
THE FINANCE (MISCELLANEOUS PROVISIONS) ACT 2010

Act No. 10 of 2010

I assent

SIR ANEROOD JUGNAUTH

24th December 2010

President of the Republic

ARRANGEMENT OF SECTIONS

Section

1. Short title
2. Bank of Mauritius Act amended
3. Banking Act amended
4. Customs Act amended
5. Education Act amended
6. Excise Act amended
7. Financial Services Act amended
8. Gambling Regulatory Authority Act amended
9. Income Tax Act amended

10. Land (Duties and Taxes) Act amended
11. Mauritius Sugar Authority Act amended
12. National Solidarity Fund Act amended
13. Public Debt Management Act 2008 amended
14. Registration Duty Act amended
15. Revenue (Temporary Protection) Act amended
16. State Lands Act amended
17. Statutory Bodies (Accounts and Audit) Act amended
18. Sugar Industry Pension Fund Act amended
19. Value Added Tax Act amended
20. Validation of resolution
21. Commencement

An Act

To provide for the implementation of measures announced in the Budget Speech relating to taxation and national finance and matters consequential or incidental thereto

ENACTED by the Parliament of Mauritius, as follows –

1. Short title

This Act may be cited as the Finance (Miscellaneous Provisions) Act 2010.

2. Bank of Mauritius Act amended

The Bank of Mauritius Act is amended –

- (a) in section 2 –
 - (i) by deleting the definition of “Bill”;
 - (ii) in the definition of “repealed Bank of Mauritius Act”, by deleting the full stop and replacing it by a semicolon;

-
- (iii) by inserting, in the appropriate alphabetical order, the following new definitions –
- “derivatives” means financial instruments including an option, a swap, a futures or forward contract or any other financial product or any combination of such instruments whose market price, value, delivery or payment obligations are derived from, referenced to or based on, but not limited to, underlying securities or commodities prices, assets, rates (including interest rates or exchange rates) or indices;
- “Securities” –
- (a) means Bank of Mauritius Securities issued under section 6(1)(m); and
- (b) includes Bank of Mauritius Bills, Notes, Bonds and Shariah-compliant instruments.
- (b) in section 6 –
- (i) in subsection (1) –
- (A) by inserting, after paragraph (b), the following new paragraph –
- (ba) develop the foreign exchange and derivatives markets;
- (B) by inserting, after paragraph (d), the following new paragraph –
- (da) with the approval of the Board, promote the development of the foreign exchange and derivatives markets;
- (C) by repealing paragraph (e) and replacing it by the following paragraph –
- (e) promote the development of the money market of Mauritius, including the Islamic

money market through the issue of such Shariah-compliant instruments as may be determined by the Bank;

- (D) in paragraph (m), by deleting the word “Bills” wherever it appears and replacing it by the word “Securities”;
- (E) in paragraph (n) –
 - (I) by deleting the words “3 months” and replacing them by the words “6 months”;
 - (II) in subparagraph (v), by deleting the word “Bills” and replacing it by the word “Securities”;
 - (III) by adding, after subparagraph (v), the following new subparagraph –
 - (vi) such other security as the Bank may determine;
- (F) in paragraph (o), by inserting, after the words “financial institutions” the words “and such other entities”;
- (ii) in subsection (2) –
 - (A) in paragraph (a), by deleting the word “Bills” and replacing it by the word “Securities”;
 - (B) in paragraph (b), by deleting the word “Bill” and replacing it by the words “Bank of Mauritius Securities”;
 - (C) in paragraph (c), by deleting the word “Bill” and replacing it by the words “Bank of Mauritius Securities”;

-
- (D) in paragraph (d), by deleting the word “Bills” and replacing it by the words “Bank of Mauritius Securities”;
 - (E) in paragraph (e), by deleting the word “Bill” and replacing it by the words “Bank of Mauritius Securities”;
- (iii) by adding, after subsection (3), the following new subsection –
- (4) Notwithstanding this Act, the Bank may –
 - (a) enter into such agreement;
 - (b) purchase or otherwise acquire such immovable property or any right therein;
 - (c) lease such movable or immovable property; and
 - (d) generally engage in such activities,as may be reasonably necessary, for the purpose of establishing an Islamic money market in Mauritius.

3. Banking Act amended

The Banking Act is amended –

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

“bank” means a company incorporated under the Companies Act, or a branch of a company incorporated abroad, which is licensed by the central bank to carry on any or all of the following –

 - (a) banking business;
 - (b) Islamic banking business;

- (c) private banking business;
 - (d) investment banking business;
- (ii) by deleting the definition of “banking business” and replacing it by the following definition –
- “banking business” –
- (a) means –
 - (i) the business of accepting sums of money, in the form of deposits or other funds, whether or not such deposits or funds involve the issue of securities or other obligations howsoever described, withdrawable or repayable on demand or after a fixed period or after notice; and
 - (ii) the use of such deposits or funds, either in whole or in part, for –
 - (A) loans, advances or investments, on the own account and at the risk of the person carrying on such business;
 - (B) the business of acquiring, under an agreement with a person, an asset from a supplier for the purpose of letting out the asset to the person, subject to payment of instalments together with an option to retain ownership of the asset at the end of the contractual period; and
 - (b) includes such services as are incidental and necessary to banking;

-
- (b) in section 5 –
- (i) in subsection (4)(d) and (g), by deleting the word “managers” and replacing it by the words “other senior officers”;
 - (ii) in subsection (8C), by deleting the words “,managers or officers” and replacing them by the words “or other senior officers”;
- (c) in section 18(4), by inserting the following new paragraph (a), the existing paragraphs (a) and (b) being relettered paragraphs (b) and (c) respectively –
- (a) having regard to the size, complexity and ownership of a bank or non-bank deposit taking institution, require the bank or non-bank deposit taking institution to have more than 40 per cent independent directors and the appointment of any such additional director or directors shall be subject to the prior approval of the central bank;
- (d) in section 31 –
- (i) in subsection (1), by deleting the words “ in a bank” and replacing them by the words “in the financial institution”;
 - (ii) in subsection (4)(c), by deleting the words “or any of the proposed managers” and replacing them by the words “, or of any proposed director, chief executive officer or other senior officer,”;
- (e) in section 34 –
- (i) in subsection (6)(b)(ii), by deleting the words “in at least 3 daily newspapers in wide circulation in Mauritius” and replacing them by the words “post on its website”;
 - (ii) by inserting, after subsection (6), the following new subsection –
 - (6A) Subsection 6(b)(ii) shall not apply to money changers.

- (f) in section 39(9)(c), by deleting the word “Board” and replacing it by the words “board of directors of the financial institution”;
- (g) in section 40 –
 - (i) in subsection (1), by deleting the words “consist of not less than 3 members who shall be independent directors” and replacing them by the words “comprise only independent directors who shall not be less than 3 in number”;
 - (ii) in subsection (3)(c), by inserting, after the words “officers of the bank”, the words “or the non-bank deposit taking institution”;
 - (iii) by repealing subsection (4) and replacing it by the following subsection –
 - (4) (a) The internal auditor of the bank or the non-bank deposit taking institution shall report to the audit committee.
 - (b) Subject to paragraph (c), the internal auditor and the external auditor shall be available to the audit committee to attend its meetings.
 - (c) The audit committee shall meet the internal auditor and the external auditor at least once annually.
- (h) in section 46(2A), by deleting the word “functions” and replacing it by the words “material activities”;
- (i) in section 52(2), by deleting the words “, as the central bank considers adequate”;
- (j) in section 64 –
 - (i) in subsection (8), by deleting the word “named” and replacing it by the word “name”;

-
- (ii) by inserting, after subsection (8), the following new subsection –
- (8A) A financial institution shall seek the prior approval of the central bank before providing any confidential information to any person who intends to carry out due diligence on the financial institution with a view to acquiring a shareholding in the financial institution.
- (k) in section 70(4), by deleting the words “sections and Parts of the Companies Act 1984 specified in the Fifteenth Schedule to the Companies Act 2001” and replacing them by the words “relevant sections and Parts of the Insolvency Act 2009”;
- (l) in section 90(1), by deleting the words “sections 215 to 295 of the Companies Act 1984” and replacing them by the words “Sub-Part II of Part III, Part IV and Part VII of the Insolvency Act 2009”;
- (m) in section 91, by deleting the words “Companies Act 1984” and replacing them by the words “Insolvency Act 2009”;
- (n) in section 100 –
- (i) in subsection (2), by adding, after the words “specified in the guidelines”, the words “or instructions”;
- (ii) by inserting, after subsection (2), the following new subsection –
- (2A) Notwithstanding subsection (2), the central bank may issue specific instructions to any financial institution and such instructions shall take effect on the date of their issue to the financial institution or on such later date as may be specified in the instructions.
- (o) by repealing the First Schedule and replacing it by the First Schedule set out in the First Schedule to this Act.

4. Customs Act amended

The Customs Act is amended –

- (a) in section 2, by inserting, in the appropriate alphabetical order, the following new definition –
 - “eligible vessel” means –
 - (a) any fishing vessel bound for a fishing expedition on the high seas;
 - (b) any vessel bound for a foreign port;
 - (c) any vessel bound for any island comprised in the State of Mauritius; or
 - (d) any vessel which, for such reasons as are considered appropriate by the Director-General of the Mauritius Ports Authority and the Director-General, remains within the limits of the port;
- (b) in section 9(1), by deleting the words “section 3(5)” and replacing them by the words “section 3”;
- (c) by inserting, after section 105, the following new section –

105A. Bunker fuel

(1) Every master of an eligible vessel shall, at the time of boarding of the proper officer, make a declaration, in such form and manner as may be determined by the Director-General, of the remaining volume of bunker fuel on the vessel.

(2) Where bunker fuel is required by an eligible vessel, the master or agent of the vessel shall make an application to the Director-General to receive the fuel, free of duty, excise duty and taxes, in such form and manner as may be determined by the Director-General.

(3) The Director-General shall, on an application being made by the master or agent of an eligible vessel, authorise for use by the eligible vessel such quantity of bunker fuel as may be necessary to be loaded on the eligible vessel from a fuel tank, on such terms and conditions as may be determined by the Director-General.

(4) The master or agent of an eligible vessel shall, prior to the loading of the bunker fuel on the eligible vessel under subsection (3), give to the Director-General a bond, with at least one surety residing in Mauritius, for 3 times the amount of duty, excise duty and taxes on the bunker fuel, the condition of which bond being that such bunker fuel shall not be unloaded in Mauritius waters without the prior written authorisation of the Director-General.

(5) No bunker fuel loaded on an eligible vessel under subsection (3) shall be unloaded in any manner without the prior written authorisation of the Director-General.

(6) Where bunker fuel is unloaded in Mauritius waters without the prior written authorisation of the Director-General, the Director-General shall realise the bond given under subsection (4) to cover the amount of duty, excise duty and taxes in respect of the unloaded bunker fuel.

(7) Any master or agent of an eligible vessel who fails to comply with any provision of this section shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees.

5. Education Act amended

The Education Act is amended –

(a) in section 33 –

- (i) in subsection (1)(a) and (b), by deleting the words “one scholarship which shall be known as the Sir Seewoosagur Ramgoolam National Scholarship and”;
- (ii) in subsection (2)(c), by deleting the words “in Mauritius or in any other country” and replacing them by the words “in such foreign country as may be”;

- (iii) by adding, after subsection (4), the following new subsection –

(5) A person who is awarded a scholarship under subsection (1) may, instead of pursuing his undergraduate studies abroad, elect to –

- (a) follow an undergraduate course in any approved tertiary education institution in Mauritius;
- (b) pursue postgraduate studies in Mauritius or in any other country approved by the Minister, subject to securing a seat at university for that purpose; and
- (c) spend 2 years on internship in a Government Ministry or Department in Mauritius,

on such terms and conditions as may be prescribed.

- (b) by adding, after section 33, the following new sections –

33A. Additional Scholarships

(1) The Minister shall, in accordance with regulations made under this Act, award 50 scholarships which shall be known as the Additional Scholarships.

(2) Out of the 50 Additional Scholarships –

- (a) 26 shall be awarded to persons on the result of a prescribed examination for which the pupils of Government schools and approved secondary schools having the prescribed qualifications shall be entitled to sit; and

- (b) 24 shall be awarded to persons on the result of the prescribed examination referred to in paragraph (a), provided that the total income of the parents of the person does not exceed, in the aggregate, such amount as may be prescribed.

(3) A person who is awarded a scholarship under subsection (2) may, instead of pursuing his undergraduate studies abroad, elect to –

- (a) follow an undergraduate course in any approved tertiary education institution in Mauritius;
- (b) pursue postgraduate studies in Mauritius or in any other country approved by the Minister, subject to securing a seat at university for that purpose; and
- (c) spend 2 years on internship in a Government Ministry or Department in Mauritius,

on such terms and conditions as may be prescribed.

(4) In this section –

“total income” has the same meaning as in section 16A of the Income Tax Act.

33B. Sir Seewoosagur Ramgoolam National Scholarships

The Sir Seewoosagur Ramgoolam Foundation established under the Sir Seewoosagur Ramgoolam Foundation Act shall, in accordance with regulations made under this Act, award 2 scholarships, which shall be known as the Sir Seewoosagur Ramgoolam National Scholarships, to a boy and a girl respectively.

6. Excise Act amended

The Excise Act is amended –

(a) in section 2 –

(i) by deleting the definitions of “fruit wine” and “wine” and replacing them by the following definitions –

“fruit wine” means a product having an alcoholic strength of not less than 7 per cent and not more than 18 per cent of alcohol by volume obtained from the fermentation of any fresh fruit or fruit must, whether condensed or concentrated, other than grape must, fresh grapes or sound grapes;

“wine” means a beverage having an alcoholic strength of not less than 7 per cent and not more than 18 per cent of alcohol by volume obtained from the fermentation of juice of fresh grapes, sound grapes or grape must.

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

“admixed wine” means a product having an alcoholic strength of not less than 7 per cent and not more than 18 per cent of alcohol by volume obtained by mixing wine in a proportion not exceeding 20 per cent with island wine or fruit wine or made-wine;

“island wine” means a product having an alcoholic strength of not less than 7 per cent and not more than 18 per cent of alcohol by volume obtained from the fermentation of sugar;

“made wine” means a product having an alcoholic strength of not less than 7 per cent and not more than 18 per cent of alcohol by volume obtained from the fermentation of the mixture of grape must concentrate and sugar;

“Revenue Law” has the same meaning as in the Mauritius Revenue Authority Act;

- (b) by inserting, after section 37, the following new section –

37A. Powers of police officers

Every police officer may, for the purpose of detecting the commission of an offence, exercise all or any of the powers under sections 20(1), 29, 32, 33, 34 and any power necessary to enable the licensing authority to exercise its powers under section 49.

- (c) in section 45(2) –

(i) by deleting the word “or” at the end of paragraph (f);

(ii) by inserting, after paragraph (f), the following new paragraph (g), the existing paragraph (g) being relettered (h) –

(g) removes or damages a notice affixed by the licensing authority under section 49(2)(b) or (c) or who causes the notice to be removed or damaged;
or

- (d) by repealing section 49 and replacing it by the following section –

49. Disciplinary action against licensee

(1) Without prejudice to the other provisions of this Act, the licensing authority may, at any time, refuse to renew, or may suspend for such period as he may determine, or revoke or cancel from such date as he may determine, any licence where –

- (a) any information furnished by the applicant for the issue or renewal of the licence was, at the time when the information was furnished, false in a material respect or was subject to a material omission;

- (b) any substantial shareholder within the meaning of the Companies Act or director or manager of the licensee is convicted of an offence under this Act or of any offence involving fraud or dishonesty, or is in breach of regulations made under this Act;
- (c) the licensee knowingly or recklessly supplies to the licensing authority material information that is false or misleading;
- (d) the licensee, an employee of the licensee or any other person acting on behalf of the licensee has failed to comply with any condition of the licence and has not complied with such condition within such period as the licensing authority may allow after delivery of a written notice to the licensee requiring such failure to be remedied within a specified period;
- (e) the licensing authority has reasonable grounds to suspect that the licensee has transferred, assigned or sublet the licence or is only nominally the true licensee;
- (f) without the prior written consent of the licensing authority, the licensee sells, alienates or ceases to operate at any of the premises to which his licence relates;
- (g) the licensee fails to pay his licence fees under this Act;
- (h) the licensee fails to pay, or furnish security for the payment of, any duty or tax or to fulfill his obligations under any Revenue Law;

-
- (i) the licensee, an employee of the licensee or any other person acting on behalf of the licensee has failed to comply with this Act;
 - (j) the licensee, or in the case of a company, any director, manager or officer of that company, is no longer a fit and proper person;
 - (k) the premises to which the licence relates cease, in the opinion of the Commissioner, to be suitable for the purposes for which they were licensed;
 - (l) the licensee is or becomes disqualified from holding licence;
 - (m) the licensee contravenes any provision of this Act or is in breach of any condition of his licence;
 - (n) the licensee fails to comply with any notice given by the Director-General under any Revenue Law;
 - (o) the business of the licensee has been conducted in such a way as to be a danger to public health, public order or public safety;
 - (p) the licensee has acted in a dishonourable, improper, fraudulent, dishonest or immoral manner, or has engaged in any violent conduct on the premises to which the licence relates; or
 - (q) the licensee is convicted of permitting drunkenness or violent, riotous, disorderly or immoral conduct on premises to which the licence relates.

(2) (a) While a licence is suspended, the holder shall not, to the extent of the suspension and during the period of the suspension, be authorised to permit, undertake, participate or engage in the business specified in the licence.

(b) The licensing authority shall, on suspension of a licence, affix a notice of the suspension specifying the duration of the suspension in a conspicuous place of the licensed premises.

(c) Where a licence is revoked or cancelled, the licensing authority shall affix a notice of the revocation or cancellation in a conspicuous place of the licensed premises during a period of 14 days as from the date of the revocation or cancellation.

(3) The licensing authority shall, subject to subsection (4), before the suspension, revocation or cancellation of a licence, by written notice inform the licensee of the reasons for the proposed suspension, revocation or cancellation and request the licensee to submit to the licensing authority, within 14 days of the notification, written reasons why the licence should not be suspended, revoked or cancelled.

(4) Where the licensing authority is of opinion that a licence is to be suspended, revoked or cancelled with immediate effect, written notice of the suspension, revocation or cancellation and the reasons therefor shall be given to the licensee forthwith, and the licensee shall be entitled to submit to the licensing authority, within 14 days of the notification, written reasons why the licence should be reinstated.

(5) The licensing authority may, at any time, reinstate any licence suspended under subsection (1), but shall not do so unless the reason for the suspension has ceased to exist.

(6) Where the licensing authority suspends, revokes or cancels a licence, no refund of the licence fee shall be made or compensation paid in respect of the period of the suspension or the unexpired period of the licence.

(7) The holder of a licence which has been revoked or cancelled shall, on receipt of a notification to that effect by the licensing authority, within 7 days, surrender the licence to the licensing authority.

(8) Any person who fails to comply with subsection (7) shall commit an offence.

- (e) by repealing section 57A and replacing it by the following section –

57A. Transitional provisions

(1) Subject to subsections (2) and (3), an existing licensee shall, on renewal of his existing licence on or after 1 January 2011, obtain a licence under Part II of the Second Schedule corresponding to his existing licence, as specified in the Third Schedule.

(2) A person who, on 31 December 2010, holds the licence of “Wholesale dealer in liquor and alcoholic products (Co-operative Store)” specified in Part II of the repealed Second Schedule, shall, on renewal of his licence on or after 1 January 2011, obtain the licence of “Dealer in liquor and alcoholic products (Wholesale)” specified in Part I of the Second Schedule.

(3) A person who, on 31 December 2010, holds the licence of “Shipchandler (liquor and alcoholic products)” specified in Part II of the repealed Second Schedule, shall, on renewal of his licence on or after 1 January 2011, obtain the licence of “Shipchandler – Liquor and alcoholic products” specified in Part I of the Second Schedule.

- (4) In this section –
- “existing licence” means a licence under Part II of the repealed Second Schedule;
- “existing licensee” means a person who holds an existing licence on 31 December 2010;
- “repealed Second Schedule” means the Second Schedule before the commencement of section 5(g) of the Finance (Miscellaneous Provisions) Act 2010.
- (f) in the First Schedule –
- (i) in Part I –
- (A) by deleting the items and their corresponding entries, specified in Part A of the Second Schedule to this Act;
- (B) by inserting, in the appropriate numerical places, the items and their corresponding entries, specified in Part B of the Second Schedule to this Act;
- (ii) in Part II –
- (A) by deleting the items and their corresponding entries, specified in Part A of the Third Schedule to this Act;
- (B) by inserting, in the appropriate numerical places, the items and their corresponding entries, specified in Part B of the Third Schedule to this Act;
- (g) by repealing the Second Schedule and replacing it by the Second Schedule set out in the Fourth Schedule to this Act;
- (h) by adding, after the Second Schedule, the Third Schedule set out in the Fifth Schedule to this Act.

7. Financial Services Act amended

The Financial Services Act is amended –

- (a) in section 2, 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;
- (b) in section 7(1)(b), by inserting, after the words “directions to”, the words “any person to”;
- (c) in section 23, by adding, after subsection (4), the following new subsection –
 - (5) Where the Commission refuses an approval under subsection (1), it shall notify the licensee in writing, giving reasons for the refusal.
- (d) in section 64(1), by inserting, after the words “law practitioner”, the words “, legal consultant, law firm”;
- (e) in section 71 –
 - (i) by repealing subsection (6) and replacing it by the following subsections –
 - (6) (a) Nothing in subsection (1) shall prevent a corporation holding a Category 1 Global Business Licence from –
 - (i) conducting business in Mauritius;
 - (ii) dealing with a person resident in Mauritius or with a corporation holding a Category 2 Global Business Licence; or
 - (iii) holding shares or other interests in a corporation resident in Mauritius.

(b) For the purposes of paragraph (a)(ii) and (iii), “resident” has the same meaning as in the Income Tax Act.

(7) For the purposes of this section, “resident corporation” means a company incorporated or registered under the Companies Act, a *société* or partnership registered in Mauritius, a trust, or any other body of persons established under the laws of Mauritius.

- (f) in section 72(1)(b), by inserting, after the words “law practitioner”, the words “, legal consultant or law firm”;
- (g) in section 73(1)(f), by deleting the words “or qualified auditor” and replacing them by the words “, legal consultant, law firm or a qualified auditor”;
- (h) in section 82 –
 - (i) in subsection (1), by repealing paragraph (b) and replacing it by the following paragraph –
 - (b) out of which all payments required to be made by the Commission and all charges on the Commission shall be effected.
 - (ii) by adding, after subsection (3), the following new subsections –

(4) (a) No fund, other than the General Fund under this section, the Financial Services Fund under section 68 and the General Reserve Fund under section 82A, shall be created under this Act.

(b) The balance of any fund, other than the General Fund under this section and the Financial Services Fund under section 68, as at 31 December 2010 shall, on 1 January 2011, be transferred to the General Fund under this section.

(5) A sum equivalent to the amount referred to in section 82A(4) shall, on 1 January 2011, be transferred from the General Fund to the General Reserve Fund under section 82A.

(6) A sum equivalent to 2 per cent of the excess income over the expenditure of the Commission for each financial year shall be paid from the General Fund into the Financial Services Fund.

(7) Any balance in the General Fund, after the transfer under subsections (5) and (6), shall, as soon as practicable, be transferred to the Consolidated Fund.

- (i) by inserting, after section 82, the following new section –

82A. General Reserve Fund

(1) The Board shall determine the excess income over the expenditure of the Commission for each financial year, after meeting all expenditure for that year and after making such provision as it thinks fit for bad and doubtful debts, depreciation in assets, contributions to staff funds and superannuation funds and other contingencies.

(2) The Commission shall establish a General Reserve Fund to which shall be allocated, at the end of every financial year, 15 per cent of the excess income referred to in subsection (1).

(3) The balance of the excess income for the financial year remaining after the allocation made under subsection (2) shall, subject to subsection (4), be paid into the Consolidated Fund, as soon as practicable, after the end of every financial year.

(4) Subject to subsection (5), the balance in the General Reserve Fund shall be at least 500 million rupees or such other amount as may be determined by the Minister, after consultation with the Commission.

(5) Where, at any time, the balance in the General Reserve Fund is less than the amount referred to in subsection (4), the Commission shall endeavour to bring the balance to the required level.

(6) An allocation under subsection (2) or a payment under subsection (3) shall not be made where, in the opinion of the Board –

- (a) the assets of the Commission are, or as a result of the allocation or payment would, be less than the sum of its liabilities and the amount referred to in subsection (4); or
 - (b) as a result of the allocation or payment, the Commission would not be in a financial position to conduct its activities properly.
- (j) by inserting, after section 87, the following new section –

87A. Records

Every record of the Commission shall be –

- (a) kept in the English language;
- (b) kept in writing, stored or otherwise fixed on a tangible medium, or stored in an electronic or other medium which is retrievable in perceivable form; and
- (c) kept for a period of at least 7 years after the completion of the transaction to which it relates.

8. Gambling Regulatory Authority Act amended

The Gambling Regulatory Authority Act is amended –

- (a) in the Third Schedule –
 - (i) in item 1, by deleting the figure “500,000” and replacing it by the words “3,500,000, payable in 4 equal instalments, each instalment being payable on or before the first day of every period of 3 months”;
 - (ii) in item 2, by deleting the figure “500,000” and replacing it by the words “3,500,000, payable in 4 equal instalments, each instalment being payable on or before the first day of every period of 3 months”;
 - (iii) in item 3, by deleting the figure “10,000” and replacing it by the words “50,000, payable in 4 equal instalments, each instalment being payable on or before the first day of every period of 3 months”;
 - (iv) in item 4, by deleting the figure “20,000” and replacing it by the words “125,000, payable in 4 equal instalments, each instalment being payable on or before the first day of every period of 3 months”;
 - (v) in item 5, by deleting the figure “350,000” and replacing it by the words “1,000,000, payable in 4 equal instalments, each instalment being payable on or before the first day of every period of 3 months”;
 - (vi) in item 6 –
 - (A) in paragraph (a), by deleting the figure “50,000” and replacing it by the figure “100,000”;
 - (B) in paragraph (b), by deleting the figure “5,000” and replacing it by the figure “10,000”;

- (C) in paragraph (c) –
 - (I) in subparagraph (i), by deleting the figure “20,000” and replacing it by the figure “40,000”;
 - (II) in subparagraph (ii), by deleting the figure “5,000” and replacing it by the figure “10,000”;
 - (D) in paragraphs (d) and (e), by deleting the figure “210,000” and replacing it by the figure “350,000”;
 - (E) in paragraph (f), by deleting the figure “6,000” and replacing it by the figure “10,000”;
- (vii) in item 7 –
- (A) in paragraphs (a), (b) and (c)(i), by deleting the figure “105,000” wherever it appears and replacing it by the figure “175,000”;
 - (B) in paragraph (c)(ii), by deleting the figure “10,000” wherever it appears and replacing it by the figure “20,000”;
- (viii) in item 8 –
- (A) in paragraph (a), by deleting the figure “210,000” and replacing it by the figure “350,000”;
 - (B) in paragraph (b), by deleting the figure “10,000” and replacing it by the figure “20,000”;
- (ix) in item 9, by deleting the figure “25,000” and replacing it by the figure “37,500”;
- (x) in item 10, by deleting the figure “10,000” and replacing it by the figure “15,000”;

-
- (xi) in item 11, by deleting the figure “25,000” and replacing it by the figure “37,500”;
 - (xii) in item 12, by deleting the figure “125” and replacing it by the figure “190”;
 - (xiii) in item 13, by deleting the figure “10,000” wherever it appears and replacing it by the figure “15,000”;
 - (b) in the Fifth Schedule –
 - (i) in Part A, in item 4, by deleting the words “8 per cent of gross takings” and replacing them by the words “10 per cent of gross takings per machine”;
 - (ii) in Part B, by deleting the figures “8” and “10” and replacing them by the figures “10” and “12”, respectively;
 - (iii) in Part D, by deleting the figure “8” wherever it appears and replacing it by the figure “10”;
 - (iv) in Part E, by deleting the figure “8” and replacing it by the figure “10”;
 - (v) in Part F, by deleting the figure “10” wherever it appears and replacing it by the figure “12”.

9. Income Tax Act amended

The Income Tax Act is amended –

- (a) in section 2 –
 - (i) in the definition of “chargeable income” –
 - (A) in paragraph (b), by adding, at the end of subparagraph (ii), the word “and”;
 - (B) by adding, after paragraph (b), the following new paragraph –
 - (c) in relation to gains, the gains derived from the sale or transfer of immovable property computed in accordance with section 10A;

- (ii) in the definition of “exempt person”, by deleting the words “18,500 rupees” and replacing them by the words “19,700 rupees”;
- (iii) in the definition of “income tax”, in paragraph (b) –
 - (A) by repealing subparagraph (i);
 - (B) by inserting, after subparagraph (ia), the following new subparagraphs –
 - (iib) the one-off charge on turnover and book profit under section 50M;
 - (iic) the solidarity income tax referred to in Sub-Part AA of Part III;
- (iv) by inserting, in the appropriate alphabetical order, the following new definitions –
 - “foreign source income” –
 - (a) means income which is not derived from Mauritius; and
 - (b) includes –
 - (i) in the case of a corporation holding a Category 1 Global Business Licence under the Financial Services Act, income derived from its transactions with non-residents; and
 - (ii) in the case of a bank holding a banking licence under the Banking Act, income derived from its banking transactions with –
 - (A) non-residents; or
 - (B) corporations holding a Global Business Licence under the Financial Services Act;

“gains”, in relation to gains from the sale or transfer of immovable property, means the gains referred to in section 10A;

-
- (b) in section 10(1) –
- (i) in paragraph (e), by deleting the word “and”;
 - (ii) by inserting, after paragraph (e), the following new paragraph, the existing paragraph (f) being relettered (g) accordingly –
 - (f) any gross income, in money or money’s worth, derived from the sale or transfer of immovable property or interest in immovable property, other than gross income derived from the sale of immovable property in the course of any business falling under paragraph (b); and

- (c) by inserting, after section 10, the following new section –

10A. Gains from immovable property

(1) Every person who derives gains from the sale or transfer of immovable property or interest in immovable property in an income year shall pay a tax on those gains to the Director-General.

(2) The tax on the gains shall be payable at the time the return of income is submitted under section 112, 116 or 119.

(3) Notwithstanding the other provisions of this Act, the gains shall be computed, for the purposes of this section, by deducting from the proceed of the sale or transfer of the immovable property –

- (a) the cost of its acquisition and any registration duty paid thereon;
- (b) any capital expenditure incurred thereon;
- (c) any land transfer tax paid under the Land (Duties and Taxes) Act on its sale or transfer; and
- (d) any cost incurred in connection with its sale or transfer.

(4) Where an immovable property was acquired before 1 January 1988, the original cost of its acquisition shall be increased by reference to the year in which the immovable property was acquired, in accordance with the following Table and the increased amount shall be deemed to be the cost of acquisition of the immovable property –

Table	
Year of acquisition of immovable property	Original cost of immovable property increased by a multiplying factor -
Up to 1963	7.5
1964 to 1968	7.0
1969 to 1973	6.0
1974 to 1978	3.0
1979 to 1983	1.5
1984 to 1987	1.1

(5) Where an immovable property was acquired before 1 January 1988 and a building was constructed thereon after the acquisition but before 1988, the original cost of the building shall be increased by reference to the year in which the building was constructed, in accordance with the Table referred to in subsection (4), and the increased amount shall be deemed to be the capital expenditure incurred thereon.

(6) Where land is acquired and is sold or transferred after having been developed in the course of a business, the difference between its value as at the date the authority for morcellement or for building and land use was given, as the case may be, and its original cost as adjusted under subsection (4) shall be deemed to be gains derived from the sale or transfer of the land under subsection (1).

(7) Where a person who, as part of the schemes referred to in sections 11(2)(b) and (3)(b) and 29(1)(c)(ii), (d) or (f) of the Sugar Industry Efficiency Act, sells immovable property for the purpose of recouping costs incurred in the implementation of those schemes, such costs shall be allowed as allowable deduction from the total of the gains under this section and the income from the sale or transfer of that immovable property.

(8) Where land or other immovable property is acquired –

- (a) by inheritance or legacy;
- (b) by a specified entity pursuant to section 11(2), (2A), (3) and (13), or by a person pursuant to section 11(11), of the Sugar Industry Efficiency Act; or
- (c) otherwise,

and the cost of its acquisition is not known or is at a nominal price, and the immovable property is thereafter sold or transferred, the proceeds from the sale or transfer shall be discounted by reference to the year in which the immovable property was acquired, in accordance with the following Table and the discounted amount shall be deemed to be the cost of its acquisition –

Table	
Year of acquisition of immovable property	Discounting the proceeds from sale or transfer of immovable property by a multiple of -
2004 to 2010	0.85
1999 to 2003	0.60
1994 to 1998	0.45
1989 to 1993	0.30
Up to 1988	0.25

(9) (a) Subject to paragraph (d), where shares in a company which owns immovable property are transferred –

- (i) resulting in a change of control of that company; or
- (ii) resulting in any increase in the shareholding of the controlling shareholder within a period of 12 months from the date of change of control,

the gains derived from the transfer of those shares shall be subject to tax under this section by using the following formula –

$$\frac{\text{number of shares transferred}}{\text{total number of shares issued}} \times \text{gains}$$

- (b) For the purpose of this section –
 - (i) the value of the immovable property at the time of transfer of the shares shall be deemed to be the value disclosed in the statement of financial position of the company immediately preceding the transfer; and
 - (ii) the cost of acquisition of the immovable property and the computation of the gains shall be determined in accordance with the provisions of this section.

(c) Where the Director-General is dissatisfied with the value of the immovable property disclosed in the statement of financial position, he shall determine the value of the immovable property and make an assessment accordingly.

(d) Paragraph (a) shall apply where the value of immovable properties forming part of the assets of the company exceeds 95 percent of its total assets.

(10) Notwithstanding section 47(1), where an immovable property is registered in the name of a *société* and the property is thereafter sold or transferred, the tax on the gains derived therefrom shall be payable by the *société* under this section, provided that the *société* is engaged in property business.

(11) Where an immovable property is registered in the name of a trust and the property is thereafter sold or transferred, the trustee of the trust shall be liable to pay the tax on the gains derived therefrom under this section.

(12) Where an immovable property is owned by 2 or more persons and the property is thereafter sold or transferred, the tax on the gains shall be payable by the co-owners on their share in the property.

(13) (a) Where an immovable property is in the name of a minor and the property is thereafter sold or transferred, the legal administrator of the minor shall be liable to pay the tax on any gains derived therefrom under this section.

(b) Where there is no legal administrator, the legal guardian of the minor shall be liable to pay the tax on any gains derived therefrom under this section.

(14) Subject to subsection (7), any loss incurred in an income year under this section –

(a) shall not be allowed as an allowable deduction under this Act; and

(b) shall not be carried forward and set off against future gains or profits.

(15) The gains chargeable under subsection (1) in an income year shall be reduced by the amount of the gains or 2 million rupees, whichever is the lesser, in respect of an individual or co-owner who is an individual.

- (d) in section 18, by repealing subsection (5) and replacing it by the following subsection –

(5) Subject to subsection (1) and section 26(1)(b) and (3), where any expenditure or loss incurred by a corporation holding a Category 1 Global Business Licence under the Financial Services Act or by a bank holding a banking licence under the Banking Act, is not directly attributable to either its income derived from Mauritius or its foreign source income, the corporation or the bank, as the case may be, shall forward, together with its return of income which is required under this Act, a certificate from a qualified auditor certifying that such expenditure or loss has been apportioned in a fair and reasonable manner, after taking into account any expenditure or loss incurred in the production of exempt income.

- (e) by adding, after section 16, the following new Sub-part –

Sub-Part AA – Solidarity Income Tax

16A. Interpretation

In this Sub-part –

“solidarity income tax” means the solidarity income tax referred to in section 16B;

“specified exempt income” means –

- (i) dividends paid to an individual by a resident company;
- (ii) dividends paid to an individual by a co-operative society registered under the Co-operatives Act;
- (iii) interest on –
 - (A) a savings or fixed deposit account held by an individual with any bank or a non-bank deposit taking institution under the Banking Act;

(B) Government securities and Bank of Mauritius Bills held by an individual;

“total income” –

- (a) means the sum of the net income of the individual, other than gains falling under section 10A, and
- (b) includes the specified exempt income of that individual.

16B. Liability to Solidarity Income Tax

(1) Subject to subsection (3), every individual whose total income exceeds 2 million rupees in an income year shall, in addition to his liability to income tax under Part II, be liable to pay to the Director-General a solidarity income tax.

(2) The solidarity income tax under subsection (1) shall be calculated at the rate of 10 per cent of the specified exempt income and shall be paid at the time the individual submits his return of income under section 112.

(3) This section shall not apply to an individual who is non-resident.

(f) in section 24, by repealing subsection (4) and replacing it by the following subsection –

(4) (a) The total amount of allowance claimed under this section shall not exceed in the aggregate –

- (i) in the case of a motor car, 3 million rupees;
- (ii) in any other case, the amount of the capital expenditure incurred.

(b) Paragraph (a)(i) shall not apply to a person carrying on the business of tour operators and car rental.

- (g) by inserting, before Part IV, the following new Sub-part –

Sub-Part D – Interest Relief for Individuals

27A. Interest relief

(1) Subject to this section, every person shall, in an income year, be allowed a relief by way of deduction from his net income in respect of the amount of interest paid in that income year to a bank or a non-bank deposit taking institution under the Banking Act or to an insurance company under the Insurance Act on a housing loan secured by mortgage or fixed charge on immovable property and used exclusively for the purchase or construction of his house.

(2) The relief under subsection (1) shall apply in respect of a loan secured by mortgage or fixed charge on immovable property taken on or after 1 July 2006.

(3) The relief under subsections (1) and (2) shall be allowed for 5 consecutive years starting as from January 2011 and shall be –

- (a) 120,000 rupees, in the case of a couple where either spouse is a dependent spouse;
- (b) 120,000 rupees, in the case of a couple where neither spouse is a dependent spouse or at their option, divided equally for each spouse; or
- (c) in any other case, 120,000 rupees provided that in the case of a couple, the relief shall not exceed, in the aggregate, 120,000 rupees,

or the actual amount, whichever is the lesser.

(4) No relief under subsection (1) shall be allowed –

- (a) unless the person is resident in Mauritius in the income year in which the income is derived;
 - (b) where the person or the spouse of the person –
 - (i) is, at the time the loan is raised, the owner of a residential building;
 - (ii) is subject to the Solidarity Income Tax; or
 - (iii) benefits from any new housing scheme set up on or after 1 January 2011 by such competent authorities as may be prescribed.
- (h) in section 50B, by adding, after subsection (2), the following new subsection –

(3) Where a change in return date has been approved under section 118 and the period immediately following the old return date and ending on the new return date is a period exceeding 12 months, an APS statement shall be submitted in respect of the income year ending on the new return date for every period of 3 months commencing on the first day of that income year, the remaining period being covered in the return required to be submitted under section 116.

- (i) 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
(iii) 1 January 2011	3.4 per cent on book profit; and 1.0 per cent on operating income
(iv) 1 January 2012	3.4 per cent on book profit; and 1.0 per cent on operating income
(b) 1 January 2013 and in respect of every subsequent year of assessment	1.70 per cent on book profit; and 0.50 per cent on operating income

- (j) in section 50J(2), by deleting the words “and 1 January 2010” and replacing them by the words “, 1 January 2010, 1 January 2011 and 1 January 2012”;

- (k) by inserting, after section 50L, the following new section –

50M. One-off charge on banks

(1) Every bank, except the Development Bank of Mauritius Ltd, holding a banking licence under the Banking Act shall create a one-off charge in the year immediately preceding the year of assessment 2012 for an amount equivalent to 0.5 per cent of its turnover plus 1.25 per cent of its book profit relating to its banking transactions with persons, other than non-residents and corporations holding a Global Business Licence under the Financial Services Act in respect

of the year of assessment 2011 to finance the new private equity fund referred to in the Ministry's document entitled 'Facing The Euro Zone Crisis and Restructuring for Long Term Resilience' and dated August 2010 and published as a General Notice in the *Gazette* of Thursday 9 December 2010, during the year immediately preceding the year of assessment 2012.

(2) Where the financing to the new private equity fund under subsection (1) is less than the one-off charge, the difference shall be remitted to the Director-General at the time the company submits its return of income for the year of assessment 2012 under section 116.

(3) For the purposes of this section –

“book profit” has the same meaning as in section 44A(4).

- (l) in section 51, by deleting the words “and (f)” and replacing them by the words “, (f) and (g)”;
- (m) by inserting, after section 51, the following new section –

51A. Gains derived by company

The provisions of section 10A shall apply in all respects to a company as they apply to an individual.

- (n) in section 95 –
 - (i) in subsection (1), by inserting, after the words “section 27”, the words “and interest relief under section 27A”;
 - (ii) by adding, after subsection (2), the following new subsection –

(3) Where an employee has, in his Employee Declaration Form, claimed, in respect of an income year, an additional exemption under paragraph (ix) of the Third Schedule or interest relief under section 27A and the claim is thereafter found to be unjustified or in excess of the amount to which he is entitled,

by 10 per cent or more, he shall be liable, in addition to the amount of the income tax underpaid, to a penalty not exceeding 25 per cent of the underpaid amount.

- (o) in Part VIII, by repealing Sub-part BB;
- (p) in section 111K(2), by deleting the words “5,000 rupees” and replacing them by the words “50,000 rupees”;
- (q) by repealing section 112 and replacing it by the following section –

112. Return and payment of tax by individuals

(1) Subject to this Act, every person who, in an income year –

- (a) derives –
 - (i) emoluments in respect of which tax has been withheld under PAYE;
 - (ii) gross income falling under CPS which exceeds the CPS threshold;
 - (iii) net income which exceeds 365,000 rupees;
 - (iv) income which has been subject to tax deduction at source under section 111C;
 - (v) total income referred to in section 16A which exceed 2 million rupees; or
 - (vi) gains referred to in section 10A which exceeds 2 million rupees;
- (b) owns –
 - (i) more than one residence or one or more immoveable properties acquired for an aggregate price which exceeds 2,000,000 rupees or

on which he has incurred expenditure for the construction of a building or any other structure of an aggregate amount which exceeds 2,000,000 rupees;

- (ii) a car with an engine capacity which exceeds 2000 cubic centimeters; or
- (iii) a pleasure craft as defined in the Tourism Authority Act; or
- (c) is registered as a registered person under section 99A or 105A(2), whether or not he is a taxpayer;
- (d) claims an additional exemption threshold referred to in paragraph (ix) of the Third Schedule;
- (e) claims a relief under section 27A in his Employee Declaration Form; or
- (f) has a chargeable income,

shall, in respect of that income year, submit to the Director-General, not later than 31 March following that income year, a return in such form and manner as may be determined by the Director-General, specifying –

- (i) all income including specified exempt income as defined in section 16A;
- (ii) the income exemption threshold to which the person is entitled under section 27;
- (iii) the interest relief allowable under section 27A; and
- (iv) such other particulars as may be required and specified in the form of the return,

and, at the same time, pay any tax payable in accordance with the return.

(2) A planter, who is an individual, shall not be required to submit a return under this section where, in an income year –

- (a) he cultivates sugar cane on less than 15 hectares of land, in the aggregate;
- (b) the sugar accruing to him from the sugar cane cultivation does not exceed 60 tonnes; and
- (c) his net income, other than his basic retirement pension, is solely derived from sugar cane cultivation.

(3) Notwithstanding subsection (1), where an individual submits his return electronically through the computer system of the Authority and at the same time makes payment, through internet banking, to the Director-General, of the tax payable in accordance with the return, the due date for the submission and for payment shall be 15 April.

- (r) in section 116(1) –
 - (i) in paragraph (a), by adding, after the words “income year”, the word “and”;
 - (ii) by repealing paragraph (b);
- (s) by inserting, after section 116, the following new section –

116A. Return of dividends by companies

(1) Every company which pays a dividend in an accounting period shall, within one month after the end of its accounting period, submit to the Director-General, in respect of that accounting period, a return specifying in respect of every person to whom dividend exceeding 50,000 rupees has been paid –

- (a) the full name and address; and
- (b) such other particulars as may prescribed.

(2) Where in an accounting period, a company pays dividend and its gross income and exempt income, in the aggregate, exceeds 10 million rupees, the company shall submit the return under subsection (1) electronically, unless otherwise authorised, through such computer system as may be approved by the Director-General.

(3) For the purposes of subsection (1) –
“person” –

- (a) means any individual, *société* or succession, resident in Mauritius; but
- (b) does not include a *société* falling under Part I of the Second Schedule.

- (t) in section 119(2), by repealing paragraph (c);
- (u) in section 123 –
 - (i) in subsection (4)(b)(i), by deleting the word “and” and replacing it by the word “or”;
 - (ii) by repealing subsection (7);
- (v) in section 129(1), by inserting, after the words “chargeable income of,”, the words “solidarity income tax, where applicable,”;
- (w) in section 131C(1), by deleting the words “by letter sent to the Director-General by registered post specifying in his letter of objection the detailed grounds of objection” and replacing them by the words “in a form approved by the Director-General specifying the detailed grounds of objection and sent to the Director-General by registered post”;
- (x) in section 146B –
 - (i) by deleting the words “property tax” wherever they appear and replacing them by the word “gains”;
 - (ii) by deleting the word “111M” wherever it appears and replacing it by the word “10A”;
 - (iii) in paragraph (d), by deleting the words “Sub-Part BB” and replacing them by the words “section 10A”;

- (y) in section 152, by repealing subsections (1) and (2) and replacing them by the following subsections –

(1) (a) Subject to this section, where, in respect of an income year, a person has paid tax of an amount in excess of the income tax liability on his chargeable income, he may claim a refund of the tax paid in excess provided he has submitted a return under section 112, 116 or 119.

(b) Where a person makes a claim under paragraph (a) and he has not submitted a return of income under section 112, 116 or 119, he shall submit the return together with his claim.

(2) A refund under subsection (1) shall be made –

- (a) in the case of an employee whose gross income consists exclusively of emoluments, within a period of 3 months of the date of the claim;
- (b) in any other case, within a period of 6 months of the date of the claim.

(2A) Where the refund is made after the period specified in subsection (2)(a) or (b), as the case may be, the refund shall carry interest, free of income tax, at the prevailing bank rate.

- (z) in section 153, by repealing subsection (1) and replacing it by the following subsection –

(1) Every person carrying on business or deriving income other than emoluments shall keep whether on computer or otherwise, in the English or French language, proper books, registers, accounts, records such as receipts, invoices and vouchers, other documents such as contracts and agreements, and a full and true record of all transactions and other acts engaged in by him that are relevant for the purpose of enabling his gross income and allowable deductions to be

readily ascertainable by the Director-General and for any other purposes of this Act.

- (za) in section 161A –
- (i) in subsection (13), by deleting the words “30 June 2011” wherever they appear and replacing them by the words “31 December 2013”;
 - (ii) by adding, after subsection (36), the following new subsection –

Tax credit in respect of tax withheld from interest in income year 2010

(37) (a) Where income tax has been deducted by a financial institution from interest made available to an individual in the income year ending 31 December 2010, the individual may claim a credit in respect of the amount of income tax so deducted in two equal instalments from his tax liability in respect of the income years ending 31 December 2011 and 31 December 2012.

(b) Any credit under subparagraph (a) remaining unrelieved from the tax liability of the individual in respect of the income year ending 31 December 2011, shall be carried forward to the following income year ending 31 December 2012.

(c) Any credit remaining unrelieved from the tax liability of the individual in respect of the income year ending 31 December 2012, shall be refunded to the individual, following the submission of his annual return of income under section 112.

- (zb) by repealing the First Schedule and replacing it by the First Schedule set out in the Sixth Schedule to this Act;

- (zc) in the Second Schedule, in Part II –
- (i) in Sub-part A, in item 6, by deleting the words “one million rupees” and replacing them by the words “one million and five hundred thousand rupees”;
 - (ii) in Sub-part B –
 - (A) in item 3, by adding, after paragraph (b), the following new paragraphs, the full stop at the end of paragraph (b) being deleted and replaced by a semicolon –
 - (c) a savings or fixed deposit account held by an individual, a *société* or a succession with any bank or a non-bank deposit taking institution under the Banking Act;
 - (d) Government securities and Bank of Mauritius Bills held by an individual, a *société* or a succession.
 - (B) by deleting item 4 and replacing it by the following item –
 - 4. Interest paid to a non-resident, not carrying on any business in Mauritius –
 - (a) by a corporation holding a Category 1 Global Business Licence under the Financial Services Act out of its foreign source income; or
 - (b) by a bank holding a banking licence under the Banking Act insofar as the interest is paid out of gross income derived from its banking transactions with non-residents and corporations holding a Global Business Licence under the Financial Services Act.

-
- (C) by deleting item 5 and replacing it by the following item –
5. Royalty payable to a non-resident –
- (a) by a corporation holding a Category 1 Global Business Licence under the Financial Services Act out of its foreign source income;
 - (b) by a bank holding a banking licence under the Banking Act insofar as the royalty is paid out of gross income derived from its banking transactions with non-residents and corporations holding a Global Business Licence under the Financial Services Act; or
 - (c) by a trust.
- (iii) in Sub-part C –
- (A) by deleting items 1, 2 and 3;
 - (B) by adding, after item 15, the following new items –
- 16. The surplus income generated by a co-operative credit society registered with the Sugar Insurance Fund Board established under the Sugar Insurance Fund Act.
 - 17. The income derived on the first 60 tonnes of sugar accruing to a planter who is an individual cultivating less than 15 hectares of land.
 - 18. Gains derived by a company from the sale or transfer of an immovable property between companies within the same group.

19. Gains derived by a company from the sale or transfer of an immovable property upon production to the Director-General of a certificate from the ERCP Committee under the Economic Restructuring and Competitiveness Package referred to in the Ministry's document entitled 'Facing The Euro Zone Crisis and Restructuring for Long Term Resilience' and dated August 2010 and published as a General Notice in the *Gazette* of Thursday 9 December 2010, certifying that the transfer is made under the Package.
20. Gains derived by a bank under the Banking Act from the sale or transfer of an immovable property to a person pursuant to an arrangement entered into between the bank and the person whereby the bank initially purchased the immovable property with a view to selling or transferring the same to that person.
21. Gains derived by the heirs of a deceased person upon the transfer between the heirs of an immovable property acquired by inheritance, or from other heirs, of undivided rights of the immovable property, from that person, provided that the transfer is made within 5 years of the date of death of the person.

-
22. Gains derived from the sale or transfer of an immovable property from an ascendant to a descendant.
23. Gains derived from the sale or transfer of an immovable property or any interest in an immovable property by –
- (a) an individual;
 - (b) an associate in a *société*, in respect of his share in that immovable property; or
 - (c) an heir of a deceased person, in respect of his undivided rights in that immovable property when sold or transferred to a person who is not an heir of the deceased person,
- provided that –
- (i) the sale or transfer is the first one made after 31 December 2010 by the seller or transferor; and
 - (ii) the proceeds from the sale or transfer do not exceed 5 million rupees.
- (zd) in the Third Schedule, by adding, after paragraph (viii), the following new paragraphs, the full stop at the end of paragraph (viii) being deleted and replaced by a semicolon –
- (ix) where the dependent under Category B, C, D and F is a child pursuing a non-sponsored full-time undergraduate

course at a recognised tertiary educational institution, the person shall, in addition to the income exemption threshold he is entitled to, be eligible to an additional exemption of –

- (A) 80,000 rupees in respect of each dependent pursuing his undergraduate course in Mauritius at an institution recognised by the Tertiary Education Commission established under the Tertiary Education Commission Act; or
 - (B) 125,000 rupees in respect of each dependent pursuing his undergraduate course outside Mauritius at a recognised institution.
- (x) no exemption under paragraph (ix) shall be allowed –
- (A) where the annual tuition fees, excluding administration and student union fees, are less than 44,500 rupees; or
 - (B) where the individual is liable to solidarity income tax referred to in Sub-Part AA of Part III;
 - (C) in respect of the same dependent for more than 3 consecutive years.
- (ze) in the Sixth Schedule –
- (i) in Part I, in item 1, by deleting the words “15 per cent” and replacing them by the words “10 per cent”;
 - (ii) in Part II, by deleting the words “2,000,000 rupees” and replacing them by the words “5,000,000 rupees”.

10. Land (Duties and Taxes) Act amended

The Land (Duties and Taxes) Act is amended –

- (a) in section 4, by adding, after subsection (7), the following new subsection –

(8) (a) Where the Registrar-General is notified in writing by the ERCP Committee that the proceeds of the sale of the immovable property referred to in item (r)(iii) of the Eighth Schedule have not been invested in the company within the prescribed period, he shall, by written notice sent by registered post, claim from the transferor the land transfer tax exempted together with a penalty equal to 20 per cent of the amount of the land transfer tax exempted.

(b) For the purposes of paragraph (a), “ERCP Committee” means the ERCP Committee under the Economic Restructuring and Competitiveness Package, referred to in the Ministry’s document entitled ‘Facing The Euro Zone Crisis and Restructuring for Long Term Resilience’ and dated August 2010 and published as a General Notice in the *Gazette* of Thursday 9 December 2010.

- (b) in section 26A, by adding, after subsection (4), the following new subsection –

(5) For the purposes of this section, “company or successive company” shall be construed within the meaning of “company” under section 24(1) of the Registration Duty Act.

- (c) by repealing the Second Schedule and replacing it by the following Schedule –

SECOND SCHEDULE

[Section 4(4)]

Part A – Transfer of immovable property

Rate

<p>Where the transfer is made –</p> <p>(a) after a period not exceeding 5 years of the date of acquisition of the property;</p> <p>(b) after a period exceeding 5 years of the date of acquisition of the property; or</p> <p>(c) at a nominal price of one rupee to an “<i>association syndicale</i>” set up in accordance with articles 664-95 and 664-96 of the Code Civil Mauricien, in respect of an area occupied by common amenities in a morcellement.</p>	<p>10 per cent</p> <p>5 per cent</p> <p>50 rupees in respect of every lot in the morcellement.</p>
--	--

Part B – Transfer of shares

Rate

<p>Where the deed witnessing the transfer of shares in a company is made –</p> <p>(a) after a period not exceeding 5 years of the date of acquisition of the property;</p> <p>(b) after a period exceeding 5 years of the date of acquisition of the property.</p>	<p>10 per cent</p> <p>5 per cent</p>
--	--------------------------------------

11. Mauritius Sugar Authority Act amended

The Mauritius Sugar Authority Act is amended –

- (a) in section 2 –
 - (i) in the definition of “Minister”, by deleting the semicolon and replacing it by a full stop;
 - (ii) by deleting the definition of “planter”;
- (b) in section 20, by repealing subsection (2) and replacing it by the following subsection –
 - (2) (a) Subject to paragraphs (b) and (c), the global rate of leviable cess shall be fixed by the Minister each year and be published in the *Gazette*.
 - (b) The global rate of leviable cess shall be reduced over the period of crop years 2010 and 2011 by such rate or amount as may be prescribed.
 - (c) For the crop year 2012 and subsequent crop years, the global rate of leviable cess shall not exceed 4 per cent of the ex Mauritius Sugar Syndicate price.
 - (d) In this section, “ex Mauritius Sugar Syndicate price” means the uniform average net price per tonne of sugar referred to in the Articles of Association 1967 of the Mauritius Sugar Syndicate.
- (c) by inserting, after section 20, the following new section –
 - 20A. Contribution to Mauritius Sugar Syndicate for distribution to planters**
 - (1) Every distiller-bottler shall, in a crop year, make a contribution to the Mauritius Sugar Syndicate for distribution to planters during that crop year.

(2) The contribution under subsection (1) shall be calculated at the rate of 20 rupees for each litre of absolute alcohol removed from factory for home consumption under the Excise Act during that crop year.

(3) The Mauritius Sugar Syndicate shall convert the contribution received in respect of a crop year in terms of rate per tonne of sugar by dividing the total contribution by the total tonnes of sugar accruing to planters to arrive at a value per tonne, pursuant to section 31 of the Cane Planters and Millers Arbitration and Control Board Act.

(4) The value per tonne under subsection (3) for every crop year shall, upon approval by the Authority, be distributed to planters in two instalments, the first not later than 31 December and the other not later than 30 June in the following year.

(5) In this section –

“absolute alcohol” has the same meaning as in the First Schedule to the Excise Act;

“distiller-bottler” has the same meaning as in the Excise Act;

“*métayer*” has the same meaning as in the Sugar Insurance Fund Act;

“planter” has the same meaning as in the Cane Planters and Millers Arbitration and Control Board Act and includes a *métayer*.

12. National Solidarity Fund Act amended

The National Solidarity Fund Act is amended by inserting, after section 7, the following new section –

7A. Transfer to Consolidated Fund

The Board may, at the request of the Minister and after consultation with the Minister to whom responsibility for the subject of finance is assigned, transfer any surplus money from the Fund to the Consolidated Fund.

13. Public Debt Management Act 2008 amended

The Public Debt Management Act 2008 is amended –

(a) in section 7 –

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

(1A) Any debt incurred by a public enterprise which satisfies the criteria set out in the Schedule shall, for the purposes of this section, not be regarded as a public sector debt.

(1B) Where a public enterprise does not fully satisfy the criteria specified in the Schedule, any debt incurred by that enterprise shall be discounted in accordance with the extent to which the enterprise satisfies the criteria and the level of risks which they represent to public finance.

(1C) (a) There shall be, for the purposes of subsection (1B), a committee which shall consist of –

- (i) not more than 5 senior public officers of the Ministry, to be appointed by the Minister;
- (ii) the Solicitor General or his representative; and
- (iii) the Accountant-General or his representative.

(b) The committee referred to in paragraph (a) shall, every year –

- (i) prepare a list of public enterprises pursuant to subsection (1B);

- (ii) determine the level of discount to be accorded to the debt of each of the enterprises; and
 - (iii) identify those public enterprises, the debt in respect of which is required to be excluded from the public sector debt.
 - (c) The annual exercise under paragraph (b) shall –
 - (i) be carried out in consultation with an international institution recognised for its expertise in the subject matter; and
 - (ii) be subject to the approval of the Minister.
- (ii) in subsection (3), by deleting the figure “2013” and replacing it by the figure “2018”;
- (iii) in subsection (4)(b), by deleting the words “one per cent” and replacing them by the words “2 per cent”;
- (iv) in subsection (5), by deleting the words “2 fiscal years” and replacing them by the words “3 fiscal years”;
- (b) in section 10, by adding, after subsection (3), the following new subsection –
 - (4) Every supervising officer or chief executive officer of general Government and public enterprises shall, for the purposes of subsections (2) and (3), submit to the Ministry –
 - (a) not later than 15 days after the end of every quarter, debt data in respect of the quarter; and

- (b) not later than 30 September in every year, a 3-fiscal year financing plans and debt implications,

through the electronic monitoring system referred to in subsection (2).

- (c) in section 12, by adding, after paragraph (b), the following new paragraph, the full stop at the end of paragraph (b) being deleted and replaced by a semicolon –

- (c) by regulations, amend the Schedule.

- (d) by adding the Schedule set out in the Seventh Schedule to this Act.

14. Registration Duty Act amended

The Registration Duty Act is amended –

- (a) in section 2 –
 - (i) by deleting the definition of “religious body” and replacing it by the following definition –

- “religious body” means a non-profit association or a religious federation, registered under the Registration of Associations Act, having as object the advancement of religion and specified in regulations;

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

- “Director-General” means the Director-General of the Mauritius Revenue Authority established under the Mauritius Revenue Authority Act;

- (b) in section 27, by adding, after subsection (2), the following new subsections –

(3) (a) Notwithstanding this Act or any other enactment but subject to paragraph (b), the duty leviable under this Act on any deed of transfer to an individual of 18 years of age or over witnessing the transfer of –

- (i) a portion of freehold bare land; or
- (ii) the right to construct a residential building on top of an existing building (*droit de surélévation*) on a freehold land together with his *quote-part*,

shall be reduced by the amount of the duty leviable or 37,500 rupees, whichever is the lesser.

- (b) A transferee shall qualify for a reduction under paragraph (a) provided that –

- (i) he acquires the portion of freehold bare land, or the right to construct a residential building on top of an existing building (*droit de surélévation*) together with his *quote-part* on a freehold land, for the sole purpose of constructing a residential building;
- (ii) he undertakes to start the construction of the residential building within a period of one year, and to complete the construction within a period of 3 years, from the date of transfer;
- (iii) he or his spouse has not already benefitted from any reduction under this subsection or subsection (5);

-
- (iv) he or his spouse is or was not the sole owner of any immovable property in or outside Mauritius;
 - (v) where he or his spouse is or was the co-owner of any immovable property, the immovable property was acquired by inheritance and is, or was, not of an extent exceeding 422 square metres;
 - (vi) the total income of the transferee and his spouse, in the income year in which the transfer is made, does not exceed, in the aggregate, 2 million rupees;
 - (vii) he is a citizen of Mauritius; and
 - (viii) the transfer is not in respect of an immovable property, or any part thereof, acquired under the Investment Promotion (Real Estate Development Scheme) Regulations 2007.

(4) (a) A deed of transfer referred to in subsection (3)(a) shall contain a declaration that the transferee qualifies for the reduction and shall be accompanied by a declaration of the transferee, in 2 originals, in a form approved by the Registrar-General and the Director-General.

(b) The declaration under paragraph (a) shall contain –

- (i) the full name and address of the transferee, his national identity card number and tax account number, if any;
- (ii) a statement in the terms of subsection (3)(b).

(5) (a) Notwithstanding this Act or any other enactment but subject to paragraph (b), the duty leviable under this Act on any deed of transfer to an individual of 18 years of age or over witnessing transfer of –

- (i) a residential *lot* which is the subject of a duly registered and transcribed deed witnessing a '*règlement de co-propriété*' in accordance with articles 664 and 664-1 to 664-94 of the Code Civil Mauricien; or
- (ii) a portion of freehold land with a residential building thereon,

shall be reduced by the amount of the duty leviable or 75,000 rupees, whichever is the lesser.

(b) A transferee shall qualify for a reduction under paragraph (a) provided that –

- (i) the transfer is in relation to –
 - (A) a residential *lot* which is the subject of a duly registered and transcribed deed witnessing a '*règlement de co-propriété*' in accordance with articles 664 and 664-1 to 664-94 of the Code Civil Mauricien; or
 - (B) a portion of freehold land with a residential building thereon;
- (ii) he or his spouse has not already benefitted from any reduction under subsection (3) or this subsection;
- (iii) he or his spouse is or was not the sole owner of any immovable property;

-
- (iv) where he or his spouse is or was the co-owner of any immovable property, the immovable property was acquired by inheritance and is, or was, not of an extent exceeding 422 square metres;
 - (v) the total income of the transferee and his spouse, in the income year in which the transfer is made, does not exceed, in the aggregate, 2 million rupees;
 - (vi) he is a citizen of Mauritius; and
 - (vii) the transfer is not in respect of an immovable property, or any part thereof, acquired under the Investment Promotion (Real Estate Development Scheme) Regulations 2007.

(6) (a) A deed of transfer referred to in subsection (5)(a) shall contain a declaration that the transferee qualifies for the reduction and shall be accompanied by a declaration of the transferee, in 2 originals, in a form approved by the Registrar-General and the Director-General.

(b) The declaration under paragraph (a) shall contain –

- (i) the full name and address of the transferee, his national identity card number and tax account number, if any;
- (ii) a statement in the terms of subsection (5)(b).

(7) Where the reduction under subsection (3) or (5) has been granted and thereafter it is found that –

- (a) the declaration given by the transferee under subsection (4) or (6) is incorrect, false or misleading in any material particular; or
- (b) the total income of the transferee and his spouse, in the income year in which the transfer is made, exceeds, in the aggregate, 2 million rupees,

the Director-General shall, by written notice sent by registered post, require the transferee to pay, within the time specified in the notice, the amount of the reduction of the duty granted together with a penalty equal to 25 per cent of that amount.

(8) Any person who knowingly makes a declaration under subsection (4) or (6) which is incorrect, false or misleading in any material particular shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees.

(9) Where a claim under subsection (7) is made and the transferee fails to pay the amount claimed, the Director-General shall apply the provisions of Part IX of the Value Added Tax Act to the amount claimed, with such modifications, adaptations and exceptions as may be necessary to bring them in conformity with this section.

(10) In this section –

“total income” has the same meaning as in section 16A of the Income Tax Act.

- (c) in section 36 –
- (i) in subsection (1)(b), by adding, after subparagraph (xii), the following new subparagraph –
- (xiii) a certificate that the transfer of the immovable property referred to in item (r)(i) or (iii) of the Eighth Schedule to the Land (Duties and Taxes) Act has been approved by the ERCP Committee;
- (ii) by adding, after subsection (2), the following new subsection –
- (3) (a) In this section, “ERCP Committee” means the ERCP Committee under the Economic Restructuring and Competitiveness Package referred to in the Ministry’s document entitled ‘Facing The Euro Zone Crisis and Restructuring for Long Term Resilience’, dated August 2010 and published as a General Notice in the *Gazette* of Thursday 9 December 2010.
- (b) For the purposes of subsection (1)(e) and (h)(ii)(B) and (C), “company or successive companies” or “company or successive company” shall be construed within the meaning of “company” under section 24(1).
- (d) in the First Schedule, in Part IV, by deleting item 7 and replacing it by the following item –
7. Loan granted by cooperative societies to their members –
- | | | |
|-----|-------------------------------|--------|
| (a) | up to 25,000 rupees | Rs 200 |
| (b) | from 25,001 to 100,000 rupees | Rs 300 |
- (e) in the Third Schedule, in **A – GLOBAL BUSINESS COMPANY**, in the last paragraph, by deleting the words –
- (i) “does/does not reckon*” and replacing them by the word “reckons”;
- (ii) “*To delete whichever is not appropriate”;

- (f) in the Seventh Schedule, by adding, after item 19, the following new item –

20. Documents witnessing a transfer of shares in a company holding a Global Business Licence under the Financial Services Act and which does not reckon among its assets any freehold or leasehold immovable property in Mauritius.

15. Revenue (Temporary Protection) Act amended

The Revenue (Temporary Protection) Act is amended –

- (a) in section 2 –
- (i) in the definition of “duty”, in paragraph (a), by inserting, after the words “Customs Act”, the words “and as referred to in the Customs Tariff Act”;
 - (ii) by inserting, in the appropriate alphabetical order, the following new definition –
“levy” means any levy leviable or chargeable under the Excise Act or Value Added Tax Act;
- (b) in section 3 –
- (i) by repealing subsection (1) and replacing it by the following subsection –
(1) Where a resolution is passed by the Assembly and that resolution imposes a new, or increases or reduces an existing duty, tax or levy, the duty, tax or levy shall, unless otherwise expressed in the resolution, be leviable, chargeable and recoverable in accordance with any enactment governing the duty, tax or levy from the date the resolution takes effect until the passing of any Act validating or otherwise affecting the resolution.
 - (ii) in subsection (3), by deleting the words “duty or tax” wherever they appear and replacing them by the words “duty, tax or levy”;

- (iii) by repealing subsections (4) and (5) and replacing them by the following subsection –

(4) Where, after the validation of the resolution by any enactment, it is found that any duty, tax or levy has been underpaid or overpaid during the period from the date the resolution takes effect until the passing of the Act validating the resolution, the amount underpaid or overpaid shall be claimed or refunded, as the case may be.

16. State Lands Act amended

The State Lands Act is amended, in section 6, by repealing subsection (1G) and replacing it by the following subsection –

(1G) Where a lessee opts for a new lease under subsection (1E) and the duration of the new lease covers any period of the existing lease, any rental payable or paid in respect of that period of the existing lease shall be deducted from the rental payable at the time of signature of the new lease or refunded, as the case may be.

17. Statutory Bodies (Accounts and Audit) Act amended

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

- (a) in section 2 –
 - (i) by deleting the definition of “SME”;
 - (ii) by inserting, in the appropriate alphabetical order, the following new definitions –
 - “audit” has the same meaning as in the Financial Reporting Act;
 - “IFAC” has the same meaning as in the Financial Reporting Act;
- (b) in section 5, by repealing subsection (1) and replacing it by the following subsection –
 - (1) (a) Subject to paragraph (b), every Board shall, every financial year, with the approval of the Minister, appoint an auditor to audit the financial statements of the statutory body.

- (b) Paragraph (a) shall not apply where the enactment establishing the statutory body provides that the Director of Audit shall audit its financial statements.
- (c) in section 6A –
- (i) in subsection (2)(c) and (ca), by deleting the words “duly signed by the Chairperson and the other members of the Board” and replacing them by the words “duly signed by the Chairperson and another member of the Board appointed by the Board for that purpose or, in the absence of the Chairperson, by another member of the Board appointed by the Board for that purpose”;
 - (ii) in subsection (3), by repealing paragraphs (a) and (b) and replacing them by the following paragraphs –
 - (a) Part I of the Second Schedule shall prepare financial statements in compliance with the International Public Sector Accounting Standards (IPSAS) issued by IFAC;
 - (b) Part II of the Second Schedule shall prepare financial statements in compliance with the financial reporting and accounting standards issued under section 72 of the Financial Reporting Act.
- (d) in section 7 –
- (i) in subsections (1) and (2), by deleting the words “, including the financial statements,”;
 - (ii) in subsection (3), by deleting the words “5 months” and replacing them by the words “6 months”;
- (e) in section 7A(a), by deleting the words “and 7” and replacing them by the words “and 7(1) and (2)”;

- (f) in section 8 –
- (i) by repealing paragraph (d) and replacing it by the following paragraph –
 - (d) in his opinion, to the best of his information and according to the explanations given to him, the financial statements give a true and fair view of the financial performance of the statutory body for the financial year and of its financial position at the end of the financial year;
 - (ii) in paragraph (f), by deleting the words “accounts,” and replacing them by the words “financial statements submitted to him,”;
 - (iii) in paragraph (g), by deleting the words “economically, efficiently and effectively” and replacing them by the words “fairly and economically”;
- (g) in section 9, by repealing subsection (1A);
- (h) in section 11, by repealing subsection (3);
- (i) in the First Schedule, in Part II, by inserting, in the appropriate alphabetical order, the following new entries –
- | | |
|------------------------|---------------------------------|
| Marathi-Speaking Union | Marathi-Speaking Union Act 2008 |
| Tamil-Speaking Union | Tamil-Speaking Union Act 2008 |
| Telugu-Speaking Union | Telugu-Speaking Union Act 2008 |
- (j) in the Second Schedule, in Part II, by inserting, in the appropriate alphabetical order, the following new items –
- | | |
|---------------------------|---------------------------------|
| Central Procurement Board | Public Procurement Act |
| Marathi-Speaking Union | Marathi-Speaking Union Act 2008 |
| Tamil-Speaking Union | Tamil-Speaking Union Act 2008 |
| Telugu-Speaking Union | Telugu-Speaking Union Act 2008 |

18. Sugar Industry Pension Fund Act amended

The Sugar Industry Pension Fund Act is amended –

- (a) in section 33, by repealing subsection (1) and replacing it by the following subsection –

(1) (a) Subject to paragraphs (b) and (c), the rate of pension earned by a member shall be in accordance with –

- (i) the First Schedule;
- (ii) the final salary pension scheme for staff employees; or
- (iii) subparagraphs (i) and (ii),

as may be determined by the Board, as appropriate, on the advice of the actuary, and shall be payable monthly in arrears.

(b) The rate of pension earned by a member under paragraph (a), excluding any pension payable to the member from the VAC Fund or the National Pension Fund, shall not exceed two-thirds of the highest annual salary drawn by the member at any time in the course of his service.

(c) The limitation of two-thirds referred to in paragraph (b) shall not apply to a member who retires after the normal pension age.

- (b) in section 34(3), by deleting the words “250 rupees” and replacing them by the words “1,000 rupees”.

19. Value Added Tax Act amended

The Value Added Tax Act is amended –

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

“business registration number” has the same meaning as in the Business Registration Act;

- (b) in section 12(1), by inserting, after the word “section”, the words “and shall be expressed in Mauritius currency”;

- (c) in section 20(2)(b), by deleting the words “and his VAT Registration Number” and replacing them by the words “,VAT Registration Number and business registration number”;

-
- (d) in section 38 –
- (i) by repealing subsection (1) and replacing it by the following subsection –
- (1) (a) Where a person assessed to tax under section 37 is dissatisfied with the assessment, he may, within 28 days of the date of the notice of assessment, object to the assessment in a form approved by the Director-General.
- (b) The form referred to in paragraph (a), duly filled in, shall be sent by the person objecting, by registered post, to the Director-General.
- (ii) in subsection (2) –
- (A) by deleting the words “lodges an objection” and replacing them by the word “objects”;
- (B) in paragraph (a), by deleting the words “state, in his letter of objection, the grounds” and replacing them by the words “specify in the form, in respect of each of the items in the notice of assessment, the detailed grounds”;
- (C) in paragraph (b), by deleting the words “the objection is lodged” and replacing them by the words “of his objection”;
- (D) in paragraph (c), by inserting, before the words “pay any amount”, the words “at the time of his objection,”;
- (E) by repealing paragraph (d) and replacing it by the following paragraph –
- (d) in addition, pay, at the time of his objection, the difference, if any, between 30 per cent of the amount of tax claimed in the notice of assessment and the amount of tax paid under paragraph (c).

- (iii) by inserting, after subsection (2), the following new subsection –

(2A) Where the person, within the time limit referred to in subsection (1), satisfies the Director-General on reasonable grounds that he is unable to pay the amount of tax under subsection (2)(c) and (d) in one instalment, the person shall –

- (a) pay that amount; or
- (b) give security by way of a bank guarantee,

on such terms and conditions as may be determined by the Director-General.

- (iv) in subsection (3), by deleting the word “lodging” and replacing it by the word “making”;
- (v) in subsection (5), by deleting the words “, within 28 days of the date of receipt of the letter of objection,”;
- (e) in section 65(2) –
 - (i) by inserting, after the words “make the refund”, the words “within 3 months of the date of receipt of the application under subsection (1)”;
 - (ii) by adding the following new paragraph, the existing provision being lettered (a) accordingly –
 - (b) Where the refund is made after 3 months from the date of receipt of the application under subsection (1), the refund shall carry interest, free of income tax, at the prevailing bank rate.
- (f) in the First Schedule, in item 12, by inserting, after the words “health institution”, the words “, other than cosmetic surgery services,”;
- (g) in the Fifth Schedule, in item 2, by deleting paragraph (e) and replacing it by the following paragraph –
 - (e) sugar, sugar cane;

20. Validation of resolution

The financial resolution adopted by the National Assembly on 19 November 2010 is validated.

21. Commencement

(1) Sections 5, 13 and 14(a)(i) shall come into operation on 31 March 2011.

(2) Section 6(a) and (f)(i) shall be deemed to have come into operation on 20 November 2010.

(3) Sections 6(f)(ii), 10 and 14(a)(ii) and (b) to (f) shall come into operation on 4 January 2011.

(4) Sections 6(g) and (h), 8, 9(a), (b), (c), (l), (m) and (s) and 17 shall come into operation on 1 January 2011.

(5) Section 9(d), (zc)(ii)(B) and (C) and (zc)(iii)(A) and (B) shall come into operation as from the year of assessment 2012.

(6) Section 9(e), (f), (g), (n), (zc)(i), (zd) and (ze) shall come into operation as from the income year commencing 1 January 2011.

(7) Section 9(iii)(A), (o), (r) and (t) shall be deemed to have come into operation as from the year of assessment 2011.

(8) Section 9(zc)(ii)(A) shall be deemed to have come into operation on 1 January 2010.

(9) Section 11(c) shall come into operation on 1 July 2011.

(10) Section 19(f) and (g) shall come into operation on 1 March 2011.

Passed by the National Assembly on the seventeenth day of December two thousand and ten.

Ram Ranjit Dowlutta
Clerk of the National Assembly

