

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

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# A LEGISLATIVE PROGRAMME TO COMBAT THE PANDEMIC

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

- Amendments to 56 existing primary enactments
- Regulations to flesh out details of certain amendments
- Regulations to prevent resurgence of epidemics and transmission of infectious diseases
- Regulations to provide for sanitary measures in the transport industry
- Repeal of Quarantine Act 1954 and enactment of more detailed Quarantine Act 2020
- Tougher penalties for offences committed under the Quarantine Act 2020 and public health legislation
- Potential issues of human rights

# COVID-19 PERIOD DEFINED

- Amendments to Interpretation and General Clauses Act
- COVID-19 period defined as period from 23 March to 01 June 2020 or such further period as the Prime Minister may prescribe by way of regulations
- Intention to extend deadlines where they have expired or fallen partly or wholly during the COVID-19 period or 30 days thereafter
- Licences and permits not expired during COVID-19 period or 30 days thereafter
- No offence committed where act had to be done or refrained from during COVID-19 period or 30 days thereafter
- Exemption from CPD during current CPD year on account of COVID-19 period
- Extension by of 2-year time limit to bring action against public officer if expired during the COVID-19 period by 3 months after COVID-19 period lapses

# QUARANTINE, PUBLIC HEALTH AND PUBLIC ORDER MEASURES

- Quarantine Act 2020
  - Defines ‘communicable disease’
  - Power of the Prime Minister to prohibit entry of aircraft or ships, order persons to remain indoors and order closure of premises
  - Power of Minister of Health to declare a quarantine period
  - Power of Commissioner of Police to issue permits to allow persons to remain outdoors
  - Power of Director-General Health Services to designate quarantine facilities under control of a quarantine officer
  - Power of quarantine officer to compel a person to answer questions about his health

# QUARANTINE, PUBLIC HEALTH AND PUBLIC ORDER MEASURES (CONTD.)

- Quarantine Act 2020 (Contd.)
  - Duty of a person to report suspicion of his infection or contact with an infected person or vectors to a quarantine officer
  - Offences punishable by up to Rs 500,000 fine and 5 years' imprisonment
- Regulations under Public Health Act to prevent resurgence of epidemic and transmission of diseases
- Tougher penalties for breach of public health legislation: up to Rs 200,000 fine and 5 years' imprisonment
- Tougher penalties for crimes, contraventions and misdemeanours generally under the Criminal Code
- New offences of threatening and intimidation of a public officer under the Public Officers Protection Act and tougher sentences under that Act

# MACROECONOMIC MEASURES

- Bank of Mauritius empowered to:
  - grant such amount, as approved by its Board, to the Government to assist in the fiscal measures to stabilise the economy
  - provide capital to or invest in any corporation or company set up for the purpose of facilitating economic development
  - invest money in any corporation or company for the purpose of facilitating economic development, with the approval of its Board, and
  - to grant such amount from the Bank's Special Reserve Fund when requested by the Government and as approved by its Board, with the aim of assisting the Government to stabilise the economy

# MACROECONOMIC MEASURES (CONTD.)

- Public debt to exclude:
  - Cash and cash equivalents held by Government with the Bank of Mauritius in excess of Rs 200 million
  - Cash and cash equivalents held by non-financial public sector bodies with financial institutions in excess of Rs 300 million
  - Equity investments held by Government and non-financial public sector bodies in private sector entities
- Repeal of debt ceiling in Public Debt Management Act
- Increase in amount that Minister of Finance can authorise to be advanced from Consolidated Fund or deposits to an aggregate of Rs 15 billion from Rs 3.5 billion at any one time



# COMPANIES AND REPORTING

- Power of Registrar of Companies to issue practice directions, guidelines and instructions
- Holding of annual meeting extended to 9 months (instead of 6) after balance sheet date or such further period as Registrar determines
- Obligation for annual meeting to be held once a year and not later than 15 months after the previous annual meeting disapplied during COVID-19 period or such further period as Registrar determines.
- The duty of a director to resolve that an insolvent company should be placed in liquidation or administration disapplied during COVID-19 period or such further period as Registrar determines.
- Financial statements can be registered 9 months (instead of 6) from balance sheet date or such further period that Registrar determines
- Obligation of the board of directors to present financial statements within 28 days from its signature/approval date extended to 3 months or such further period that Registrar determines

# FINANCIAL SERVICES

- Amendments to allow for meetings of the board of the Financial Services Commission to take place via audio or video-conference and for resolutions to be passed by signature or assent of all board members
- Powers of Registrar of Limited Partnerships, Registrar of Limited Liability Partnerships and Registrar of Foundations to issue practice directions, guidelines and instructions to administer the Limited Partnerships Act, the Limited Liability Partnerships Act and the Foundations Act

# WORKERS RIGHTS ACT

- Employee – any person where WRA applies irrespective of salary
- Worker – any person with monthly basic salary is MUR 50,000 or less
- Work from home
  - Applicable to employees.
  - Employer may require employee to work from home by giving at least 48 hours' notice.
  - Minister may make regulations in connection with conditions of working from home

# WORKERS RIGHTS ACT (CONTD.)

- Night shift
  - Abolition of the payment of night shift allowance as from the 16<sup>th</sup> May 2020 until such period as may be prescribed
- Overtime in connection with COVID-19 period
  - Worker, other than a watchperson, employed in manufacturing, blockmaking, construction, stone crushing and related industries may be provided paid time off in lieu of overtime payment for additional hours worked from the 16<sup>th</sup> May 2020 until such period as may be prescribed
  - If worker unable to take paid time off, same to be accumulated up to the date the worker ceases to be in employment or 31 December 2021 at which time the accumulated time off is converted into remuneration

# WORKERS RIGHTS ACT (CONTD.)

- Annual leave
  - If worker has not worked during COVID-19 period, employer may withhold up to 15 days or any such number as may be prescribed of annual leaves during a period of 18 months following the expiry of the COVID-19 period
  - If the worker has worked during the COVID-19 period, employer cannot withhold any annual leave
- Protection against termination
  - Employer cannot terminate the employment of an employee during any month whereby the employer received the Wage Assistance Scheme or such other financial assistance paid by the State to the employer unless there is a case of misconduct
  - If employer does terminate, the employee is entitled to transition unemployment benefit

# WORKERS RIGHTS ACT (CONTD.)

- Employment following transfer of undertaking
  - If a transfer of undertaking takes place in accordance with s.67 of the WRA and employee is provided employment on terms not less favorable than previous agreement by the new employer, then agreement with new employer is deemed to be continuous
  - Amendment to WRA to provide that the Minister may exempt a new employer providing certain prescribed services from s.67 of the WRA and the Minister shall make provisions for the terms and conditions on which the employee may be offered employment by the new employer

# WORKERS RIGHTS ACT (CONTD.)

- Minister may exempt employers which provide certain prescribed services from complying with the procedures set in s.72 of the WRA on reduction of workforce
- The employer to give written notice to the Redundancy Board at least 15 days before the intended reduction or closing down
- Redundancy Board to complete its proceedings within 15 days of receiving such notice
- Justified reasons for reduction or closing down - Board to order that employee be paid 30 days' wage as indemnity in lieu of notice. In lieu of termination, the Board may, upon request of the employer and consent of the employee, order that employee proceed on leave without pay for a period specified by the employer subject to the condition that the resumption of employment be on such new terms and conditions as the employer may offer to the employee

# WORKERS RIGHTS ACT (CONTD.)

- Employee is entitled to transitional unemployment benefit during the period of leave without pay
- Unjustified reasons for reduction or closing down – Board to order employer to pay severance allowance of 3 months' remuneration per year of service to the employee
- Effective as from 01 January 2020, the contributions to the Portable Retirement Gratuity Fund have been postponed to such later date as may be prescribed by the Minister
- If an employee retires or dies, the employer shall pay to the employee or to his legal heirs such amount as shall be prescribed
- If an employee resigns or his employment is terminated on or after the 01 January 2020, the amount that his employer must contribute to the Fund will be as prescribed.



# EMPLOYMENT RELATIONS ACT

- Fast track resolution of labour disputes in respect of employers providing certain prescribed services:
  - Commission for Conciliation and Mediation to forthwith refer dispute to Employment Relations Tribunal
  - ERT to enquire and make an award within 30 days of referral
  - no person allowed to take part in a strike or lock-out in connection with dispute pertaining to the prescribed services
- Every procedure agreement in respect of certain prescribed services must establish the number of workers, their occupations and their departments in respect of which a minimum service must be maintained during any period of strike or lock-out

# BANKING AND INSOLVENCY

- Individuals:
  - Threshold of outstanding debt to file for bankruptcy by a debtor increased from Rs 50,000 to Rs 100,000
  - Threshold of outstanding debt for a creditor to petition for a debtor's bankruptcy increased from Rs 50,000 to Rs 100,000
- Companies:
  - Resolutions passed by shareholders during COVID-19 period or three months thereafter to put a company in insolvent voluntary winding up deemed of no effect and void (not applicable to Global Business companies)
  - Resolutions passed by creditors at a watershed meeting during COVID-19 period or three months thereafter to put the company in liquidation deemed of no effect and void (not applicable to Global Business companies)

# BANKING AND INSOLVENCY (CONTD.)

- Companies (Contd.)
  - Threshold of outstanding debt to serve a statutory demand increased from Rs 100,000 to Rs 250,000
  - Time for compliance with a statutory demand increased from 1 month to 2 months after service of the statutory demand
  - Time within which to apply to set aside a statutory demand and serve it on the creditor increased from 14 days to 28 days after service of the statutory demand
  - Appointment of a receiver by a secured creditor pursuant to an instrument during the COVID-19 period or three months thereafter deemed null and void
  - Time for holding first creditors' meeting in administration extended to 30 days after COVID-19 period lapses (if deadline for doing so fell during the COVID-19 period)

# MAURITIUS REVENUE AUTHORITY ACT

- Suspension of delays in relation to proceedings before the ARC expiring or falling during COVID-19 period or 21 days thereafter. Delays restart at the end of those periods
- If time for making assessment, decision, determination, notice or claim falls during COVID-19 period or 30 days thereafter, extension of 2 months after the expiry of such periods granted
- Extension until 25 June 2020 granted for any payment under a Revenue Law for a payment which falls due during the COVID-19 period
- If time to make the payment falls during the period ending 30 June, the payment must be made not later than 26 June 2020

# INCOME TAX ACT

- Contribution to COVID-19 Solidarity Fund
  - Individuals and companies
  - Contributing to Fund up to 30 June 2021
  - Entitlement to deduct contribution from net income when calculating tax liability
  - Unrelieved amount can be carried forward for up to 2 years
- Employer who has benefited from an allowance under the Wage Assistance Scheme (WAS) is liable to pay the COVID-19 in respect of year of assessment commencing on 1 July 2020, 1 July 2021 or 1 July 2022, as applicable

# INCOME TAX ACT (CONTD.)

- Calculation of COVID-19 levy
  - YOA 2020: lower of (i) amount received under WAS and (ii) 15% of gross income in YOA 2020 after deducting allowable expenditure [individual]
  - YOA 2020: lower of (i) amount received under WAS and (ii) 15% of chargeable income in YOA 2020 [resident *societe* and companies with accounting period ending between 01 May and 31 December]
  - YOA 2021: lower of (i) amount received under WAS after deducting levy paid in YOA 2020 and (ii) 15% of gross income in YOA 2021 after deducting allowable expenditure [individual]
  - YOA 2021: lower of (i) amount received under WAS after deducting levy paid in YOA 2020 and (ii) 15% of chargeable income in YOA 2021 [resident *societe* and companies with accounting period ending between 01 May and 31 December]

# INCOME TAX ACT (CONTD.)

- Calculation of COVID-19 levy (Contd.)
  - YOA 2021: lower of (i) amount received under WAS and (ii) 15% of chargeable income in YOA 2021 [companies with accounting period ending between 01 January and 30 April]
  - YOA 2022: lower of (i) amount received under WAS after deducting levy paid in YOA 2021 and (ii) 15% of chargeable income in YOA 2022 [companies with accounting period ending between 01 January and 30 April]

# INCOME TAX ACT (CONTD.)

- Government Wage Assistance Scheme
  - Allowance equivalent to 50 per cent of the basic salary or wage of employee for the month of March 2020 (capped at Rs 12,500)
  - Allowance equivalent to the basic salary or wage of employee for the month of April 2020 where the main business activities of the employer are carried out in the island of Mauritius (capped at Rs 25,000)
  - Allowance equivalent to 50 per cent of the basic salary or wage of employee for the month of April 2020 where the main business activities of the employer are carried out in Rodrigues or Agalega (capped at Rs 12,500)
  - Allowance equivalent to the basic salary or wage of employee for the month of May 2020 where the main business activities of the employer are carried out in the island of Mauritius (capped at Rs 25,000)



# INCOME TAX (CONTD.)

- Self-employed scheme
  - A self-employed individual is entitled to obtain an allowance of 5,100 rupees for the period 16 March 2020 to 15 April 2020 and 2,550 rupees for the period 16 April 2020 to 30 April 2020 where the main business activities of the self-employed are carried out in the island of Mauritius. An allowance of 5,100 rupees is paid for the month of May 2020
  - To be eligible, the individual must not earn a basic retirement pension or social benefits, must not be pursuing higher studies on a full time basis, must not be a dependent spouse, must not (together with spouse) earn more than Rs 50,000 a month and must not be registered as a fisherman

# VAT AND CUSTOMS

- Protective masks and breathing appliances become zero-rated
- Time to pay duty, excise duty, taxes and fees or charges leviable on goods cleared by SMEs or VAT-registered persons extended from 7 working days to 16 working days
- Duty removed from disinfectants and hand sanitizers

# REGISTRATION DUTY AND LAND (DUTIES AND TAXES)

- Registration Duty Act
  - Waiver of penalties and extension of time for submission of registrable documents or payment of registration where deadlines have fallen during the COVID-19 period or such other period as may be specified
  - Extension of the prescribed timelines relating to the procedure to object to the valuation of transfer of shares where deadlines have fallen during the COVID-19 period or a specified time thereafter
- Land (Duties and Taxes) Act
  - Extension of the time limits applicable to various stages of the reassessment procedure of the valuation of transfer of immovable property, where they have fallen during the COVID-19 period or a specified time thereafter

# TENANCIES

- Landlord and Tenant Act amended
- Non-payment of rent for the months of March, April, May, June, July and August 2020 will not amount to a breach of tenancy agreement, provided that such rent is paid in instalments by 31 December 2021
- Court may not order eviction of tenant for non-payment of March-August 2020 rent provided that the rent is paid in instalments by 31 December 2021
- Amendment not limited to tenancies/leases covered by the Landlord and Tenant Act but those made under any enactment

# ENVIRONMENT

- Amendments to Environment Protection Act
- New section 28B introduced to extend the validity of the EIA licence and delay to do or to refrain from doing an act extended to either for a (i) period of 30 days after the COVID-19 period lapses or (ii) for 30 days after the 21 days following when the COVID-19 period has so lapsed
- No environment protection fees payable for hotels, guest house or tourist residences of more than 4 bedrooms, for the period starting 1 March 2020 and ending 30 December 2020
- Rearing poultry of above 15,000 heads (instead of 5,000 heads) will require a Preliminary Environmental Report

# TRANSPORT

- Road Traffic Act
  - Extension of time limit for various appeals from 10 days to 21 days
  - No surcharge for motor vehicle licences expired in March, April and May 2020 as long as they are renewed before 31 August 2020
  - Deadline to pay fixed penalties and offences detected by photographic enforcement device which expired during the COVID-19 period extended to 28 days after the lapse of the COVID-19 period
  - Deadline to serve a fixed penalty on a person who refuses to accept it extended to 14 days after the lapse of the COVID-19 period
  - Extended time limit for MVIAC to make its determination of a dispute (4 months instead of 6 weeks)
  - Higher sentences for contraventions

# TRANSPORT (CONTD.)

- Road Traffic Act (Contd.)
  - Minister given power to make regulations to provide for sanitary measures to be observed during the COVID-19 period and such further period as may be prescribed
- Light Rail Act 2019
  - Tougher sentences for damaging light rail, light rail vehicle and light rail premises
  - Minister empowered to make regulations on sanitary measures to be observed during the COVID-19 period or any other period as prescribed

# TOURISM

- Tourism Authority empowered to issue guidelines to holders of pleasure craft licences to restrict the number of passengers authorised on board pleasure crafts and to impose such other conditions as are necessary
- Extension to pay fixed penalties which fell due during the COVID-19 period or one month thereafter, to 3 months after the lapse of the COVID-period or one month thereafter (as applicable)
- Certain licences which have expired during the COVID-19 period or one month thereafter deemed not to have expired and remain valid for a further 12 months
- Renewal fee can be paid in monthly instalments and licence shall lapse if 3 consecutive instalments are not paid



# EDUCATION

- Minister can order temporary closure of any educational institution (not just schools)
- Introduction of distance education and online learning programmes
- Failure to conduct distance education and online programmes without reasonable excuse is a breach of contract of employment
- Minister has extended powers to make regulations relating to social distancing, of hygienic character but also concerning student intake and age limits and eligibility requirements for scholarships
- Penalty for contravention of the regulations is increased to Rs 25,000 (up from Rs 1,000)
- Minister empowered to make rules on the cancellation and rescheduling of exams, review timetables and curricula, the duration of holidays and the conduct of distance education and online programmes

# COURTS

- Amendments to Courts Act
- Broader powers of Chief Justice
  - to administer any Court
  - to regulate the practice and procedure before any Court
  - To determine which court services are essential during the COVID-19 period
  - To determine which additional services are to be provided after the COVID-19 period
  - To limit the number of attendees in a chambers or courtroom
  - To call or hear a matter remotely via technological means

# DATA PROTECTION AND ICT

- Data Protection Act amended so as not to impede the collection, verification and processing of personal data for the issuance of licences, permits and authorisations
- Information and Communication Technologies Act:
  - Licences which expire during the COVID-19 period or 21 days thereafter deemed not to have expired and remain valid for a further period of 30 days after the COVID-19 period or 21-day period (as applicable) lapses
  - no surcharge, interest or penalty for not doing an act which should have been done within the COVID-19 period or 21 days thereafter, as long as the act is done within 30 days after the COVID-19 period or 21-day period (as applicable) lapses

# FREEPORT

- Freeport developer is authorised with effect from 01 May 2020 to provide warehousing facilities for the storage of goods, which have been cleared from customs, in a freeport zone to any person during the COVID-19 period and such further period as may be prescribed by regulations
- Goods which benefit from the warehouse facilities may be stored for a maximum period not exceeding 36 months if such goods have entered during the period starting on 1 October 2018 and ending 31 December 2020

# PASSPORT AND IMMIGRATION

- Visas expiring during the COVID-19 period or 21 days thereafter remain valid for a period of 30 days after the COVID-19 period or the 21-day period (as applicable) lapses
- Permits under the Immigration Act expiring during the COVID-19 period or 21 days thereafter remain valid for a period of 30 days after the COVID-19 period or the 21-day period (as applicable) lapses
- A person may apply to extend or vary a permit issued under the Immigration Act whilst being in Mauritius

# PUBLIC PROCUREMENT AND UTILITIES

- Public Procurement Act
  - During COVID-19 period or further period as may be prescribed, bids may be opened through technological means subject to guidelines of the Procurement Policy Office
- CEB and CWA Acts
  - No surcharge in respect of water and electricity bills that fell due during the COVID-19 period or later period as may be prescribed and no there shall be no disconnection due to non-payment of such bills during the COVID-19 period
- Utility Regulatory Authority Act
  - URA may request information from utility providers in electronic form
  - Public may consult utility public register electronically

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