

Finance (Miscellaneous Provisions) Act 2024

(Key legislative amendments)

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Introduction

On 27 July 2024, the Mauritian Parliament enacted the Finance (Miscellaneous) Provisions Act 2024 ("FA 2024"), which gives legal effect to the measures outlined by the Honourable Minister of Finance in the 2024-2025 Budget Speech.

The FA 2024 reflects the government's focus on fostering sustainable economic growth, promoting social equity, and enhancing climate responsibility. It addresses a range of national and global challenges while reinforcing Mauritius' commitment to maintaining a robust economic structure, supporting key industries, and ensuring compliance with international standards. Key highlights include initiatives aimed at environmental sustainability, regulatory improvements, and targeted measures to alleviate inflationary pressures and foster inclusive growth.

Below is a summary of the key business-related measures in the FA 2024. This summary is not exhaustive and should not be interpreted as legal advice.



01 | INCOME TAX ACT

The Introduction of a new Corporate Climate Responsibility levy of 2% of chargeable income of a company, which turnover exceed Rs 50M effective as from the year of assessment commencing 01 Jul 2024, i.e. to those entities with financial year ending after 31 December 2023. Entities benefiting from the partial exemption regime will have their effective tax rate increased from 3% to 3.4% and those not benefiting from partial exemption will now be taxed at 17%.

The following key tax incentive measures brought to incentivize specific economic activities and provides for additional financial relief are:

1. The income tax exemption threshold for lump sum pension, retiring, or severance allowances is raised from Rs 2.5 million to Rs 3 million as from the 07 June 2024.
2. Interest income from bonds issued by public sector companies for infrastructure projects becomes tax-exempt with approval from the Minister of Finance, Economic Planning and Development as from 01 Jul 2024.
3. 100% of income from the sale of virtual assets and tokens is now exempted, similar to the exemption on sale of securities as from 01 Jul 2024.
4. Income derived from intellectual property assets by a manufacturing company engaged in medical, biotechnology or pharmaceutical sector and holding an investment certificate will not be eligible for the reduced tax rate of 3% as from 01 Jul 2024.
5. The 10-year income tax holiday granted to a captive insurer will apply starting from the income year in which the company starts its operation.
6. Companies holding a Robotic and Artificial Intelligence Enabled Advisory Services license, issued by the FSC, can claim an 80% exemption subject to meeting the substance requirements effective as from 01 Jul 2024 subject to meeting the substance requirements.
7. An investment tax credit of 15% over 3 years will be granted on capital expenditure incurred in developing AI and patents as from 01 Jul 2024.



02 | UPDATED ON TAX AN VAT ADMINISTRATION

1. VAT invoices issued in currency other than MUR must include the exchange rate used.
2. Taxpayers cannot submit an amended return if an objection has been raised with the tax authority or if a representation has been made to the Assessment Review Committee.
3. It is now clarified that services provided by management companies to non-resident trusts or foundations will be zero-rated for VAT.
4. It is now clarified that Exemptions for licensed CIS Administrators do not apply to administrative service income provided by management companies to CIS license holders.
5. The Tax Arrears Payment Scheme is extended for another year, offering full waiver of penalties and interest if tax arrears are paid by March 31, 2025, and the taxpayer registers by December 31, 2024. The effective date of unpaid tax liabilities is pending announcement.



03 | FINANCIAL CRIMES COMMISSION ACT 2023

Previously, “Sporting Event” meant a horse race or football league which takes place outside Mauritius. This definition has now been amended to include horse races or football matches which take place in Mauritius as well. Hence, the new definition of “Sporting Event” is “a horse race or football match which takes place in, or outside, Mauritius”.

Section 35, paragraph (a) which is about corruption in relation to sporting events has been amended to replace “sport event” with “sporting event”.

Section 57 regarding preliminary investigation by Commission has been amended at subsection (2) to remove the Asset Recovery and Management Division such that only the Director of the Investigation Division shall, within 30 working days of a referral made under subsection (1) or within such other period as the Commission may direct.

Subsection (1) of section 80 regarding the determination of value of benefit has been amended to include Section B of Sub-part II of Part V and Section B of Sub-part III of Part V which are Criminal Confiscation Order and Civil Confiscation Order respectively.

Section 95 (1) has been amended to include not only properties but also any benefit derived or likely to be derived from properties which are believed by the Commission to be proceeds, an instrumentality or a terrorist property when making an application to the Court for the issue of a Civil Confiscation Order.

Section 96 (1) has been amended to include not only a terrorist property but also an amount equal to the value of a benefit derived from such property in relation to the issue of civil confiscation orders.

A new subsection has been added after subsection (2) of Section 168 regarding other savings and transitional provisions to stipulate that where the Commission detects an offence which may have been committed under any of the repealed enactments prior to 29 March 2024, the Commission will have all the powers conferred under the Financial Crimes Commission Act 2023 to investigate and prosecute that offence.



04 | THE FINANCIAL REPORTING ACT

“Public Interest Entity” has been amended such that the definition does not include a Global Business Corporation or an Authorised Company under the Financial Services Act

A new section has been added after section 69 in regard to registration of public interest entities. All public interest entities specified in the First Schedule is required to apply for registration to the National Committee on Corporate Governance and such application is to be made in such form and manner and should be accompanied by such fee, as may be prescribed.

05 | THE FINANCIAL SERVICES ACT 2007

A number of amendments have been made to the FSA and several new sections have been added.

Subsection 2 has been repealed and now any information required under subsection (1) shall be submitted to the Commission within 15 days of such request.

New sections have been inserted after Section 17 to provide clarity on how the Commission will now process applications.

Under section 17A, the Commission will deem an application to have been withdrawn where the application does not satisfy the requirements referred to in section 16 of the FSA or provided in any guidelines issued by the Commission or where the applicant has not submitted information as required under section 17 of the FSA to the satisfaction of the Commission.

As per section 17B, upon receipt of an application under any relevant Act, the Commission will determine whether the application is complete, and the Commission will grant the application within 10 working days from the date the application is determined to be complete.

Section 17C clarifies that sections 17A and 17B shall apply to an application for the grant of a Global Business Licence and an application for authorisation as an Authorised Company but section 17B does not apply to:

- (a) any application submitted prior to 1 October 2024;
- (b) any application for a licence specified in the Second Schedule to the Virtual Asset and Initial Token Offering Services Act 2021;

05 | THE FINANCIAL SERVICES ACT 2007 (Continued)

(c) any application for registration to carry out the business of initial token offerings under the Virtual Asset and Initial Token Offering Services Act 2021; and

(d) any other application or matter as may specified in FSC Rules.

A new section is added at 22B to cater for post licensing fees where a licensee shall be required to pay to the Commission such post licensing fees as may be specified in the FSC Rules for any post licensing request as required under the relevant Acts.

Section 25A is a new section which provides for the process for application of duplicate licence, section 25B provides for the process for the notification of change of name and section 25C confirms to whom sections 25A and 25B apply.

A new subsection aa has been added after section 29(5) which requires every qualified trustee to provide any information maintained by them under section 29(5)(a) the Commission upon request.

Section 31(1A) has been added to provide clarity on advertisement whereby any advertisement proposed to be published under section 31(1), shall be submitted to the Commission not later than 7 working days prior to the date of the first publication. Where on receipt of a copy of the advertisement, the Commission is not satisfied with the advertisement, the latter shall, before the date of the first publication, require the licensee to amend, withdraw or refrain from publishing the advertisement.

The definition of Investigators has been amended to now also include the Chief Executive.

Section 53 (1)(a)(iii) has also been amended to provide that the Chief Executive may refer a matter to the Enforcement Committee when he had reasonable cause to believe that a licensee is committing or has committed a financial crime.

A new section has been inserted at 71(3)(a) (aa) which provides that Notwithstanding section 72(1) (a), an application from the holder of a Global Business Licence to appoint a new management company shall be accompanied by such fees as may specified in the FSC Rules.

A new provision has been added to section 71A(7)(b) which requires an application by an Authorised Company to appoint a new registered agent to be accompanied by such fees as may be specified in the FSC Rules.

Section 71A (10) now makes it clear that an Authorised Company shall file with the Commission, once in every year, but not later than 6 months after the close of its financial year.

A new section has been added at 73A regarding directions. The Chief Executive may now issue a written direction to a Global Business Corporation as he deems appropriate in the circumstances, for the purpose of protecting the good repute of Mauritius as a center for financial services, if he has reasonable grounds to believe that the Corporation has contravened or is likely to contravene a relevant Act, is conducting its affairs in an improper manner or is involved in a financial crime.

Any direction issued by the Chief Executive may specify the time by which, or the period during which, it shall be complied with.

05 | THE FINANCIAL SERVICES ACT 2007 (Continued)

A Global Business Corporation shall comply with any direction issued notwithstanding anything in its constitution, or any contract or arrangement to which it is a party.

In regard to the above, the Chief Executive will not issue any direction before giving the person to whom it is to be addressed a reasonable opportunity to make representation on the matter.

Where the Chief Executive considers that any delay in issuing the direction may cause severe prejudice to the reputation of the Global Business Corporation, the public or the financial services industry, he may issue a direction which will take effect immediately and shall give the Global Business Corporation the opportunity to make representations as soon as practicable, but not later than 7 days from the date the direction is issued.

The Chief Executive may revoke a direction issued at any time by written notice to the Global Business Corporation. No person shall knowingly hinder or prevent compliance with the direction otherwise, the latter shall commit an offence.

These directions which are applicable for Global Business Licenses shall also be applicable in the same way for Authorised Companies.



06 | ECONOMIC DEVELOPMENT BOARD ACT

The following new definitions have been inserted in the appropriate alphabetical order:

(i) “expert” means a non-citizen who holds/has the following in the relevant field in which he is seeking employment:

1. the relevant qualifications
2. at least 10 years’ experience; and
3. a contract of employment

(ii) “expert occupation permit” has the same meaning as given to it in the Immigration Act 2022.

The Act has also been amended to provide for anyone wishing to obtain an expert occupation permit under the Immigration Act 2022 and satisfying the relevant criteria to register with the Economic Development Board.

The criteria for expert occupation permit has been added to the First Schedule as follows:

Wealth management, family office, virtual assets and virtual tokens	(i) an expert in the relevant field (ii) monthly basic salary of at least Rs 50,000
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Moreover, in addition to occupation permit, for expert application permit or a family occupation permit which requires the views and recommendation of a public sector agency, that public sector agency shall, within 5 working days from the date of a request from the Economic Development Board, submit its views and recommendation.

Another amendment to the Act is the inclusion of expert occupation permit in the list of permits which can be revoked on various grounds as set out in the Act and the registered person under the expert occupation permit may be required by written notice from the Economic Development Board to show cause, within 30 days of the date of service of the notice, why he should not be deregistered and why his expert occupation permit should not be revoked. Likewise, if the registered person under the expert occupation permit is deregistered, the Economic Development Board will forthwith notify the Immigration officer and the registered person’s expert occupation permit will immediately lapse.

A noteworthy amendment to the Act is the decrease in the monthly basic salary for the occupation permit under the category of professional from Rs 30,000 to Rs 22,500.



06 | ECONOMIC DEVELOPMENT BOARD ACT (Continued)

Expert occupation permit holders are also eligible to permanent residence which criteria has been included in the Act as a non-citizen under the expert occupation permit deriving a monthly basic salary of Rs 150,000 for 3 consecutive years immediately preceding application.

07 | NON-CITIZENS (EMPLOYMENT RESTRICTION) ACT

The Act has been amended to provide for employment in Mauritius by a non-citizen holding an expert occupation permit.

For work permit applications made to the Minister, an application made under subsection (1) was deemed to have been granted if the application was not determined within 30 working days from the date of the complete application, unless the applicant has received, during that period, a notification from the Ministry that the application is still under consideration. The timeline has been amended from 30 days to 21 days.

08 | NON-CITIZENS (PROPERTY RESTRICTION) ACT

A non-citizen who wishes to hold, purchase or otherwise acquire a property shall make a written application to the Minister and on receipt of an application, the Minister may issue to the applicant a certificate authorizing him to hold, purchase or otherwise acquire the property, subject to such terms and conditions as the Minister may impose. No certificate was required to enable a non-citizen to hold property in virtue of a lease agreement for industrial or commercial purposes, other than a lease agreement or a sublease agreement in respect of a residential property, for a term not exceeding 20 years. The number of years has now been increased to 30 years.



09 | IMMIGRATION ACT 2022

The definition of permit has been amended whereby it now includes expert occupation permit and a definition has been inserted for expert occupation permit.

A non-citizen shall have the status of resident where he is the holder of an expert occupation permit.

An expert occupation permit holder shall be eligible to a permanent resident permit and the categories of permit eligible for permanent residence permit has been enlarged accordingly.

The spouse, dependent child, parent or other dependent of a parent, other than a young professional of an expert occupation permit holder is eligible for residence permit.

A permanent residence permit issued pursuant to subsection (1)(a) of the Act was valid for a period of 20 years as from the expiry date of the non-citizen's residence permit or occupation permit. This has now been amended to also include expert occupation permit.

Under eligibility for occupation permit, a few sub sections have been amended to cater for expert occupation permit. The spouse of an occupation permit or expert occupation permit holder, may on application, be granted an occupation permit or expert occupation permit, as the case may be.

Several other sections of the Act have been amended to include expert occupation permit in addition to occupation permit and/or residence permit.



10 | FREEPORT ACT

The Freeport Act has been amended to insert a new definition namely 'Global business corporation', which shall have the same meaning as in the Financial Services Act.

The Economic Development Board may, in consultation with the Director General, and subject to such terms and conditions as it may impose, authorize a global business corporation to operate a freeport activity specified in items 1 and 3 of the second schedule of the freeport Act.

The maximum period of months for storage of goods which can be extended by the Director General, in consultation with the Economic Development Board, has been increased from 36 months to 72 months.

The Freeport Act has also been amended to include that except for a global business Corporation, no person shall make an application for a freeport certificate, except if that person is (i) a company or cooperative society and (ii) not engaged in any business activity outside the freeport zone.

Moreover, the list of freeport activities has been enlarged to include fulfillment centre provided it does not include (i) any manufacturing activity or (ii) international buying and selling of tradeable commodities, in its own name, whereby the shipment of such commodities is made directly by the shipper in the original exporting country to the final importer in the importing country, without the commodities being physically landed in Mauritius.



11 | COMPANIES ACT 2001 AMENDED

Section 23(1)(c)(iv) – Document Requirements for Companies Limited by Guarantee

The amendment to Section 23(1)(c)(iv) of The Companies Act 2001 introduces a clear procedural requirement for companies limited by guarantee. Prior to the amendment, while companies were required to submit documents at the time of incorporation, it was not explicitly stated that a copy of the company's constitution had to be included. The 2024 amendment clarifies this by mandating that every company limited by guarantee must provide not only a signed document from each member or their agent but also a copy of the company's constitution. This change ensures that these companies clearly define their governance and member responsibilities from the outset.

Section 140(5) – Appointment Process for Auditors

Before the amendment, Section 140(5) of The Companies Act 2001 required the person nominated by a one-person company to assume office as secretary upon the death of the sole shareholder and director, with the duty of organizing a meeting to appoint new directors. The amendment now adds, "Notwithstanding section 166," allowing the nominated person to take office without being restricted by the general rules for director appointments.

Section 142(1) – Notice of Change of Directors and Secretaries

Under the original provisions of Section 142(1) of the Companies Act 2001, the Board was required to notify the Registrar of any changes regarding: (a) the directors or secretary of the company, or any person nominated under Section 140(3); and (b) any change in the name, residential address, or other particulars of the directors or secretary, or any nominated person.

The recent amendment in the Finance (Miscellaneous Provisions) Act 2024 introduces a new paragraph (c), which now also requires the Board to notify the Registrar of any information received under Sections 139(3) and 167(1).

Section 165(1)(a) – Qualification of Secretary

Section 165(1)(a) has been updated to replace the reference to the Institute of Chartered Secretaries and Administrators of the United Kingdom (ICSA) with the Chartered Governance Institute (CGI), reflecting the current name of the professional body responsible for the qualification of company secretaries. This update is largely administrative and symbolic, ensuring that the legislation is current and refers to the correct professional organization.

11 | COMPANIES ACT 2001 AMENDED (Continued)

Section 290(2) – Winding up of limited life company

The amendment to Section 290(2) mandates that administrators, when possible, conduct company windings-up in accordance with the Insolvency Act. Previously, the legislation did not explicitly require adherence to the Insolvency Act during the winding-up process, which could have led to variations in how liquidations were handled.

Section 309(3) – Grounds for removal from the register

Previously, Section 309(3) of the Companies Act 2001 required that any request to remove a company from the register under subsection (1)(d) be accompanied by a written notice from both the Commissioner of Income Tax and the Commissioner for Value Added Tax, confirming there was no objection to the removal.

The recent amendment, however, replaces this requirement. Now, the request must include a written notice from the Director-General of the Mauritius Revenue Authority (MRA), and where applicable, the Financial Services Commission (FSC), stating there is no objection to the company being removed.

Section 355(1) – Fees Payable to Registrar

Previously, Section 355(1) of the Companies Act 2001 stated that fees were payable to the Registrar in relation to the matters outlined in the Twelfth Schedule, without specifying the timing of these payments. The recent amendment clarifies this by explicitly stating that such fees must now be paid to the Registrar "at the time of submission of any document or request involving a payment."

THIETEENTH SCHEDULE, section 343 – PART I

Originally, the Thirteenth Schedule, Part I, item 9 of the Companies Act 2001 specified compliance with Sections 178 and 179 without exceptions. These sections generally relate to sections not applicable to companies holding a GBL licence.

The amendment now adds a provision stating that compliance with Sections 178 and 179 is required "unless the constitution of the company provides otherwise." This change introduces flexibility, allowing companies to structure their own procedures in alignment with their constitution, where applicable.

Conclusion

In conclusion, the recent amendments to the Companies Act 2001 introduced under the Finance (Miscellaneous Provisions) Act 2024 represent significant steps towards enhancing corporate governance, regulatory compliance, and procedural clarity for companies operating in Mauritius. These changes emphasize the importance of transparency, proper documentation, and streamlined processes, ensuring that companies align with updated standards and practices.

These amendments collectively reflect the Mauritian government's commitment to maintaining a robust, transparent, and adaptable corporate environment that supports business growth while ensuring alignment with international best practices.



12 | SECURITIES ACT AMENDED

Section 107 – Appointment and Duties of Auditors

The recent amendment to Section 107 of the Securities Act 2005 broadens the scope of the regulation to include closed-end funds alongside collective investment schemes. Previously, this section referred only to collective investment schemes in relation to the appointment and duties of auditors.

Section 108 – Termination of Appointment of Auditor

Section 108 of the Securities Act 2005 has been amended to explicitly include closed-end funds in addition to collective investment schemes. Previously, the termination of an auditor's appointment was only applicable to collective investment schemes. With this amendment, the same rules governing the termination of auditors now apply to closed-end funds as well.

Conclusion

In conclusion, the amendments to the Securities Act 2005 under the Finance (Miscellaneous Provisions) Act 2024 represent a significant step toward enhancing regulatory oversight in Mauritius' financial sector, by ensuring inclusion of close-end funds where required.



13 | VIRTUAL ASSET AND INITIAL TOKEN OFFERING SERVICES ACT 2021 AMENDED

Section 15(1)(a) – Requirement for a Senior Executive

The amendment to Section 15(1)(a) of the Virtual Asset and Initial Token Offering Services Act 2021 now explicitly requires that a virtual asset service provider must always have a senior executive in place.

Section 15(1)(aa) – Approval Requirement for Senior Executives

A significant update in Section 15(1) introduces a new paragraph (aa), which states that no person shall be appointed as a senior executive of a virtual asset service provider without the prior approval of the Financial Services Commission. This change adds a layer of regulatory oversight, ensuring that only individuals who meet the Commission's standards and qualifications can take on this critical leadership role, thereby enhancing governance within the virtual asset sector.

Section 15(1)(b) – Clarification on Paragraph Reference

The amendment to Section 15(1)(b) involves a technical adjustment to ensure consistency with the newly introduced paragraph (aa). Previously, this paragraph referred to paragraph (a) regarding the conditions tied to the appointment of a senior executive. The updated text now correctly references paragraph (aa), aligning all related conditions with the new requirements.

Conclusion

In conclusion, the amendments to the Virtual Asset and Initial Token Offering Services Act 2021 strengthen the governance and regulatory framework for virtual asset service providers in Mauritius. By explicitly requiring a senior executive to be in place at all times and mandating prior approval from the Financial Services Commission for their appointment. The adjustments to the paragraph references further align the regulations, making the compliance process clearer and more consistent.

Meet Our Team

Finance ACT 2024

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