



CENTURION

Lawyers and Business Advisors

**COVID-19 LEGAL
UPDATE:
MAURITIUS**

info@centurionlg.com
www.centurionlg.com

EMPLOYMENT

REDUCING EMPLOYEES' WORKLOAD, HOURS OF WORK AND/OR PAY DURING THE COUNTRY PANDEMIC/ LOCK-DOWN

Reducing Employee's salary:

Instead of reducing employees' salaries, the company can rely on the GWAS (Government Wage Assistance Scheme). This scheme is applicable to businesses in the private sector and with respect to their employees drawing a monthly basic wage of up to Rs 50,000.

The scheme covers both Mauritians and expatriate employees working in Mauritius. This government scheme will partially help the company in remunerating the employee at the end of the month of March during the COVID 19.

More details are find on the following website <https://www.mra.mu/index.php/eservices1/corporate/gwas>

We are yet to have an update- if whether the same scheme will be applicable for April 2020.

Increasing Work Hours:

The government is amending The Private Hospitals and Other Related Health Services (Remuneration) Regulations 2019, to provide that a worker might, with his consent, work up to 12 hours a day instead of eight hours.

Reducing Working Hours Option:

The lockdown is temporary procedure and the government subsidy is available to assist employers to pay wages- it may be difficult for employers to show that it is impossible to maintain the employment over the lockdown period, which started on the 20th of March 2020.

At the very least, employers may need to demonstrate that they had exhausted all other options, including negotiating with employees to reduce their pay or to take leave.

So, negotiating on number of hours they work is an option.

OUTSTANDING LEAVE DAYS AND FORCED PAID LEAVE OR UNPAID LEAVE DURING THE PANDEMIC/LOCKDOWN. DEDUCTING QUARANTINE PERIOD FROM ANNUAL OR SICK LEAVE.

Outstanding Leave Days:

Subjective answer: In normal circumstances, Employers cannot force employees to take outstanding leaves unless there is a clause in their contract. However, given the current prevailing situation the employer and employee may consider coming to an agreement between themselves.



Forced Paid/Unpaid Leave:

The GWAS was set up to prevent this.

However, though the Government is providing for a subsidy, some employers still have to find the rest of the salary.

For instance: The GWAS mentioned that for employees earning between Rs 25,000 Rs to Rs 50,000, the government subsidy to the employer will be a maximum of Rs 12,5000. In some cases, the employer may not be able to cover the difference and considering unpaid leave may be the only option to save the employee's job.

Deducting quarantine period from annual or sick leave:

The Cabinet of Ministers has considered to make new regulations to provide for payment of wages to workers, who are placed in quarantine, to be offset against their leave entitlement.

(quarantine and lockdown are not the same thing)

If you are on lockdown- the answer is no

If you are under quarantine- the answer is yes per above comment.

RENEGOTIATING TERMS OF EMPLOYMENT

Although these are unprecedented times, employment law obligations still apply. This means that any changes the company is looking to make must be achieved through agreement either with the employees, trade unions or through a lawful restructure.

Subjective answer: with how the economy is predicted to crash, both employer and employee may consider renegotiation of terms.

REMOTE WORK

Under the GWAS, employers are required to pay full salaries to employees who are unable to work remotely but need to stay at home under the lockdown.

Subjective answer: In cases where the lockdown has extended to more than a month, the company may prospectively reduce salaries for at-will, exempt employees due to the financial and economic slowdown, so long as the reduction is done for bona fide, long-term business reasons.

It will also depend on future communiqué from the Government for April onwards.

REDUNDANCY/TERMINATION OF EMPLOYMENT

Employers may be able to make employees redundant during this period. However, this is a long procedure.

It is mostly applicable to companies employing 15+ employees, and making a turnover above 25 Million MUR.

The company will have to exhaust all possible options to remedy the situation and avoid reducing the number of employees before heading to the redundancy board. Eg: cancel recruitment of employees, reduce overtime, providing training for non redundant work etc.

The employer must give written notice to the Redundancy Board together with a statement showing cause for the reduction of workforce or closure of enterprise at least 30 days before the intended reduction or closing down.

Employment contracts cannot be terminated without valid reasons and procedures.

Subjective:

In certain cases, the law does protect employees during a force majeure situation.

As the law provides the exoneration of liability in the event of force majeure, the only way to prevent its application is to contractually provide for a restriction or limitation of the consequences of a force majeure event.

If there exists a clause of Force Majeure in the employment contract, attention should be paid to what it provides for. Even if we may consider that COVID-19 constitute a force majeure, "la liberté contractuelle des parties" may restrict and/or limit the consequences of a force majeure.

EMPLOYMENT ENTITLEMENTS AND BENEFITS WHILE WORKING REMOTELY DURING PANDEMIC/ LOCKDOWN

Nothing in the law at present.

This is subjective and varies from company to company.

Subjective answer In some sector, companies may be engaged in providing internet and computer equipment to their workers, phone etc- depending on the nature of their work.

For example, in South Africa, it was nearly impossible to find a router- some types are out of stock , since companies were bulk buying all routers and making sure their staffs had internet at home during the lockdown.

COMPANY COVID-19 POLICY AND COMPANY LIABILITIES

Subjective answer: The COVID-19 situation is affecting every company and the way they function. It helps Clients and employees to know how they will operate during this period.

Example:

One of the banks we work with in Mauritius- no bank payments will be approved after 1pm -which in normal situation it is 3pm. This is both important for the client and employees to know.

Would directors and officers be held liable for not doing enough if someone caught the virus and spread to other staff members?

Per the Occupational Safety and Health Act 2005, the employers have a statutory duty to ensure, so far as is reasonably practicable, the safety, health and welfare of all their employees at work. Employers must as far as reasonably practicable, maintain a safe working environment to their staffs.

Employers may be liable to a fine not exceeding Rs 75 000 and to imprisonment for a term not exceeding one year, if they fail to ensure the safety of their employees.

PERFORMING OTHER JOBS WHERE CORE FUNCTIONS ARE DOWN DURING PANDEMIC/LOCKDOWN

An employer can require that an employee perform other jobs if their core job functions cannot be performed at the moment. It may be helpful to both the employer and the employee.

EMPLOYMENT INSURANCE POLICIES (GOVERNMENT OR PRIVATE) DURING THIS PERIOD AND ACCESSING THESE POLICIES.

Currently, no employment insurance policies have been put into place regarding the COVID 19.

Take note that free medicals are available in Mauritius for everyone.

IMMIGRATION

CURRENT SITUATION IN THE COUNTRY

Mauritius went on a full lockdown on the 23th of March to 2nd April 2020. On the 30th of March the Prime Minister, Mr Pravind Jugnauth announced that the sanitary curfew(lockdown) which started on 23 March at 20 00 hours will be extended till 15 April 2020 at 20 00 hours following an increase in the number of Covid-19 cases which now stands at 169 with 7 deaths reported.

This means that curfew order has also restrain people from travelling or going outside.

Currently people are only allowed to go to the supermarkets, to the pharmacies or hospital.

For the time being only the essential sectors are operating.

TRAVELLING TO MAURITIUS

The Air Mauritius has passed a communiqué that until the 30 April 2020 no one will be allowed to travel or enter the country(this means that currently there is a travel ban in Mauritius).The Airport has been shut down since the beginning of the lockdown.

Currently, many people are stuck in Mauritius but are not allowed to travel until the confinement period has not been waived off.

This applies for all Mauritian Citizens who are abroad as well.

The Economic Development Board (EDB) takes cognizance of the Curfew Order dated 22 March 2020 issued by the Government of Mauritius ("the Curfew Order"),

The Curfew Order, which became effective since 23 March 2020 and has been extended till 15 April 2020 has imposed a travel ban in Mauritius.

RESTRICTIONS OR CANCELLATION ON VISAS APPLICATIONS/ISSUANCE

No new visas are being issued.

Cruise ships as well have similarly been denied access to the country's port. The government has passed a communiqué that the port will be closed from March 19 as a preventive measure until further notice.

All work permits that shall expire in 2020 will be automatically extended up to 31 December 2021.

Through a communiqué from The Economic Development Board (EDB), the visa holder will be allowed to make a new applications/renewals when it comes to Occupation/Residence Permit.

EXPIRATION OF LEGAL STATUS WHILE IN MAURITIUS

In case a visa holder who is already present on the Mauritian territory is unable to leave before the expiry of his visa for reasons of force majeure, he should address the request for extension of the visa to the competent authorities.

Those with business/tourist visa that has expired during the imposed curfew will be given a temporary extension of 3 months as from the date of expiry of the business/tourist visa by the Passport and Immigration Office. And once the curfew is lifted, the applicants will be called for an appointment for verification of original documents and issuance of the relevant permit.

LEAVING MAURITIUS

Residents and Expats are not allowed to leave the country during this period.

GENERAL

FISCAL MEASURES TOWARD COUNTERING THE ECONOMIC EFFECTS OF THE PANDEMIC

The following are the fiscal measures that has been announced by the government:

- The government has provided a GWAS (government wage Assistance Scheme),
- Bank of Mauritius Special Relief Programme

The Bank of Mauritius is introducing a Special Relief Programme for an amount of Rs 5 billion through commercial banks from 16 th March to end July 2020. The programme will consist of loans with a maturity of 2 years at an interest rate of 2.5% per annum inclusive of a moratorium of 6 months on capital and interest payments. These loans will be used to meet the cash flow and working capital requirements of operators being affected by COVID-19, across all sectors of activities including local manufacturing and SMEs

- Key Repo Rate

Following the meeting of the Monetary Policy Committee held on 10th March 2020, the Bank of Mauritius announced the reduction of 0.5 percentage point in the Key Repo Rate, i.e., from 3.35% to 2.85%

- Moratorium on Repayment of Existing Loans

Banks will provide a moratorium of 6 months on capital repayment for existing loans for enterprises that are being affected by COVID-19.

- Easing of Banking Guidelines

The Bank of Mauritius has put on hold the Guideline on Credit Impairment Measurement and Income Recognition, which was effective since January 2020. This measure will allow banks to lend to enterprises facing cash flow and working capital difficulties in the wake of COVID-19.

- Bank of Mauritius 2020 Savings Bond

The Bank of Mauritius is introducing a 2020 Savings Bond for individuals and NGOs at an interest rate of 2.5% per annum payable every six months. The Bond will have a maturity of 2 years and will be issued until the amount of Rs 5 billion has been subscribed.

- SIC Equity Participation Scheme

The State Investment Corporation (SIC) Ltd will launch an Equity Participation Scheme to assist enterprises to overcome their financial difficulties in the wake of COVID-19. An amount of Rs 2.7 billion will be raised by SIC through the issue of redeemable preference shares to cover the SIC Equity Participation Scheme and support measures to be provided by the Investment Support Programme Ltd (ISP Ltd).

- Support measures by Investment Support Programme Ltd (ISP Ltd) and SME Equity Fund Ltd

(a) Enterprise Modernisation Scheme (EMS) by DBM Ltd Interest rate under EMS will be reduced from 3.5% to 2.5%.

(b) SME Factoring Scheme

The interest rate under SME Factoring Scheme will be reduced from 3.9% to 2.5%.

(c) Corporate Guarantee ISP Ltd will issue corporate guarantee to banks to enable them to grant loans to companies affected by COVID-19.

(d) Equity Financing The SME Equity Fund Ltd will reduce its minimum return requirement on equity financing from 6% to 3%.

- DBM Revolving Credit Fund

A Revolving Credit Fund of Rs 200 million will be established at the Development Bank of Mauritius Ltd to help companies with turnover of up to Rs 10 million to ease cash flow difficulties up to 31st December 2020. Under this scheme, the credit to companies will be free of interest, provided that it is repaid within 9 months. Otherwise, DBM Ltd will charge interest at commercial rate.

- Double Tax Deduction on Investment

Enterprises being affected by COVID-19 will be entitled to a double tax deduction on their investment in Plant and Machinery for the period 1 st March 2020 to 30th June 2020. A2.

Labour

(i) All work permits that will expire this year will be extended automatically up to 31st December 2021.

(ii) To minimise human contacts, Government will give full support to promote the Work at Home Scheme that was announced in the 2018-2019 Budget Speech.

(iii) An e-Government Digital Bureau will be set up to fast track the provision of public services through electronic means. A3. SME Sector In addition to the measures being announced, there is a series of new schemes being launched by SME Mauritius, namely:

- (a) Internal Capability Development Scheme;
- (b) Technology and Innovation Scheme;
- (c) SME Marketing Support Scheme;
- (d) Inclusiveness and Integration Scheme; and
- (e) SME Utility Connection Assistance Scheme.

NEW LAWS/REGULATIONS TOWARDS COMBATING THE PANDEMIC

The government has enforced the law and order system to fight against the disease and to control the population.

- The government has implemented a quarantine (quarantine disease) regulation 2020
- The Minister of Health and Wellness has issued the Prevention and Mitigation of Infectious Disease (Coronavirus) Regulations 2020 under the Public Health Act, providing for the isolation and screening of people infected with COVID-19 and the placement in quarantine of people suspected to be infected.
- A curfew Order

Acting under Regulation 14, the minister has issued a curfew order, directing that no person may remain outdoors in Mauritius from 23 March 2020 at 8pm to 15 April 2020 at 8pm.

The only two possible derogations from the curfew order are where:

- a person is outdoors to avail himself or herself of medical treatment, essential supplies, foodstuff, medicine or any other item essential for his subsistence of livelihood;
- The Commissioner of Police issues a work access permit to that person to attend work, where such person is involved in the provision of strictly essential minimum services.

Breach of the Regulations or of the curfew order amount to an offence, which is punishable by a fine and imprisonment not exceeding six months.

EFFECT OF THE PANDEMIC ON THE COUNTRY'S ECONOMY AND ANY RECESSION RISKS

1. Tourism is an important part of our economy and this has been largely affected.

2. Residential properties

The residential property market may benefit from the interest rate cut thus making the cost of financing for purchase of houses/villas/apartments lower. However, some buyers may adopt a wait-and-see approach and avoid huge spending in this uncertain environment.

3. Prices of vegetables and fruits have also increased since the lockdown. Additionally, the population and economic operators are concerned about availability of products. The supply chain is severely disrupted. We are highly vulnerable to external supply shocks.

4. Due to the lockdown, many small enterprises have been forced to permanently shut their doors; this has also led to unemployment.

BANKING RESTRICTIONS

Bank is still open in strategic locations and is being operated from 9.30 to 15.00 and only from Monday to Friday. They are working with the minimal amount of staff to provide basic banking services.

BORROWER PROTECTIONS AND MORATORIUM ON LOAN REPAYMENTS

The bank has put the following measures into place;

1. A moratorium of 6 months on capital repayment of existing loans for economic operators;

2. Moratorium of 6 months on capital repayment for existing loans for economic operators that are being affected by COVID-19;

3. Moratorium of 6 months on capital repayments on existing household loans as from the 1st of April 2020 and the BOM bearing the interest payable for the period 1 April 2020 to 30 June 2020 on outstanding household loans with commercial banks for households earning a combined monthly basic salary of up to MUR 50,000;

OTHER RELEVANT INFORMATION OR GOVERNMENT MEASURES

- <https://www.mra.mu/index.php/eservices1/corporate/gwas>
- <http://mof.govmu.org/English/Covid-19/Pages/default.aspx>
- <http://www.govmu.org/English/News/Pages/Covid-19-Economic-growth-of-Mauritius-may-slow-down-between-0.1-per-cent-to-0.3-per-cent,-stated-the-Finance-Minister.aspx>
- <http://www.govmu.org/English/News/Pages/PM-Sanitary-Curfew-to-be-extended-till-15th-April-2020-.aspx>
- <https://www.mcci.org/en/media-news-events/business-updates/work-access-permit-during-confinement-period-in-view-of-covid-19/>
- <https://www.fscmauritius.org/media/84878/communiqu%C3%A9-covid-19-reporting-requirements-and-administrative-penalties.pdf>

CONTACT US

Zion Adeoye

zion.adeoye@centurionlawfirm.com

Keseena Chengadu

keseena.chengadu@centurionlawfirm.com

Oneyka Ojogbo

onyeka.ojogbo@centurionlg.com

Leon van der Merwe

leon.vdmerwe@centurionlg.com

Abax Corporate Services Ltd, 6th Floor, Tower A 1 Cyber City, Ebene