5)(b) where the building or part of the building is on State land.
- (d) in the Second Schedule –
- (i) in Part A, by inserting, after paragraph (b), the following new paragraph –
- (ba) under paragraph (a) or (b) and the deed of transfer is signed between 23 May 2009 and 31 December 2010 5 per cent

(ii) in Part B, by adding the following new paragraph –

- (c) under paragraph (a) or (b)(i) and the transfer of shares is effected between 23 May 2009 and 31 December 2010 5 per cent

25. Law Reform Commission Act amended

The Law Reform Commission Act is amended in section 7(1), by inserting, after paragraph (c), the following new paragraph –

- (ca) the Director of Public Prosecutions or his representative;

26. Local Government Act 2003 amended

The Local Government Act 2003 is amended –

(a) in section 98 –

- (i) in subsection (6), by deleting the words “subsection (7)” and replacing them by the words “subsections (7) and (7A)”;

(ii) in subsection (7) –

- (A) by deleting the words “Where the application for a Building and Land Use Permit” and replacing them by the words “Subject to subsection (7A), where an application for an Outline Planning Permission or a Building and Land Use Permit”;

- (B) in paragraph (a), by inserting, after the words “issue to the applicant”, the words “an Outline Planning Permission or”;

(iii) by inserting, after subsection (7), the following new subsection –

(7A) (a) No Outline Planning Permission or Building and Land Use Permit for any development of land, construction of a building or extensive alterations, additions or repairs to an existing building –

- (i) on a mountain reserve or river reserve or along a motorway;

- (ii) for use as a night club, private club or place of public worship;

- (iii) for the carrying on of any activity licensed under the Gambling Regulatory Authority Act,

shall be issued unless the prior written approval of the Minister is obtained.

(b) The time limit specified in subsection (6) or (7) shall not apply to an application for an Outline Planning Permission or a Building and Land Use Permit referred to in paragraph (a).

- (iv) in subsection (8A) –

- (A) by lettering the existing provision as paragraph (a);

- (B) in the new paragraph (a), by deleting the words “Where an applicant” and replacing them by the words “Subject to paragraph (b), where an applicant”;

- (C) by adding, after the new paragraph (a), the following new paragraph –

(b) Paragraph (a) shall not apply to an application for an Outline Planning Permission or a Building and Land Use Permit referred to in subsection (7A)(a).

- (b) in section 102 –

- (i) in subsection (1), by deleting the words “A local authority” and replacing them by the words “Subject to subsection (9), a local authority”;

- (ii) by adding, after subsection (8), the following new subsection –

(9) This section shall not apply to the National Empowerment Foundation incorporated under the Companies Act.

27. Mauritius Revenue Authority Act amended

The Mauritius Revenue Authority Act is amended –

- (a) in section 3 –

- (i) in subsection (4)(c), by deleting the words “the Fiscal Investigations Department” and replacing them by the words “subject to subsection (5)(b), the Fiscal Investigations Department”;

- (ii) in subsection (5)(b), by deleting the words “Law practitioners” and replacing them by the words “Without prejudice to such legal services, including legal representation, as the Authority may seek and obtain from law officers whenever its Legal Services Department is inadequately or unsuitably staffed, law practitioners”;

- (b) in section 13(1), by inserting, after the words “the Director-General”, the words “, every officer”;
- (c) in section 17(1), by deleting the word “Minister” and replacing it by the word “Board”;
- (d) in section 22, by adding, after subsection (2), the following new subsection –

(3) For the avoidance of doubt, no decision, determination, notice or claim under any Revenue Law shall be challenged on the ground of any defect in the appointment or qualification of any person involved in the making of the decision, determination or in the issuing of the notice or claim.

- (e) by inserting, after section 22, the following new section –

22A. Rewards

(1) Subject to this section, the Director-General may, on the seizure of any goods or on the recovery of any penalties excluding interest in respect of cases compounded under the Revenue Laws, direct that a reward shall be given or paid to any person other than the Director-General, an officer or any other employee of the Authority through whose information or means the seizure of such goods had been made or the penalties recovered, and whom he deems to be entitled to a reward.

(2) No reward shall be given or paid under subsection (1) unless the Director-General is satisfied that there has been no collusive activity planned to secure the reward.

(3) Any reward under this section shall be given or paid at such rate or amount and on such conditions as may be approved by the Board.

28. Mauritius Sugar Authority Act amended

The Mauritius Sugar Authority Act is amended –

- (a) in section 20(2), by adding the following new paragraph, the existing provision being lettered (a) accordingly –

(b) The rate of cess leviable on the proceeds of the sugar crop of a planter whose land under cane cultivation on 1 June 2009 did not exceed 5 hectares shall, for each of the crop years 2009 and 2010, be 80 percent of the global rate of annual cess fixed by the Minister under paragraph (a).

- (b) in the Schedule, by deleting the words “[Section 15]” and replacing them by the words “[Section 14(j)]”.

29. Mutual Assistance in Criminal and Related Matters Act amended

The Mutual Assistance in Criminal and Related Matters Act is amended in section 3, by repealing subsection (3) and replacing it by the following subsection –

(3) Nothing in this Act shall preclude the making and granting of an application in relation to a criminal matter under the Letters of Request Rules 1985.

30. National Savings Fund Act amended

The National Savings Fund Act is amended –

- (a) in section 2, in the definition of “basic wage or salary”, by deleting the words “a worker” and “the worker” wherever they appear and replacing them by the words “an employee” and “the employee”, respectively;
- (b) in section 5B(2)(b), by deleting the words “paragraph 1(a) of”;
- (c) in section 5C(4), by inserting, after the word “shall”, the words “, where applicable,”
- (d) in the First Schedule –
 - (i) in item 1, by deleting the words “Public officers, employees of a local authority, employees of parastatal bodies” and replacing them by the words –
 - (a) Public officers
 - (b) Employees of a local authority or of a statutory body who are not insured persons under section 13(1) of the National Pensions Act
 - (ii) in item 2, by deleting the words “Any other employee” and replacing them by the words –
 - (a) Employees of a local authority or of a statutory body who are insured persons under section 13(1) of the National Pensions Act
 - (b) Any other employee
- (e) by repealing the Third Schedule and replacing it by the Third Schedule set out in the Third Schedule to this Act;
- (f) in the Fourth Schedule –
 - (i) in the second column, by inserting, after the words “per cent of” wherever they appear, the words “the monthly”;

- (ii) by repealing paragraphs (i) and (ii) and replacing them by the following paragraphs –
 - (i) where the pay period is a month, the basic wage or salary payable for the complete month immediately preceding the month in respect of which entitlement arises; or
 - (ii) where the pay period is less than a month, the equivalent monthly basic wage or salary payable for the relevant pay periods preceding the month in respect of which entitlement arises.

31. Non-Citizens (Property Restriction) Act amended

The Non-Citizens (Property Restriction) Act is amended –

- (a) in section 2 –
 - (i) in the definition of “non-citizen” –
 - (A) in paragraph (b), by repealing subparagraph (ii) and replacing it by the following subparagraph –
 - (ii) of which at least a shareholder is not a citizen of Mauritius;
 - (B) by adding, after paragraph (b), the following new paragraph –
 - (C) a trust in so far as it is involved in any transaction referred to in section 22 of the Trusts Act;
 - (ii) by repealing the definition of “property” and replacing it by the following definition –

“property” –

 - (a) means an immovable property, whether freehold or leasehold, in Mauritius; and
 - (b) includes –
 - (i) in relation to a trust or otherwise, any rights or interests in immovable property, whether legal or beneficial; or
 - (ii) any shares;

- (iii) in the definition of “share”, in paragraph (b)(ii), by adding, after subparagraph (B), the following new subparagraph, the full stop at the end of subparagraph (B) being deleted and replaced by the words “; or” –
 - (C) any share in a company holding shares in any successive subsidiary company, or any share in any successive partnership or *société* or any other successive body corporate, which itself reckons amongst its assets, freehold or leasehold immovable property in Mauritius;
- (iv) by inserting, in the appropriate alphabetical order, the following new definition –

“shareholder” includes an association or body of persons, whether corporate or incorporate, which is a non-citizen.
- (b) in section 3(3)(a)(i), by inserting, after the words “commercial purposes”, the words “, other than a lease agreement or a sublease agreement in respect of a residential property,”.

32. Pensions Act amended

The Pensions Act is amended in section 9(4), by deleting the words “or the office of the Parliamentary Counsel on 1 July 2008” and replacing them by the words “, the office of Parliamentary Counsel on 1 July 2008 or the office of Electoral Commissioner on 1 March 2009”.

33. Professional Architects Council Act amended

The Professional Architects Council Act is amended in section 21(2), by adding, after paragraph (b), the following new paragraph –

- (c) For the purposes of paragraph (b), “Government company” means a company registered under the Companies Act and in which the Government of Mauritius directly or, through another corporate body, owns or controls not less than 50 per cent of the entire share capital.

34. Public Debt Management Act 2008 amended

The Public Debt Management Act 2008 is amended –

- (a) in section 2 –
 - (i) by repealing the definition of “Bond” and replacing it by the following definition –

“Bond” means a document incurring long-term debt, which –

 - (a) in the case of an initial issue of the Bond, has a maturity date of 5 years or more from the date of its issue; or

- (b) in the case of a re-issue of the Bond, has a maturity date which may be less than the maturity period of its initial issue;
 - (ii) in the definition of “Government securities”, by deleting the words “or Bonds” and replacing them by the words “, Bonds or Sovereign Sukuks”;
- (b) in section 3 –
 - (i) by inserting, after subsection (3), the following new subsection –

(3A) The Minister may enter into such agreement, sell, purchase or otherwise acquire any immovable property or any right therein, lease movable or immovable property and generally engage in such transactions and perform such activities as may be reasonably necessary for the purpose of issuing Sovereign Sukuks in Mauritius.
 - (ii) in subsections (5) and (6), by deleting the words “subsection (3) or (4)” and replacing them by the words “subsection (3), (3A) or (4)”.

35. Public Procurement Act amended

The Public Procurement Act is amended –

- (a) in section 2, in the definition of “public body”–
 - (i) in paragraph (b)(iii), by deleting the words “; but” and replacing them by a semicolon;
 - (ii) by repealing paragraph (c);
- (b) in section 3 –
 - (i) in subsection (1)(a), by deleting the words “by notice in the *Gazette*”;
 - (ii) in subsection (2), by inserting, after the words “public body”, the words “, other than an exempt organisation”;
- (c) in section 7 –
 - (i) in paragraph (da), by inserting, before the words “public bodies”, the words “the Board and”;
 - (ii) by inserting, after paragraph (da), the following new paragraph –
 - (db) attend to complaints from bidders or suppliers and advise the Board or public bodies on the appropriate course of action;

- (d) in section 7A(1)(a), by inserting, after the word “from”, the words “the Board or”;
- (e) in section 11(1)(d), by deleting the words “and independent”;
- (f) in section 16, by adding, the following new subsection, the existing provision being numbered (1) accordingly –
 - (2) A public body may, in appropriate cases and subject to any regulations to that effect, confer an advantage or preference to domestic or regional goods, services or contractors in the case of open advertised bidding proceedings.
- (g) in section 18, by repealing subsection (2);
- (h) by repealing the Schedule and replacing it by the Schedule set out in the Fourth Schedule to this Act.

36. Reform Institutions Act amended

The Reform Institutions Act is amended, by repealing section 8.

37. Registration Duty Act amended

The Registration Duty Act is amended –

- (a) in section 24(2A) by repealing paragraph (b) and replacing it by the following paragraph –
 - (b) In this subsection, “control” has the meaning assigned to it in section 5 of the Companies Act and includes control by a shareholder who is an individual or a *société*.
- (b) in section 36 –
 - (i) in paragraph (e) –
 - (A) in subparagraph (A), by deleting the words “in case the properties comprise shares in any partnership –” and replacing them by the words “in case the properties comprise shares in any partnership or successive partnerships or company or successive companies –”;
 - (B) in subparagraph (A)(1), by inserting, after the words “assets of that partnership”, the words “or in any other partnership or successive partnerships or company or successive companies”;

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

(2) No document conferring a right or interest in immovable property, whether legal or beneficial, to a non-citizen shall be registered unless it contains a certificate under section 3(2) of the Non-Citizens (Property Restriction) Act.

- (c) in section 41, by adding, after subsection (3), the following new subsections –

(4) Notwithstanding any other enactment, every notary shall, when drawing up a deed of transfer, ascertain from the parties to the transfer the identity of the ultimate beneficial owner of the property.

(5) Where the ultimate beneficial owner of the property referred to in subsection (4) is a non-citizen, the notary shall, forthwith, notify the Secretary for Home Affairs of the fact.

- (d) in the First Schedule, in paragraph J, in item 8, by adding, after sub-item (2), the following new sub-item –

(3) Sub-item (2) shall not apply where the 10 per cent of the shareholding gives right to an immovable property or a *part sociale* which gives right to an immovable property or a lot in a *règlement de co-propriété*.

38. Securities Act amended

The Securities Act is amended –

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

“relevant Acts” has the same meaning as in the Financial Services Act;

- (b) in section 122, by repealing subsection (1) and replacing it by the following subsection –

(1) For the purposes of ensuring compliance with any relevant Act, any regulations made under a relevant Act or any FSC rules or rules approved by the Commission and without prejudice to his powers under the Financial Services Act, the Chief Executive may, in relation to any securities transaction or where required under an agreement or arrangement for the exchange of information, give directions to –

- (a) a person registered as the holder of securities;
- (b) a person whom the Commission has reasonable grounds to suspect holds securities;

- (c) a person whom the Commission has reasonable grounds to suspect has a beneficial interest in securities; and
- (d) a person whom the Commission has reasonable grounds to suspect has acquired or disposed of securities, whether directly or through a nominee, trustee or agent,

to furnish information which the Chief Executive may give to any securities exchange, clearing and settlement facility, public sector agency, international organisation, foreign supervisory institution or law enforcement agency in furtherance of the objects and functions of the Commission.

- (c) in section 135(3)(e), by deleting the words “where this Act” and replacing them by the words “where the Financial Services Act”;
- (d) by repealing sections 136 and 137.

39. Social Aid Act amended

The Social Aid Act is amended –

- (a) in section 2 –
 - (i) by repealing the definition of “child” and replacing it by the following definition –
 - “child”, in relation to a claimant –
 - (a) means –
 - (i) an unmarried person who is under the age of 20; or
 - (ii) an unmarried person of the age of 20 but not above the age of 23, who is pursuing a full-time course at a tertiary education institution; and
 - (b) includes a step-child or an adopted child who is living with the claimant;
 - (ii) in the definition of “claimant”, by adding, after the words “section 3(1)”, the words “and (1A)”;

- (b) in section 3 –
 - (i) in subsection (1) –
 - (A) in paragraph (b), by adding the word “or” at the end;
 - (B) by repealing paragraph (c);
 - (ii) by inserting, after subsection (1), the following new subsection –
 - (1A) Subject to this section, where a person who –
 - (a) as a result of abandonment by his spouse; or
 - (b) is the spouse of the head of a household who is in police custody, has been remanded to jail or is serving a term of imprisonment and,

 is temporarily or permanently incapable of earning adequately his livelihood and has insufficient means to support himself and his dependants, he shall be qualified to claim social aid.
 - (iii) in subsection (3), by deleting the words “subsection (1)” and replacing them by the words “subsection (1) or (1A)”;
 - (iv) in subsection (4), by repealing paragraph (a) and replacing it by the following paragraph –
 - (a) the requirements of a claimant –
 - (i) under subsection (1) shall be computed in the manner specified in Part I of the First Schedule; or
 - (ii) under subsection (1A) shall be computed in the manner specified in Part III of the First Schedule;
- (c) in the First Schedule –
 - (i) by deleting the words “[Section 3(4) and (5)(b)]” and replacing them by the words “[Section 3(4)(a) and (5)(b)]”;
 - (ii) in Part II, by deleting the words “PART II” and replacing them by the words “**Part II**”;
 - (iii) by adding, after Part II, Part III set out in the Fifth Schedule to this Act.

40. State Lands Act amended

The State Lands Act is amended –

- (a) in section 6 –
 - (i) in subsection (1C), by deleting the words “A lease” and replacing them by the words “Notwithstanding section 7(1)(a) of the Pas Géométriques Act, a lease”;
 - (ii) in subsection (1E), by deleting the words “30 June 2009” and replacing them by the words “30 September 2009”;
 - (iii) in subsection (1F), by inserting, after the words “determined by the Minister”, the words “and any lease may be granted for a period not exceeding 99 years, with the approval of the Minister”;
- (b) in the Second Schedule –
 - (i) in Part II –
 - (A) by deleting the words “*Renewal of lease*” and “*New lease*” and replacing them by the words “*Lease granted under section 6(1C) pursuant to section 6(1E)*” and “*New lease granted under section 6(1C)*” respectively;
 - (B) in paragraph 2, by deleting the words “The annual rental calculated under paragraph 1(a) and (b) shall be reduced –” and replacing them by the words “The total annual rental calculated under paragraph 1 shall be reduced –”;
 - (C) by adding, after paragraph 5, the following new paragraphs –
 - 6. In the case of a hotel on less than one hectare of land and with less than 50 bedrooms, the increase in the annual rental of the new lease over that of the previous lease shall be suspended in respect of the period 1 July 2009 to 31 December 2010.
 - 7. The amount of indemnity for the use and occupation of the site by a hotel in respect of the period between the expiry date of the previous lease and 18 July 2008 shall be payable –
 - (a) in the case of a hotel on less than one hectare of land and with less than 50 bedrooms, in 5 consecutive equal yearly instalments, without interest, not later than 31 January, the first instalment being payable in 2011; or

- (b) in the case of other hotels, in 3 consecutive equal yearly instalments, with interest at 5 per cent per annum, not later than 31 January, the first instalment being payable in 2011.
- (ii) in Part III, in paragraph 1, by adding, after subparagraph (b), the following new subparagraph (c), the full stop at the end of subparagraph (b) being deleted and replaced by the words “; and” –
 - (c) after taking into account the reduction and adjustment referred to in paragraphs 2, 3, 4 and 5 of Part II.
- (iii) by adding, after Part III, the following new Part –

**PART IV – ANNUAL RENTAL IN RESPECT OF ISLETS
AND OTHER STATE LANDS**

Notwithstanding Part II and Part III, the annual rental in respect of islets and other State lands under restricted development shall be calculated in accordance with –

- (a) the table set out in Part II; or
 - (b) paragraph 1(a) or (b) of Part III,
- as the case may be, but subject to such adjustment and reduction as may be prescribed.

41. Statutory Bodies (Accounts and Audit) Act amended

The Statutory Bodies (Accounts and Audit) Act is amended –

- (a) in section 6A(2) –
 - (i) in paragraph (a), by inserting, before the words “a report”, the words “ in the case of a statutory body specified in Part I of the Schedule,”;
 - (ii) by inserting, after paragraph (a), the following new paragraph –
 - (aa) in the case of a statutory body specified in Part II of the Schedule, a report highlighting a 3-year strategic plan indicating the visions and goals of the statutory body with a view to attaining its objects and appreciation of the state of its affairs;
 - (iii) in paragraph (c), by inserting, before the words “the financial statements”, the words “ in the case of a statutory body specified in Part I of the Schedule,”;

(iv) by inserting, after paragraph (c), the following new paragraph –

(ca) in the case of a statutory body specified in Part II of the Schedule, the financial statements duly signed by the Chairperson and the other members of the Board;

(b) in section 11, by inserting, after subsection (1), the following new subsection –

(1A) The provisions of this Act, as enacted before being amended by the Additional Stimulus Package (Miscellaneous Provisions) Act 2009 and the Finance (Miscellaneous Provisions) Act 2009, shall apply to the estimate of income and expenditure submitted in accordance with subsection (1), subject to –

(a) the time limit of 3 months after the end of every financial year referred to in section 7 being construed as not later than 31 March 2011;

(b) the Board furnishing its report to the Minister under section 9 not later than 30 June 2011.

(c) in the Schedule –

(i) in Part I, by inserting, in the appropriate alphabetical order, the following item –

Independent Commission Against Prevention of Corruption Act
Corruption

(ii) in Part II –

(A) by deleting the following items –

Independent Commission Against Corruption	Prevention of Corruption Act
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Vallée of d'Osterlog Endemic Garden Foundation	Vallée of d'Osterlog Endemic Garden Foundation Act
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(B) by inserting, in the appropriate alphabetical order, the following item –

Vallée d'Osterlog Endemic Garden Foundation	Vallée d'Osterlog Endemic Garden Foundation Act
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42. Sugar Industry Efficiency Act amended

The Sugar Industry Efficiency Act is amended –

- (a) in section 20(c), by deleting the words “the Labour Act” and replacing them by the words “the Employment Rights Act 2008”;
- (b) in section 21 –
 - (i) in subsection (1), by deleting the words “the Labour Act” and replacing them by the words “the Employment Rights Act 2008”;
 - (ii) in subsection (2), by deleting the words “section 27 of the Labour Act” and replacing them by the words “section 34 of the Employment Rights Act 2008”;
 - (iii) in subsection (3) –
 - (A) in paragraph (a), by deleting the words “section 27 of the Labour Act” and replacing them by the words “section 34 of the Employment Rights Act 2008”;
 - (B) in paragraph (c), by deleting the words “section 28 of the Labour Act” and replacing them by the words “section 35 of the Employment Rights Act 2008”;
 - (iv) in subsection (4), by deleting the words “section 26 of the Labour Act” and replacing them by the words “section 33 of the Employment Rights Act 2008”;
- (c) in section 26(3), by repealing paragraph (b) and replacing it by the following paragraph –
 - (b) For the purposes of –
 - (i) subsection (1)(c), “owner” means a sugar estate or an agricultural estate;
 - (ii) this section, “land” shall include land with or without a building thereon.

43. Sugar Industry Pension Fund Act amended

The Sugar Industry Pension Fund Act is amended in sections 4A(5) and (6) and 45(3) and (4), by deleting the words “5 years’ service” and replacing them by the words “2 years’ service”.

44. Sugar Insurance Fund Act amended

The Sugar Insurance Fund Act is amended –

(a) in section 2 –

- (i) by repealing the definition of “insured” and replacing it by the following definition –

“insured” means a miller, a planter, a *métayer* or a refiner;

- (ii) by inserting, in the appropriate alphabetical order, the following new definitions –

“insurance contract” means an insurance contract referred to in sections 3 and 33A;

“plantation white sugar” means sugar which has a polarisation of more than 99 but less than 99.7;

“refiner” means a miller or another entity, having the Trust or any other vehicle established to foster equity participation of planters and employees of the sugar industry as a shareholder and mandated by the Syndicate to optimise value added for the whole of the sugar industry through the production of refined sugar;

“refined sugar” means sugar with a polarisation of 99.7 or more;

“refinery” means a site where plantation white sugar is processed into refined sugar;

“refining” means the process by which plantation white sugar is converted into refined sugar;

“Trust” has the same meaning as in the Sugar Industry Efficiency Act;

(b) in section 3 –

- (i) in subsection (3), by inserting, after paragraph (a), the following new paragraph, the word “and” at the end of paragraph (a) being deleted –

(aa) insure the refiners authorised by the Syndicate to optimise value added for the whole of the sugar industry through the production of refined sugar against loss due to cyclones, drought or excessive rainfall; and

(ii) by adding, after subsection (3), the following new subsection –

(4) The Board may enter into an insurance contract with a refiner in respect of the production of refined sugar.

(c) by inserting, after section 33, the following new section –

33A. Insurance of refiners

(1) No refiner shall be insured under this section unless it holds –

(a) a certificate from the Mauritius Sugar Authority witnessing its shareholding structure; and

(b) a certificate from the Syndicate witnessing its authorisation to produce refined sugar for the optimisation of value added for the whole of the sugar industry.

(2) Subject to subsection (3), the insurance of a refiner shall be governed by an insurance contract entered into between the Board and the refiner.

(3) An insurance contract shall be for an initial duration of 6 years, commencing on 1 July 2009 and ending on 30 June 2015.

(4) Wherever applicable, the terms and conditions of an insurance contract shall have regard to the provisions of Part V, in particular, those relating to ranking and insurable sugar and to the First and Second Schedules.

(5) A refiner and the Syndicate shall furnish such information pertaining to this section as may be required by the Board.

(6) A dispute under an insurance contract shall, in the first instance, be referred to arbitration as governed by rules on contracts.

(7) Where arbitration fails to resolve a dispute, the contracting parties may have recourse to the Supreme Court in accordance with any rules made by the Chief Justice.

(d) in section 41(1), by inserting, after the word “factory”, the words “, refinery”;

(e) in section 45(1), by inserting, after the words “Every miller,”, the words “refiner,”.

45. Tourism Authority Act amended

The Tourism Authority Act is amended –

- (a) in section 2 –
 - (i) by repealing the definition of “private club” and replacing it by the following definition –
 - “private club” –
 - (a) means a commercial establishment which –
 - (i) provides entertainment, including the provision of music and space for dancing on its premises;
 - (ii) optionally serves food, alcoholic and non-alcoholic drinks; and
 - (iii) grants access to its premises –
 - (A) on payment of a membership fee; or
 - (B) on its own discretion to a non-member where he is accompanied by a member; but
 - (b) does not include a social, cultural or sporting club;
 - (ii) in the definition of “tourist enterprise”, by deleting the words “,which is run or carried on for the purpose of providing services or goods to tourists for reward, whether monetary or otherwise”;
- (b) in section 6, by inserting, after paragraph (c), the following new paragraph –
 - (ca) licence, regulate and supervise the activities of whale and dolphin watching;
- (c) in section 17 –
 - (i) in subsection (1)(a), by inserting, after the word “monies”, the words “, other than the prescribed charge or fee,”;
 - (ii) by inserting, after subsection (1), the following new subsection –
 - (1A) Any charge or fee paid under this Act or under any regulations made under this Act shall be paid into the Consolidated Fund.

(d) in section 26 –

(i) by repealing subsection (1) and replacing it by the following subsection –

(1) Subject to subsection (2), no person shall run or carry on a tourist enterprise unless he holds a tourist enterprise licence.

(ii) in subsection (2), by deleting the words “No tourist enterprise licence” and replacing them by the words “Unless otherwise determined by the Authority, no tourist enterprise licence”.

46. Tourism Employees Welfare Fund Act amended

The Tourism Employees Welfare Fund Act is amended –

(a) in section 2, by repealing the definition of “tourism enterprise” and replacing it by the following definition –

“tourism enterprise” –

(a) means any enterprise which provides or makes arrangements for the provision of any tourism-related services; and

(b) includes –

(i) the tourism catering industry; and

(ii) any company which provides entertainment services to hotels;

(b) in section 16, by inserting, after subsection (1), the following new subsection –

(1A) Any self-employed singer, musician or performer may make a monthly contribution to the Fund according to such rates as may be prescribed.

47. Value Added Tax Act amended

The Value Added Tax Act is amended –

(a) in section 21(7) –

(i) in paragraph (a), by deleting the words “that building no longer forms part of his fixed assets” and replacing them by the words “that building is sold or otherwise transferred”;

(ii) in paragraph (b), by deleting the words “which the building has ceased to form part of his fixed assets” and replacing them by the words “during which the building has been sold or otherwise transferred”;

(b) in section 60 –

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

(2) Any person who commits an offence under section 57 or 59(b) or (c) shall, on conviction, be liable to a fine which shall not exceed double the amount of tax involved and to imprisonment for a term not exceeding 5 years.

(ii) in subsection (3), by repealing paragraph (a) and replacing it by the following paragraph –

(a) Subject to paragraph (b), any person who commits an offence under section 54, 55 or 58 shall, on conviction, be liable to a fine which shall not exceed treble the amount of tax involved and to imprisonment for a term not exceeding 8 years.

48. Validation of resolution

The financial resolution adopted by the National Assembly on 22 May 2009 is validated.

49. Commencement

(1) Sections 8(d), 11, 12, 18, 20, 21(b)(iii), (d) in so far as it relates to sections 50K and 50L, (h), (l), (m), (n), (w)(ii) and (iii) and (y), 30, 36, 39 and 44 shall be deemed to have come into operation on 1 July 2009.

(2) Section 8(f) shall come into operation on 1 October 2009.

(3) Section 13(c) shall be deemed to have come into operation on 23 May 2009.

(4) Section 21(g), (i), (j), (o) and (p) shall come into operation on 1 January 2010.

(5) Sections 21(x) and 42(a) and (b) shall be deemed to have come into operation on 2 February 2009.

(6) Section 41(a) and (c) shall come into operation on 1 August 2010 in respect of the financial year 2011 and in respect of every subsequent financial year.

Passed by the National Assembly on the twenty first day of July two thousand and nine.

Ram Ranjit Dowlutta
Clerk of the National Assembly

FIRST SCHEDULE

[Section 12(p)]

SEVENTH SCHEDULE

[Section 44(2)]

FINANCING OF TRANSITION UNEMPLOYMENT BENEFIT

1. Subject to paragraph 2, the Transition Unemployment Benefit shall be financed from –
 - (a) the one per cent contribution of the worker and of the recycling fee in the National Savings Fund account of the worker and any interest accrued thereon, to the extent of 50 per cent of the Transition Unemployment Benefit; and
 - (b) the Workfare Programme Fund to the extent of 50 per cent of the Transition Unemployment Benefit.

2. Where a worker is admitted to a training or re-skilling scheme and opts for the payment of the Transition Unemployment Benefit, the benefit shall be financed from the total of –
 - (a) one-third of the one per cent contribution of the worker and of the recycling fee in the National Savings Fund account of the worker and any interest accrued thereon;
 - (b) one-third from the Workfare Programme Fund; and
 - (c) one-third from the National Empowerment Foundation.

3. Where the total amount under paragraph 1(a) or 2(a) is not sufficient, any deficiency shall be met from the Workfare Programme Fund.

SECOND SCHEDULE

[Section 13(c)]

Part A

22.02, 2202.101, 22.03, 2203.00, 22.06, 2206.004, 2206.005, 2206.009

Part B

Column 1 Heading No.	Column 2 H.S. Code	Column 3 Excisable goods	Column 4 Statistical Unit	Column 5 Taxable base	Column 6 Rate of excise duty	Column 7 Date payable
22.02		Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured, and other non-alcoholic beverages, not including fruit or vegetable juices of heading 20.09.				
		- Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured:				
	2202.102	--- In aluminium can	L	Specific duty per can	Re 1 per can	(a) At the time the entry for the goods is validated in accordance with the Customs Act in case of import (b) As specified in paragraph (6) in case of local manufacture

Column 1 Heading No.	Column 2 H.S. Code Excisable goods	Column 3 Statistical Unit	Column 4 Taxable base	Column 5 Rate of excise duty	Column 6 Date payable
22.03	Beer made from malt:				
	2203.001 --- In aluminium can	L	Specific duty per litre and per can	Rs 19 per litre and Re 1 per can	(a) At the time the entry for the goods is validated in accordance with the Customs Act in case of import (b) As specified in paragraph (6) in case of local manufacture
	2203.009 --- Other	L	Specific duty per litre	Rs 19 per litre	"
22.06	Other fermented beverages (for example, cider, perry, mead); mixtures of fermented beverages and mixtures of fermented beverages and non-alcoholic beverages, not elsewhere specified or included: --- Beer:				
	2206.0041 ---- In aluminium can	L	Specific duty per litre and per can	Rs 19 per litre and Re 1 per can	(a) At the time the entry for the goods is validated in accordance with the Customs Act in case of import (b) As specified in paragraph (6) in case of local manufacture
	2206.0049 ---- Other	L	Specific duty per litre	Rs 19 per litre	"

Column 1 Heading No.	Column 2 H.S. Code	Column 3 Excisable goods	Column 3 Statistical Unit	Column 4 Taxable base	Column 5 Rate of excise duty	Column 6 Date payable
		--- Cider, perry and mead:				
	2206.0051	---- In aluminium can	L	Specific duty per litre and per can	Rs 20 per litre and Re 1 per can	"
	2206.0059	---- Other	L	Specific duty per litre	Rs 20 per litre	"
		--- Other:				
	2206.0091	---- In aluminium can	L	Specific duty per litre and per can	Rs 75 per litre and Re 1 per can	"
	2206.0099	---- Other	L	Specific duty per litre	Rs 75 per litre	"

THIRD SCHEDULE

[Section 30(e)]

THIRD SCHEDULE

[Sections 5B and 5D]

FINANCING OF TRANSITION UNEMPLOYMENT BENEFIT

1. Subject to paragraph 2, the Transition Unemployment Benefit shall be financed from –
 - (a) the one per cent contribution of the worker and of the recycling fee in the National Savings Fund account of the worker and any interest accrued thereon, to the extent of 50 per cent of the Transition Unemployment Benefit; and
 - (b) the Workfare Programme Fund to the extent of 50 per cent of the Transition Unemployment Benefit.

2. Where a worker is admitted to a training or re-skilling scheme and opts for the payment of the Transition Unemployment Benefit, the benefit shall be financed from the total of –
 - (a) one-third of the one per cent contribution of the worker and of the recycling fee in the National Savings Fund account of the worker and any interest accrued thereon;
 - (b) one-third from the Workfare Programme Fund; and
 - (c) one-third from the National Empowerment Foundation.

3. Where the total amount under paragraph 1(a) or 2(a) is not sufficient, any deficiency shall be met from the Workfare Programme Fund.

FOURTH SCHEDULE

[Section 35(h)]

SCHEDULE

[Section 2]

Column 1 Public body	Column 2 Type of contract	Column 3 Prescribed amount
PART I		
Local Authorities	All Contracts	Rs 15 million
Mauritius Qualifications Authority	All Contracts	Rs 15 million
Rodrigues Regional Assembly	All Contracts	Rs 15 million
Other parastatal bodies not specified in Parts II, III, IV and V	All Contracts	Rs 15 million
PART II		
	All Contracts	Rs 50 million
Ministries/Government Departments		
Beach Authority		
Farmer's Service Corporation		
Financial Services Commission		
Industrial and Vocational Training Board		
Irrigation Authority		
Mahatma Gandhi Institute		
Mauritius College of the Air		
Mauritius Educational Development Company Ltd		
Mauritius Film Development Corporation		
Mauritius Institute of Health		
Mauritius Meat Authority		
Mauritius Oceanography Institute		
Mauritius Standards Bureau		
Mauritius Tourism Promotion Authority		
National Computer Board		
Private Secondary Schools Authority		
Public Officers' Welfare Council		
Rodrigues Educational Development Company Ltd		
Sir Seewoosagur Ramgoolam Botanical Garden Trust		
Small Enterprises and Handicraft Development Authority		
Sugar Industry Labour Welfare Fund		
Sugar Planters Mechanical Pool Corporation		
Tea Board		
Tertiary Education Commission		
Tourism Authority		
University of Mauritius		
University of Technology, Mauritius		

Column 1 Public body	Column 2 Type of contract	Column 3 Prescribed amount
PART III		
	Goods, Civil Engineering Works & Capital	
	Goods	Rs 50 million
	Consultancy	
	Services	Rs 50 million
	Other Services	Rs 50 million
Agricultural Marketing Board Mauritius Examinations Syndicate Outer Islands Development Corporation		
PART IV		
	All Contracts	Rs 100 million
Airports of Mauritius Ltd Cargo Handling Corporation Ltd Central Water Authority Development Bank of Mauritius Ltd Enterprise Mauritius Information and Communication Technologies Authority Mauritius Housing Company Ltd Mauritius Ports Authority Mauritius Revenue Authority Mauritius Shipping Corporation Ltd Mauritius Sugar Authority National Housing Development Company Ltd National Transport Corporation Road Development Authority State Informatics Ltd State Investment Corporation Limited State Property Development Company Waste Water Management Authority		

Column 1 Public body	Column 2 Type of contract	Column 3 Prescribed amount
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PART V

Goods, Civil Engineering Works & Capital	Rs 100 million
Goods Consultancy	Rs 100 million
Services Other Services	Rs 100 million

Central Electricity Board
Mauritius Broadcasting Corporation
State Trading Corporation

FIFTH SCHEDULE

[Section 39(c)(iii)]

PART III

	Amount per month Rs
1. Claimant's allowance	1,055
2. Child's allowance -	
(a) for every child under the age of 10	410
(b) for every child between the age of 10 and 15	502
(c) for every child between the age of 15 and 23 who is receiving full-time education	626
(d) for every child between the age of 15 and 20 who is unable to earn a living through any physical or mental disability and is not in receipt of a benefit under the National Pensions Act	1,008
3. Compassionate allowance where the claimant or any of his dependants satisfies the Minister that he is suffering from any serious illness certified by an approved medical practitioner up to a maximum of	626
4. Rent allowance -	50% of the rent paid by claimant up to a maximum of 795
5. Examination fees in respect of a child for -	
(a) Cambridge School Certificate	
(b) Higher School Certificate	
(c) General Certificate of Education, London (Ordinary and Advanced)	
(d) General Certificate of Education, Cambridge (Ordinary and Advanced)	
(e) IVTB examinations conducted by the Mauritius Examination Syndicate	
6. Issue of spectacles to the claimant and his dependants where the spectacles have been prescribed by the Ministry of Health	
7. Refund to the claimant and his dependants of travelling expenses incurred in attending any hospital or dispensary for medical treatment	
8. Assistance in kind where the Minister is satisfied that the claimant deserves it	
9. Funeral grant in the event of the death of the claimant or that of any of his dependants	3,792