

THE SOCIAL CONTRIBUTION AND SOCIAL BENEFITS BILL
(No. XII of 2021)

Explanatory Memorandum

The object of this Bill is to provide for a comprehensive regulatory framework to give full implementation for the administration and operation of this new social contribution and social benefits system.

2. This new mechanism will, as a consequence, mostly benefit those at the lower-end of the ladder, as well as self-employed and small and medium enterprises. Accordingly, the Bill makes provisions –

- (a) in addition to the basic retirement pension payable under the National Pensions Act, for the payment of a guaranteed monthly retirement benefit to a person above the normal retirement age; and
- (b) following injury at work, for the payment of other enhanced social benefits such as industrial injury benefit, disablement benefit, survivor's benefit, orphan's benefit and other social benefits as opposed to the lesser benefits currently payable under the National Pensions Act.

3. In addition, the Bill provides for the setting up of a Social Benefits Review Committee which shall have the responsibility to devise and develop mechanisms with a view to enhancing these social benefits and maintaining their sustainability for the future.

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and Development*

09 July 2021

THE SOCIAL CONTRIBUTION AND SOCIAL BENEFITS BILL
(No. XII of 2021)

ARRANGEMENT OF CLAUSES

Clause

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| <p>PART I – PRELIMINARY</p> <p>1. Short title</p> <p>2. Interpretation</p> <p>PART II – SOCIAL CONTRIBUTION</p> <p>Sub-Part I – Social Contribution Mechanism</p> <p>3. Social contribution</p> <p>4. Rates of social contribution</p> <p>5. Deduction of social contribution by employer</p> <p>6. Remittance of social contribution to Director-General</p> <p>Sub-Part II – Monthly Return and Annual Return</p> <p>7. Monthly return</p> <p>8. Annual return</p> <p>Sub-Part III – Unpaid Social Contribution</p> <p>9. Assessments on employers and participants</p> <p>10. Penalty and interest on unpaid social contribution</p> <p>11. Power to waive penalty or interest</p> <p>12. Arrears of social contribution, penalty and interest not recoverable from participant</p> <p>13. Collection and recovery of social contribution by Director-General</p> <p>14. Transactions designed to avoid liability to social contribution</p> <p>Sub-Part IV – Cessation of Trade, Business or Occupation</p> <p>15. Cessation of trade, business or occupation</p> <p>Sub-Part V – Privilege in Respect of Social Contribution, Penalty and Interest</p> <p>16. Privilege in favour of Government</p> <p>PART III – SOCIAL BENEFITS</p> <p>Sub-Part I – Retirement Benefit and Industrial Injury Benefits</p> <p>17. Entitlement to social benefits</p> <p>Sub-Part II – Retirement Benefit</p> <p>18. Retirement benefit</p> | <p>19. Citizen’s eligibility for retirement benefit</p> <p>20. Non-citizen’s eligibility for retirement benefit</p> <p>21. Eligibility for retirement benefit at age of 60 and above</p> <p>22. Payment of retirement benefit</p> <p>23. Payment of end of year bonus</p> <p>Sub-Part III – Industrial Injury Benefits</p> <p>Section A – Industrial Injury</p> <p>24. Industrial injury</p> <p>Section B – Industrial Injury Benefits</p> <p>25. Industrial injury benefit</p> <p>26. Disablement benefit</p> <p>27. Other benefits in addition to industrial injury benefit or disablement benefit</p> <p>28. Survivor’s benefit</p> <p>29. Orphan’s benefit and dependent’s benefit</p> <p>30. No bar to action in damages</p> <p>Sub-Part IV – Recovery of Social Benefits</p> <p>31. Recovery of social benefits</p> <p>PART IV – ADMINISTRATION AND REVIEW OF SOCIAL BENEFITS</p> <p>Sub-Part I – Responsible Ministry</p> <p>32. Duties of Responsible Ministry</p> <p>33. Determination of claims to social benefits</p> <p>34. Payment of social benefits into bank account</p> <p>Sub-Part II – Social Benefits Review Mechanism</p> <p>35. Social Benefits Review Committee</p> <p>36. Functions of Committee</p> <p>37. Meetings of Committee</p> <p>PART V – MISCELLANEOUS</p> <p>38. Offences</p> <p>39. Regulations</p> <p>40. Repeal</p> <p>41. Consequential amendments</p> <p>42. Transitional provisions and savings</p> <p>43. Commencement</p> <p>FIRST SCHEDULE</p> <p>SECOND SCHEDULE</p> |
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A BILL

To provide a comprehensive regulatory framework to give full implementation for the administration and operation of this new social contribution and social benefits system

ENACTED by the Parliament of Mauritius, as follows –

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Social Contribution and Social Benefits Act 2021.

2. Interpretation

In this Act –

“agreement” means a contract of employment between an employer and an employee, whether oral, written, implied or express;

“annual earnings” means the earnings of an employee, or the net income derived by a self-employed, during the 12 months immediately preceding the date on which the employee or self-employed suffers industrial injury, but not exceeding, during the period of 12 months, the amount specified in Part I of the First Schedule;

“annual return” means a return referred to in section 8;

“apprenticeship” means any system by which an employer undertakes by contract to employ a person and to train him or have him trained systematically for a trade, for a period the duration of which is fixed in advance and in the course of which the apprentice is bound to work in the employer’s service;

“average life expectancy” means the average number of years, as computed by Statistics Mauritius, that an eligible person is expected to live after retirement age or when he leaves Mauritius after retirement age;

“basic wage or salary”, in relation to an employee, means –

- (a) where the terms and conditions of employment of the employee are governed by Remuneration Regulations, an arbitral award or an agreement, the basic wage or salary prescribed in the corresponding Remuneration Regulations or Wages Regulations, award or agreement, or where the employer pays a higher wage or salary, the higher wage or salary so paid excluding payment for overtime, or any allowance, by whatever name called, paid over and above the wage or salary and whether paid in cash or in kind;
- (b) in any other case, all the emoluments received by the employee, excluding payment for overtime, or any allowance, by whatever name called; and
- (c) includes payment of additional remuneration;

“business” has the same meaning as in the Income Tax Act;

“craft” includes a boat or an aircraft.

“dependent’s benefit” means the social benefit payable under section 29(3);

“Director-General” has the same meaning as in the Mauritius Revenue Authority Act;

“disabled”, for the purpose of sections 26 and 27, means suffering from a disablement of not less than one per cent and resulting from a loss of mental or physical faculty caused by an industrial accident or a prescribed disease;

“disablement benefit” means the social benefit payable under sections 26 and 27;

“domestic service” –

- (a) means employment in a private household; and
- (b) includes employment as a cook, driver, gardener, *garde malade*, maid and such other employment as may be prescribed;

“earnings” means the basic wage or salary of an employee, excluding end of year bonus, or net income derived by a self-employed, not exceeding the amount specified in Part II of the First Schedule;

“eligible person” means a person referred to in Sub-part I of Part III;

“emoluments” means any payment, in money or money’s worth, which is salary, wages, leave pay, fee, overtime pay, perquisite, allowance, bonus,

gratuity, commission or other reward or remuneration, by whatever name called, in respect of, or in relation to, the office or employment of an employee;

“employee”, for the purpose of Sub-part III of Part III –

(a) means –

- (i) a person who enters into, or works under, an agreement or a contract of apprenticeship, other than a contract of apprenticeship regulated under the Mauritius Institute of Training and Development Act, whether by way of casual work, manual labour, clerical work or otherwise, and however remunerated;
- (ii) a person who is employed on a part-time or full-time basis, whether in a position which is of permanent nature or on a contract of fixed duration; but

(b) does not include –

- (i) a job contractor, by whatever name called, working under a contract for services;
- (ii) a public sector employee;
- (iii) a person who draws an allowance under the National Assembly Allowances Act;
- (iv) a person who is paid remuneration as a Councillor under the Local Government Act; and
- (v) such other person, or category of person, as may be prescribed;

“employer” –

(a) means a person who –

- (i) employs a participant and is responsible for the payment of remuneration to the participant;
- (ii) is responsible for the payment of an allowance to a participant under the National Assembly Allowances Act;
- (iii) is responsible for the payment of remuneration to a participant under the Local Government Act, and

- (b) includes –
- (i) an individual;
 - (ii) a job contractor;
 - (iii) a person, other than a share worker, who shares the profit or gross earnings of another share worker;
 - (iv) a person who employs a participant who is in the domestic service; and
 - (v) such other person, or category of person, as may be prescribed;

“export manufacturing enterprise” has the same meaning as in the National Savings Fund Act;

“final”, in relation to disablement benefit, means an award based on an assessment which does not indicate that the claimant should be further medically examined;

“financial year” means a period of 12 months starting on 1 July in a year and ending on 30 June in the following year;

“immigration officer” has the same meaning as in the Immigration Act;

“industrial accident” means an accident as described in section 24;

“industrial benefit” means the industrial injury benefit, disablement benefit, survivor’s benefit, orphan’s benefit, dependent’s benefit and other benefits payable under Section B of Sub-part III of Part III;

“industrial injury” means an injury referred to in section 24(1);

“industrial injury benefit” means the social benefit payable under sections 25 and 27;

“loss of mental or physical faculty” –

- (a) means an impairment of the proper functioning of part of the body or mind; and
- (b) includes any disfigurement;

“Medical Board” means the Medical Board appointed as such under section 34 of the National Pensions Act;

“Medical Tribunal” means the Medical Tribunal established under section 36 of the National Pensions Act;

“Minister” means the Minister to whom responsibility for the subject of finance is assigned;

“Ministry” means the Ministry responsible for the subject of finance;

“monthly earnings”, for the purpose of Sub-part III of Part III, means one twelfth of the annual earnings of an employee or a self-employed;

“monthly return” means the return referred to in section 7;

“National Pensions Officer” means a public officer entrusted by the Responsible Minister with responsibility for carrying out the duties specified in Part III;

“net income” –

(a) has the same meaning as in the Income Tax Act; but

(b) does not include passive income;

“orphan” means a person whose parents, excluding step- parents, are dead, unknown or have disappeared in the circumstances specified in Articles 133 to 135 of the Code Civil Mauricien or in circumstances which may give rise to a declaration of absence under Article 122 of the Code Civil Mauricien;

“orphan’s benefit” means the social benefit payable under section 29;

“participant” –

(a) means –

(i) a person who enters into, or works under, an agreement or a contract of apprenticeship, other than a contract of apprenticeship regulated under the Mauritius Institute of Training and Development Act, whether by way of casual work, manual labour, clerical work or otherwise, and however remunerated;

- (ii) a person employed on a part-time or full-time basis, whether in a position which is of permanent nature or on a contract of fixed duration;
 - (iii) a person who draws an allowance under the National Assembly Allowances Act;
 - (iv) a person who is paid remuneration as a Councillor under the Local Government Act; and
- (b) includes –
- (i) a public sector employee;
 - (ii) a share worker as defined in the Workers’ Rights Act 2019;
 - (iii) a non-citizen employee;
 - (iv) a person employed in the domestic service;
 - (v) a person aged 65 and above;
 - (vi) a person performing atypical work as defined in the Workers’ Rights Act 2019;
 - (vii) an executive director of a company;
 - (viii) a self-employed; and
 - (ix) such other person, or category of person, as may be prescribed; but
- (c) does not include –
- (i) a non-citizen employee employed by an export manufacturing enterprise who has resided in Mauritius for a continuous period of less than 2 years, including any period of absence which does not exceed 9 consecutive weeks or during which he remains a resident of Mauritius;
 - (ii) a non-citizen who holds a work permit and is an employee of a foreign contractor engaged in the implementation of a project which is funded by a foreign State up to not less than 50 per cent of the estimated project value, from grant or concessional financing, as the Minister may determine;

- (iii) a person taking part in a training scheme set up by the Government, or under a joint public-private initiative, with a view to facilitating the placement of jobseekers in gainful employment;
- (iv) a non-executive director of a company;
- (v) a non-citizen employee who is not a resident under section 73(1)(a) of the Income Tax Act;
- (vi) such other person, or category of person, as may be prescribed;

“passive income” means income derived from rent, dividends, interest or such other income as may be prescribed;

“permanent”, in relation to disablement benefit, means a final award of the disablement benefit for at least 8 years;

“portage bill” means a pay sheet prepared in relation to a seaman who is remunerated otherwise than on a monthly basis;

“prescribed disease” means such disease as may be prescribed by the Responsible Minister;

“public sector employee” means –

- (a) a public officer or other employee of a Ministry or Government department;
- (b) an employee of a local authority, the Rodrigues Regional Assembly or a statutory body;
- (c) a constituency clerk or driver employed by a member of the National Assembly and who is paid out of public funds;
- (d) an employee of a statutory body specified in the First Schedule to the Statutory Bodies Pension Funds Act;
- (e) an employee of the Roman Catholic Education Authority;
- (f) an employee of the Hindu Education Authority;
- (g) such employee, or category of employee, as may be prescribed;

“quarter” means a period of 3 months ending 30 September, 31 December, 31 March or 30 June;

“remarriage” means a second or subsequent marriage;

“remuneration” means –

- (a) basic wage or salary;
- (b) an allowance paid under the National Assembly Allowances Act; or
- (c) remuneration paid to a Councillor under the Local Government Act;

“Remuneration Regulations” or “Wages Regulations” has the same meaning as in the Employment Relations Act;

“Responsible Minister” means the Minister to whom responsibility for the subject of social security is assigned;

“Responsible Ministry” means the Ministry responsible for the subject of social security;

“retirement age” means the date on which a person attains the age of 65;

“retirement benefit” means the social benefit up to the amount specified in the Second Schedule and payable under Sub-part II of Part III;

“self-employed” –

(a) means –

- (i) an individual, including a non-citizen, who works on his own account as a professional such as an accountant, an architect, an attorney, a solicitor, a barrister, an engineer, a land surveyor, a legal consultant, a medical service provider, a project manager, a property valuer, a quantity surveyor, a tax adviser or any other professional carrying out similar activities;
- (ii) a person, including a non-citizen, who carries out activities such as a mason, a cabinet maker, a plumber, a hairdresser, an artist or any other person carrying out similar activities;
- (iii) a person, including a non-citizen, who carries a business;
- (iv) such other person, or category of person, as may be prescribed; but

(b) does not include an individual, including a non-citizen, who derives exclusively passive income;

“social benefit” means the retirement benefit and industrial benefit payable under Part III;

“social contribution” means the social contribution payable under section 4;

“spouse” means the male or female partner of a civil or religious marriage;

“surcharge” means the surcharge leviable under section 10 or 38, as the case may be;

“survivor’s benefit” means the benefit payable under section 28;

“week” means a period of 7 consecutive days.

PART II – SOCIAL CONTRIBUTION

Sub-Part I – Social Contribution Mechanism

3. Social contribution

(1) Every participant and every employer of a participant shall, in respect of every month and subject to subsection (2), pay a social contribution in accordance with section 4.

(2) Where an end of year bonus prescribed under an enactment is paid to a participant, the bonus shall be treated separately as remuneration for an additional month and the participant and the employer shall, in respect of that additional month, pay the social contribution in accordance with section 4.

(3) Every payment made in respect of social contribution shall be credited to the Consolidated Fund.

4. Rates of social contribution

(1) For the purpose of section 3 –

(a) where a participant, other than a self-employed, earns, in a month, remuneration not exceeding the amount specified in Part II of the First Schedule –

(i) the participant shall, in respect of that month, pay social contribution at the rate of 1.5 per cent of that remuneration; and

- (ii) the participant's employer shall, on behalf of the participant, pay, in respect of that month, social contribution at the rate of 3 per cent of that remuneration;
- (b) where a participant, other than a self-employed, earns, in a month, remuneration exceeding the amount specified in Part II of the First Schedule –
 - (i) the participant shall, in respect of that month, pay social contribution at the rate of 3 per cent of that remuneration; and
 - (ii) the participant's employer shall, on behalf of the participant, pay, in respect of that month, social contribution at the rate of 6 per cent of that remuneration;
- (c) where a participant who is an employee in the domestic service earns, in a month, remuneration not exceeding, in aggregate, the amount specified in Part III of the First Schedule, whether from one or more employers –
 - (i) the participant shall, notwithstanding paragraph (a)(i), not pay social contribution on that remuneration; and
 - (ii) the participant's employer shall, on behalf of the participant, pay, in respect of that month, social contribution at the rate of 3 per cent of that remuneration;
- (d) where a participant who is a self-employed derives, in a month, net income not exceeding the amount specified in Part IV of the First Schedule, the participant shall, in respect of that month, pay social contribution at an amount of 150 rupees;
- (e) where a participant who is a self-employed derives, in a month, net income exceeding the amount in Part IV of the First Schedule but not exceeding the amount specified in Part II of the First Schedule, the participant shall, in respect of that month, pay the social contribution –
 - (i) at the rate of 1.5 per cent of 90 per cent of that net income; or

(ii) at an amount of 150 rupees,

whichever is higher;

- (f) where a participant who is a self-employed derives, in a month, net income exceeding the amount specified in Part II of the First Schedule, the participant shall, in respect of that month, pay social contribution at the rate of 3 per cent of 90 per cent of that net income;
- (g) where a participant earns, in a month, remuneration as an employee and also derives net income as a self-employed, the participant shall pay social contribution in accordance with –
- (i) paragraph (a), (b) or (c), as applicable; and
 - (ii) paragraph (d), (e) or (f), as applicable.

(2) For the purpose of subsection (1)(c), where a participant is an employee in the domestic service of more than one employer and earns, in a month, remuneration, from those employers, exceeding, in aggregate, the amount specified in Part III of the First Schedule, the participant shall inform every employer accordingly.

(3) For the purpose of subsection (1)(d), (e) and (f), the net income in respect of a month shall, at the option of the participant and subject to subsections (4) and (5), be –

- (a) one-twelfth of the net income of the financial year immediately preceding that month, provided the participant was working during the corresponding 12 months; or
- (b) the net income for that month.

(4) Where a participant has, in respect to a month, opted to compute his net income on the basis of subsection (3)(a) or (b) and the monthly return under section 7 has been submitted to the Director-General, the participant shall not be entitled to change that option for that month.

(5) Where a participant has, in respect to a financial year, opted to compute his net income on the basis of subsection (3)(a) or (b) and the annual return under section 8 has been submitted to the Director-General, the participant shall not be entitled to change that option for that year.

5. Deduction of social contribution by employer

(1) The employer of a participant shall, at the time of paying remuneration to the participant for a period, deduct the social contribution payable by the participant from that remuneration.

(2) Notwithstanding any agreement, no employer shall deduct from the remuneration earned by a participant the social contribution payable by the employer.

(3) Any social contribution paid by a participant shall not be recoverable by the participant from his employer.

(4) Where the Director-General is satisfied that it is not reasonably practicable to collect the social contribution payable by an employer in relation to a participant, the Director-General may, by written notice, require the person –

- (a) who, by virtue of any enactment or agreement, is required to pay wages or salary to the participant;
- (b) through whose agency the participant has secured employment; or
- (c) who, directly or indirectly, controls or comes into possession of the wages or salary payable to the participant,

to pay the social contribution in relation to the participant.

(5) Where a notice is issued under subsection (4), this Act shall, with effect from the date specified in the notice, apply to the person named in the notice as they would apply to an employer.

(6) For the purpose of this section, where wages or salary are paid to a participant –

- (a) by an agency or a third party;
- (b) through an agency or a third party;
- (c) on the basis of accounts submitted by an agency or a third party;
- (d) in accordance with arrangements made by an agency or a third party;

- (e) by way of fees, commission or other similar payments which relate to his continued employment in the work obtained through an agency or a third party,

the agency or third party, as the case may be, shall be deemed to be the employer of that participant.

6. Remittance of social contribution to Director-General

(1) Every employer of a participant and every participant who is a self-employed shall, through such computer system as the Director-General may approve, remit electronically the total social contribution paid.

(2) (a) Subject to this section, every employer of a participant and every participant who is a self-employed shall remit the total social contribution paid to the Director-General not later than the end of the month following the month in respect of which the social contribution is payable.

(b) Notwithstanding paragraph (a), where an employer elects to submit an annual return in respect to a financial year under section 8(1), the employer shall remit the total social contribution paid in accordance with that return not later than the end of the month immediately following the end of the financial year.

(c) Notwithstanding paragraph (a), where a participant who is a self-employed elects to submit an annual return in respect to a financial year under section 8(3), the participant shall remit the total social contribution paid in accordance with that return, in advance, not later than 31 July in that financial year.

(d) Notwithstanding paragraph (a), where an employer is a person who employs a participant who is a seaman and whose remuneration is computed by reference to a portage bill, the employer shall remit the total social contribution paid not later than one month and 20 days after the end of the month in respect of which social contribution is payable.

(e) Notwithstanding paragraph (a), the due date for the remittance of the total social contribution paid in respect of the months of May and November in each year shall be 2 days, excluding Saturdays and public holidays, before the end of June and December each year, respectively.

Sub-Part II – Monthly Return and Annual Return

7. Monthly return

(1) Subject to section 8, every employer of a participant shall, not later than the last date on which the social contribution is payable, submit to the

Director-General, electronically, through such computer system as the Director-General may approve, a monthly return, in an approved form, specifying the participant's –

- (a) National Identity Card number or, in the case of a non-citizen, the identification number issued by the immigration officer;
- (b) the full name, pay period, remuneration, social contribution rate, social contribution payable by the employer, social contribution payable by the participant and total social contribution payable; and
- (c) such other particulars as the Director-General may determine.

(2) Subject to section 8, every participant who is a self-employed shall, not later than the last date on which the social contribution is payable, submit to the Director-General, electronically, through such computer system as the Director-General may approve, a monthly return, in an approved form, specifying his –

- (a) National Identity Card number or, in the case of a non-citizen, the identification number issued by the immigration officer or his business registration number;
- (b) full name, net income, social contribution rate, social contribution payable; and
- (c) such other particulars as the Director-General may determine.

(3) The monthly return shall be submitted before or at the same time when the social contribution is remitted to the Director-General and, in any case, not later than the date required under section 6(2).

(4) An employer who remunerates a participant more than once in the course of a month shall, for the purpose of submitting a monthly return, aggregate the total remuneration and social contribution paid in respect of that month.

8. Annual return

(1) Notwithstanding section 7, an employer who is an individual and who employs a participant in his domestic service, may, in respect of a financial year, elect to submit a return on an annual basis.

(2) An employer who elects, under subsection (1), to submit a return on an annual basis shall submit to the Director-General, electronically, through such computer system as the Director-General may approve –

- (a) an annual return, in an approved form, not later than the last date on which the social contribution is payable, specifying the particulars specified in section 7(1) and relating to each month of the financial year; and
- (b) a quarterly statement, in an approved form, in respect of each quarter of the financial year, not later than one month after the end of the quarter.

(3) Notwithstanding section 7, a participant who is a self-employed, may, in respect of a financial year, elect to submit a return on an annual basis.

(4) A self-employed who elects, under subsection (3), to submit a return on an annual basis shall submit to the Director-General, electronically, through such computer system as the Director-General may approve –

- (a) an annual return, in an approved form, not later than the last date on which the social contribution is payable, specifying the particulars specified in section 7(2) and relating to each month of the financial year; and
- (b) a quarterly statement, in an approved form, in respect of each quarter of the financial year, not later than one month after the end of the quarter.

(5) An annual return shall be submitted before or at the same time when the social contribution is remitted to the Director-General and, in any case, not later than the date specified in section 6(2).

(6) Where an employer has submitted a monthly return for any month of a financial year, he shall not be entitled to elect to submit an annual return in respect of the same financial year.

(7) Where a self-employed has submitted an annual return in respect of a financial year, he shall not be entitled to elect to submit a monthly return in respect of any month of the same financial year.

(8) An employer who remunerates a participant more than once in the course of a month shall, for the purpose of submitting an annual return, aggregate the total remuneration and the social contribution paid in respect of that year.

Sub-Part III – Unpaid Social Contribution

9. Assessments on employers and participants

(1) Where the Director-General has reason to believe that an employer or a participant has not paid the appropriate social contribution, he may, at any time, claim the social contribution due by giving the employer or participant, as the case may be, written notice of assessment.

(2) Where an assessment is made under subsection (1), the social contribution claimed, excluding any penalty and interest under section 10, shall carry a penalty not exceeding 25 per cent of the social contribution claimed.

(3) Where the Director-General has given notice of assessment under subsection (1), the employer or participant, as the case may be, shall pay the social contribution claimed in the notice not later than 28 days after the date of notice of assessment.

(4) (a) Where an employer or a participant is dissatisfied with a notice of assessment under subsection (1), he may, not later than 28 days after the date of notice of assessment, object to the assessment in a form approved by the Director-General and sent to him by registered post or electronically.

(b) The provisions of section 131A of the Income Tax Act shall apply to any objection made under paragraph (a).

10. Penalty and interest on unpaid social contribution

(1) Without prejudice to any legal proceedings which may be instituted under section 38, where an employer fails to pay to the Director-General the whole or part of the social contribution, he shall be liable to pay to the Director-General –

(a) in addition to the social contribution payable, a penalty of 10 per cent of the social contribution remaining unpaid; and

(b) in addition to the social contribution payable and penalty under paragraph (a), interest at the rate of one per cent per month or part of the month during which the social contribution remains unpaid.

(2) Any penalty and interest collected by the Director-General under this section shall be credited to the Consolidated Fund.

11. Power to waive penalty or interest

(1) The Director-General may waive the whole or part of any penalty or interest imposed under section 10 where he is satisfied that failure to comply with this Act is attributable to a just or reasonable cause.

(2) In the exercise of his power under subsection (1), the Director-General shall, in writing, record the reasons for waiving the whole or part of the penalty or interest.

12. Arrears of social contribution, penalty and interest not recoverable from participant

Where an employer has been assessed to pay any arrears of social contribution, penalty or interest, he shall not be entitled to recover that amount from the participant.

13. Collection and recovery of social contribution by Director-General

The Director-General shall, in relation to an employer or a participant –

- (a) collect any social contribution payable and any surcharge payable under this Act; and
- (b) enforce payment of, and recover, any social contribution, including surcharge,

in the manner specified in Part IVC of the Mauritius Revenue Authority Act.

14. Transactions designed to avoid liability to social contribution

The provisions of section 90 of the Income Tax Act shall apply to the social contribution with such modifications, adaptations and exceptions as may be necessary.

Sub-Part IV – Cessation of Trade, Business or Occupation

15. Cessation of trade, business or occupation

(1) Where an employer becomes aware that he shall cease to carry on any trade, business or occupation, whether voluntarily or otherwise, he shall forthwith give written notice thereof to the Director-General and specify in the notice the date on which the cessation shall, or is likely to, have effect.

(2) Subject to subsection (3), an employer referred to in subsection (1) shall, not later than 15 days after the date of the cessation –

(a) submit a monthly return or an annual return notwithstanding the fact that the date on which the return would normally be submitted has not occurred; and

(b) pay any social contribution, penalty or interest due.

(3) Where a person is appointed as an administrator, an executor, a receiver or a liquidator to manage or wind up the trade, business or occupation of an employer, that person shall comply with subsection (2).

Sub-Part V – Privilege in Respect of Social Contribution, Penalty and Interest

16. Privilege in favour of Government

(1) Any social contribution, penalty and interest due by an employer shall be a privilege in favour of the Government, ranking concurrently with the privileges for the wages of servants (*gens de travail*) under article 2148 of the Code Civil Mauricien.

(2) The privilege under subsection (1) shall –

(a) be in respect of all payments required to be made by the employer under this Part;

(b) extend over all the movables and immovables of the employer;

(c) not require to be transcribed by the Conservator of Mortgages.

PART III – SOCIAL BENEFITS

Sub-Part I – Retirement Benefit and Industrial Injury Benefits

17. Entitlement to social benefits

(1) Subject to this Part, every eligible person shall –

(a) on retirement, be entitled to a retirement benefit in accordance with Sub-part II;

(b) due to industrial injury, be entitled to an industrial injury benefit in accordance with Sub-part III.

(2) There shall be charged on, and paid out, of the Consolidated Fund all social benefits paid under this Act.

(3) The payment of social benefits under Part III shall be made by the Responsible Ministry.

Sub-Part II – Retirement Benefit

18. Retirement benefit

Subject to section 19, every person, other than a person referred to in section 21, shall, at retirement age, be entitled to the retirement benefit.

19. Citizen's eligibility for retirement benefit

(1) (a) A citizen who resides in Mauritius shall be entitled to the retirement benefit where he has –

- (i) reached retirement age; and
- (ii) resided in Mauritius for at least 20 years in aggregate since his eighteenth birthday.

(b) Where a citizen is absent from Mauritius for a continuous period not exceeding 6 months in any period of 12 consecutive months, he shall continue to be entitled to the retirement benefit during the period of absence.

(2) (a) Where a citizen is, subject to paragraph (b), absent from Mauritius for a continuous period exceeding 6 months in any period of 12 consecutive months, he shall be entitled to the retirement benefit where he has –

- (i) reached retirement age;
- (ii) resided in Mauritius for at least 20 years in aggregate since his eighteenth birthday; and
- (iii) paid the social contribution for a period of at least half the number of years between 1 September 2020 and the date of making the application for the benefit.

(b) Where a citizen is absent from Mauritius for a continuous period exceeding 6 months in any period of 12 consecutive months, he shall elect to –

- (i) defer the retirement benefit during the period of absence until he returns to reside in Mauritius; or

- (ii) receive, in lieu of the retirement benefit, a lump sum payment determined in accordance with Part I of the Third Schedule.
- (c) Where a retirement benefit is payable under paragraph (b)(i) –
 - (i) any arrears in benefit shall be paid when the beneficiary returns to Mauritius; and
 - (ii) he shall, thereafter, be paid on a monthly basis.
- (d) A citizen in receipt of a lump sum payment under paragraph (b)(ii) shall provide an undertaking in writing that he will have no future claims to the retirement benefit.

(3) Where a citizen –

- (a) is employed outside Mauritius in continuation of his employment in Mauritius;
- (b) is outside Mauritius for medical treatment;
- (c) is temporarily absent from Mauritius for a continuous period not exceeding six months; or
- (d) is employed on board a vessel,

the period during which he is outside Mauritius shall be deemed to be a period of residence in Mauritius for the purposes of claiming the retirement benefit.

20. Non-citizen's eligibility for retirement benefit

(1) A non-citizen who resides in Mauritius shall be entitled to claim the retirement benefit where he has –

- (a) reached retirement age;
- (b) resided in Mauritius for at least 20 years in aggregate; and
- (c) paid social contribution for a period of at least half the number of years between 1 September 2020 and the date of making the application for the benefit.

(2) (a) Where a non-citizen leaves Mauritius for a continuous period exceeding 6 months in any period of 12 consecutive months, he shall elect to –

- (i) defer the retirement benefit until he returns to reside in Mauritius; or
 - (ii) receive, in lieu of the retirement benefit, a lump sum payment determined in accordance with Part II of the Third Schedule.
- (b) Where a retirement benefit is payable under paragraph (a)(i) –
 - (i) any arrears in retirement benefit shall be paid when the beneficiary returns to Mauritius; and
 - (ii) he shall, thereafter, be paid on a monthly basis.
- (c) A non-citizen in receipt of a lump sum payment under paragraph (a)(ii) shall provide an undertaking in writing that he will have no future claims to the retirement benefit.

21. Eligibility for retirement benefit at age of 60 and above

(1) Notwithstanding section 18, a person who is employed in a specified sector and has the option to retire before attaining the age of 65 may, on reaching the age of 60 or above, be entitled to the retirement benefit on retirement.

(2) A person referred to in subsection (1) shall be entitled to the retirement benefit provided that he –

- (a) has resided in Mauritius for at least 20 years in aggregate since his eighteenth birthday;
- (b) is not in employment whilst deriving the retirement benefit; and
- (c) has been employed in the sector referred to in subsection (1) for at least 10 consecutive years at the time of retirement.

(3) In this section –

“specified sector” means a sector referred to in the Remuneration Regulations listed in the Fourth Schedule.

22. Payment of retirement benefit

The retirement benefit shall accrue from the month in which the person becomes entitled to receive it and shall be paid –

- (a) in such manner and at such times; and

- (b) subject to such conditions,

as may be prescribed.

23. Payment of end of year bonus

(1) A person who is entitled to retirement benefit shall be entitled to the payment of end of year bonus equivalent to the monthly amount of the retirement benefit.

(2) The payment of end of year bonus under subsection (1) shall be made by the Responsible Ministry on such date as the Responsible Minister may determine.

Sub-Part III – Industrial Injury Benefits

Section A – Industrial Injury

24. Industrial injury

(1) Subject to subsections (2) and (3), where an employee or a self-employed suffers personal injury which is caused –

- (a) in case of the employee –
 - (i) by an industrial accident arising out of, and during the course of, his employment; or
 - (ii) a prescribed disease, being a disease due to the nature of his employment; or
- (b) in case of the self-employed –
 - (i) by an industrial accident arising out of, and during the course of, his profession, trade or business; or
 - (ii) a prescribed disease, being a disease due to the nature of his profession, trade or business,

he shall be deemed to have suffered industrial injury.

(2) For the purpose of subsection (1)(a) –

- (a) an industrial accident arising out of, and during the course of employment shall, in the absence of evidence to the contrary, be deemed to have arisen out of that employment;

- (b) an industrial accident arising out of, and during the course of employment shall include –
 - (i) an accident which occurs –
 - (A) while an employee is travelling to, or from his place of work in a vehicle or craft operated for that purpose by, or on behalf of, his employer or by any other means of transport to which the employee is permitted to resort to by his employer, whether or not he is under an obligation to travel by such means;
 - (B) while an employee is taking steps, on an emergency at the place where he is employed, to rescue, help or protect a person who is, or is believed to be, or about to be, injured or imperilled, or to avert or minimise damage to property;
 - (C) at a time when an employee was contravening a law applicable to his employment or an order of his employer or was acting without instructions from his employer and which would have occurred even if the employee had not been so acting, where the contravention or act was for the purpose of, and in connection with, his employer's trade or business or other activities;
 - (D) during a temporary interruption of work for a meal, rest or refreshment, where the accident occurs in, or about, the premises –
 - (I) occupied by an employer;
 - (II) to which an employee has, by virtue of his employment, a right of access during the temporary interruption of his work; or
 - (III) to which an employee is permitted to resort during the temporary interruption of his work by express or implied authorisation of his employer; or
 - (E) on a working day –

- (i) during a temporary interruption of work duly authorised by his employer for the purpose of the employee collecting his wages; or
 - (ii) between an employee's place of work and the place he usually receives his wages;
- (ii) an industrial accident which is caused by –
 - (A) another person's misconduct, negligence or imprudence;
 - (B) the behaviour or presence of an animal; or
 - (C) an employee being struck by any object or any force of nature, and to which the employee has not contributed by an act extraneous to his employment;
- (iii) a hernia –
 - (A)
 - (i) which is a clinical hernia of disabling character which appears to have recently occurred for the first time; or
 - (ii) which is an aggravation or strangulation of pre-existent hernia resulting in immediate pain and disablement; and
 - (B) the onset of which was immediately preceded by a strain or an industrial accident arising in any of the circumstances specified in subparagraphs (i) and (ii).

(3) For the purpose of subsection (1)(b), an industrial accident arising out of, and during the course of, the profession, trade or business of a self-employed, shall include –

- (i) an accident which occurs –
 - (A) while the self-employed is travelling to, or from, his place of work in a vehicle or craft operated for that purpose;
 - (B) while the self-employed is taking steps, on an emergency at his place of work, to rescue, help

or protect a person who is, or is believed to be, or about to be, injured or imperilled, or to avert or minimise damage to property;

- (ii) an accident which is caused by –
 - (A) another person's misconduct, negligence or imprudence;
 - (B) the behaviour or presence of an animal; or
 - (C) the self-employed being struck by any object or any force of nature, and to which he has not contributed by an act extraneous to his profession, trade or business;
- (iii) a hernia –
 - (A) (I) which is a clinical hernia of disabling character which appears to have recently occurred for the first time; or
 - (II) which is an aggravation or strangulation of pre-existent hernia resulting in immediate pain and disablement; and
 - (B) the onset of which was immediately preceded by a strain or an accident arising in any of the circumstances specified in subparagraphs (i) and (ii).

Section B – Industrial Injury Benefits

25. Industrial injury benefit

(1) Subject to subsections (3) and (4), where an employee or a self-employed suffers industrial injury which results in temporary total incapacity for work, he shall be entitled to the industrial injury benefit.

(2) The industrial injury benefit shall be equal to 80 per cent of the monthly earnings of the employee or self-employed.

(3) (a) An industrial injury benefit payable to an employee shall not be paid in respect of the first 2 weeks of each period of incapacity.

(b) Subject to paragraph (d), where the industrial injury benefit is not payable under paragraph (a) to an employee who suffers industrial injury, his

employer shall, within 2 weeks of receiving medical evidence of the incapacity, pay him a compensation for the whole period of the incapacity at the same rate that he was being remunerated at the time the industrial injury occurred.

(c) Where an employee suffers industrial injury which results in total or partial temporary incapacity for work for a period not exceeding 2 weeks, his employer shall, within 2 weeks of receiving a claim, pay to him a sum equal to the reasonable expenses, not exceeding such amount as may be prescribed, incurred in respect of medical and surgical attendances, first aid, physiotherapy and other essential treatment, which are rendered necessary as a result of the industrial injury.

(d) The compensation under paragraph (b) shall be paid for the whole period of total temporary incapacity irrespective of the fact that the whole or part of that period falls after the day on which the employment of the employee is terminated.

(e) The industrial injury benefit payable to an employee shall cease to be payable as from the date the employee is found to be disabled by a medical officer, a Medical Board or the Medical Tribunal, as the case may be.

(f) Paragraph (e) shall not apply where the medical officer, Medical Board or Medical Tribunal is satisfied that there has been a deterioration in the medical condition of the employee.

(4) (a) An industrial injury benefit payable to a self-employed shall be payable as from the day the self-employed is injured, provided that his period of incapacity exceeds 2 weeks as certified by a Government medical officer.

(b) An industrial injury benefit shall cease to be payable as from the date the self-employed resumes his profession, trade or business or is found to be disabled by a Government medical officer, a Medical Board or the Medical Tribunal, as the case may be.

(c) Paragraph (b) shall not apply where the Government medical officer, Medical Board or Medical Tribunal is satisfied that there has been a deterioration in the medical condition of the self-employed.

(5) Notwithstanding this section, no industrial injury benefit shall be payable in any circumstances after a period of 36 months from the date on which the industrial injury occurred, except where a surgical intervention has to be performed after this period.

26. Disablement benefit

(1) (a) Subject to subsections (2) and (3), where an employee or a self-employed suffers industrial injury which results in a disablement, he shall be entitled to the disablement benefit.

(b) The disablement benefit shall be awarded in respect of the period during which the employee or self-employed has been or is expected to be disabled.

(2) Subject to subsection (3), the disablement benefit shall –

(a) where the disablement is 100 per cent, be equal to 80 per cent of the monthly earnings of the employee or self-employed;

(b) where the disablement is less than 100 per cent, be equal to 65 per cent of the monthly earnings of the employee or self-employed multiplied by the percentage of his disablement.

(3) Where –

(a) (i) the disablement of an employee or a self-employed is less than 20 per cent and is final;

(ii) the employee or self-employed is eligible for the disablement benefit; and

(iii) the employee or self-employed has not attained retirement age on the day on which the industrial accident or prescribed disease occurs; or

(b) (i) the disablement of an employee or self-employed is 100 per cent and is permanent;

(ii) the employee or self-employed is eligible for the disablement benefit; and

(iii) the employee or self-employed has not attained retirement age on the date on which the industrial accident or prescribed disease occurs and the period between the date and his retirement age does not exceed 8 years,

the employee or self-employed may, not later than one month after the date on which the award for the disablement benefit is notified by post to him, elect to

receive, in lieu of that disablement benefit, a lump sum payment as determined in accordance with subsection (4).

(4) The lump sum payment to be made to an employee or a self-employed under subsection (3) shall be the product of –

- (a) the number of years, not exceeding 8, for which the disablement benefit is awarded to him;
- (b) his annual earnings; and
- (c) the percentage of his disablement.

(5) Where a person who is entitled to the disablement benefit becomes entitled to the retirement benefit, he shall be entitled to receive either the retirement benefit or disablement benefit, whichever is higher.

27. Other benefits in addition to industrial injury benefit or disablement benefit

(1) Subject to this section, an employee or a self-employed who is entitled to the industrial injury benefit or disablement benefit shall –

- (a) where he, as a result of the industrial injury, suffers an incapacity or a disablement of such a nature that he shall have the constant personal attendance of another person, be paid, in addition to the industrial injury benefit or disablement benefit, another benefit at the prescribed rate for the period during which that personal attendance is necessary, but not including any period during which the employee or self-employed is maintained in a hospital or similar institution without charge to himself or to any other person;
- (b) where, as a result of the industrial injury, the provision of an artificial aid to him becomes necessary or desirable, be paid, in addition to the industrial injury benefit or disablement benefit, a sum sufficient to cover the cost of the artificial aid and its maintenance or renewal;
- (c) where, as a result of the industrial injury, suffers damage to –
 - (i) his natural teeth;
 - (ii) any artificial aid being used or worn by him at the time of the industrial accident; or
 - (iii) clothing or spectacles being worn by him at the time of the industrial accident,

be paid, in addition to the industrial injury benefit or disablement benefit, a sum sufficient to cover the reasonable cost in the case of damage –

- (A) to his natural teeth, of repairing them or replacing them with an artificial denture; or
 - (B) to any artificial aid, clothing or spectacles, or repairing or, where necessary, replacing the artificial aid, clothing or spectacles;
- (d) (i) subject to subparagraph (ii), be paid, in addition to the industrial injury benefit, a sum equal to the reasonable expenses incurred during the period for which the industrial injury benefit is payable in respect of medical and surgical attendances which are rendered necessary as a result of the industrial injury, including first aid, physiotherapy and maintenance as a patient in a hospital or similar Government institution;
- (ii) where the industrial injury requires urgent treatment at a private clinic, be paid, in addition to the industrial injury benefit, a sum equal to the reasonable expenses incurred in respect of medical and surgical attendances, first aid and other treatment, such amount as may be prescribed.

(2) The benefit under subsection (1)(a) shall be payable, notwithstanding the fact that the person has elected to receive another benefit in lieu of the industrial injury benefit or disablement benefit.

28. Survivor's benefit

- (1) Subject to subsections (2), (3) and (4) –
- (a) where an industrial injury results in the death of an employee or a self-employed and the employee or self-employed leaves a surviving spouse; or
 - (b) where an employee has disappeared during the course of his employment, or a self-employed has disappeared during the course of his profession, trade or business, in the

circumstances specified in articles 133 to 135 of the Code Civil Mauricien or in circumstances which may give rise to a declaration of absence under article 122 of the Code Civil Mauricien and leaves a spouse,

the spouse shall be entitled to the survivor's benefit.

(2) The survivor's benefit payable shall be of an amount equal to half of the monthly earnings of the deceased employee or self-employed.

(3) (a) Where a person has disappeared in the circumstances specified in articles 133 to 135 of the Code Civil Mauricien or in circumstances which may give rise to a declaration of absence under article 122 of the Code Civil Mauricien, the spouse shall become eligible to the survivor's benefit after the expiry of 3 months from the date on which the case of disappearance or missing person, as the case may be, was reported to the Police.

(b) Subject to subsection (3), where the spouse is still untraceable after a period of 5 years from the date the matter has been reported to the Police, the surviving spouse shall, not later than one year after the expiry of the 5-year period, produce a death certificate to the National Pensions Officer in respect of that untraceable spouse.

(c) Where the surviving spouse fails to produce the death certificate during the period referred to in paragraph (b), the survivor's benefit shall cease to be paid.

(4) In case of the remarriage of a person who is in receipt of the survivor's benefit, that person shall cease to be qualified to receive the benefit.

(5) Where a person who is entitled to the survivor's benefit becomes entitled to the retirement benefit, he shall be entitled to receive either the retirement benefit or survivor's benefit, whichever is higher.

29. Orphan's benefit and dependent's benefit

(1) Where an employee or a self-employed dies as a result of an industrial injury, or an employee has disappeared during the course of his employment or a self-employed has disappeared during the course of his profession, trade or business in the circumstances specified in articles 133 to 135 of the Code Civil Mauricien or in circumstances which may give rise to a declaration of absence under article 122 of the Code Civil Mauricien, and the employee or self-employed leaves one or more orphan, each orphan shall, as long as he is –

(a) (i) under the age of 16; or

(ii) under the age of 23 and is receiving full-time education; and

(b) not married,

be entitled to the orphan's benefit of an amount representing 15 per cent of half of the monthly earnings of the employee or self-employed but shall, in no case, be less than the orphan's pension payable under section 5 of the National Pensions Act.

(2) An orphan's benefit shall be –

(a) paid to the guardian of the orphan or such other person as the National Pensions Officer may determine; and

(b) devoted by the person receiving it for the exclusive benefit of the orphan.

(3) Where an employee or a self-employed dies as a result of an industrial injury, or an employee has disappeared during the course of his employment or a self-employed has disappeared during the course of his profession, trade or business in the circumstances specified in articles 133 to 135 of the Code Civil Mauricien or in circumstances which may give rise to a declaration of absence under article 122 of the Code Civil Mauricien, and the employee or self-employed leaves no spouse but leaves a dependent, the dependent shall be entitled to the dependent's benefit at the prescribed rate.

(4) In subsection (3) –

"dependent", in relation to an employee or a self-employed, means a relative, other than an orphan, who was –

(a) living in the household; and

(b) wholly or partly dependent on the earnings of that employee or self-employed at the time when his entitlement to the dependent's benefit arises;

"relative", in relation to an employee or a self-employed, includes his –

(a) ascendant or descendant, whether legitimate or natural;

(b) collateral to the second degree; or

(c) stepfather, stepmother, stepson and stepdaughter.

30. No bar to action in damages

(1) Nothing in this Sub-part shall bar an action in damages under any other enactment in respect of industrial injury suffered by an employee.

(2) Notwithstanding any other enactment, where, in relation to an employee, a claim referred to in subsection (1) is made against an employer and the Court finds that the employee is entitled to damages, the amount to be awarded as damages shall be reduced by the value, as determined by the Court, of any social benefit payable to the employee under this Sub-part.

Sub-Part IV – Recovery of Social Benefits

31. Recovery of social benefits

Where a person has received a social benefit to which he is not entitled, or which he was not qualified, to receive or was disqualified from receiving, the amount of the social benefit may be recovered by the Accounting Officer of the Responsible Ministry, in the same manner as Income Tax is recoverable under Part IVC of the Mauritius Revenue Authority Act.

PART IV – ADMINISTRATION AND REVIEW OF SOCIAL BENEFITS

Sub-Part I – Responsible Ministry

32. Duties of Responsible Ministry

The Responsible Ministry shall –

- (a) pay the appropriate social benefit to every person who is entitled to it;
- (b) delegate to such officers of its Ministry as may be required to carry out any duties in relation to the payment of social benefits; and
- (c) take such necessary actions and measures as may be required in relation to the payment of social benefits.

33. Determination of claims to social benefits

(1) Subject to section 36 of the National Pensions Act, the National Pensions Officer shall be the sole authority to determine claims to any social benefit.

(2) Where, on the determination of any claim to a social benefit, a medical question arises, the National Pensions Officer shall, before adjudicating upon the claim, refer –

- (a) in the case of an employee, that question to a medical officer or the Medical Board for advice; and
- (b) in the case of a self-employed, that question to a Government medical officer or the Medical Board for advice.

(3) (a) Where a claimant to a retirement benefit is unable to supply proof of his age, he shall, subject to paragraph (b), swear or solemnly affirm an affidavit in the form set out in the Fifth Schedule.

(b) Paragraph (a) shall not apply where the claimant has, in respect of a claim for basic retirement pension under the National Pensions Act, supplied proof of his age by swearing or solemnly affirming an affidavit.

(c) An affidavit under paragraph (a) shall be exempt from the payment of any duty, charge or fee.

34. Payment of social benefits into bank account

(1) A social benefit may, on the written request of the person entitled to it, be paid to his bank account.

(2) Subject to subsection (3), where a social benefit is paid into a bank account under subsection (1), and it is subsequently found by the National Pensions Officer that the social benefit should not have been so paid, the bank shall, on written notice to that effect by the National Pensions Officer, refund the amount so paid to the Responsible Ministry and debit the bank account accordingly.

(3) (a) Where a bank account is closed, the bank shall not be required to refund to the Responsible Ministry the amount paid under subsection (1).

(b) Where the amount standing in the bank account is less than the amount paid under subsection (1), the bank shall refund only the amount standing in the bank account.

(4) Notwithstanding any other enactment but subject to subsection (5), where a refund is made under this section, no action shall lie against the bank in respect of the amount so refunded.

(5) Subsection (3) shall not prejudice the right of any interested person to claim from the Responsible Ministry the amount refunded to it under this section.

Sub-Part II – Social Benefits Review Mechanism

35. Social Benefits Review Committee

(1) There is set up for the purposes of this Act a Committee to be known as the Social Benefits Review Committee.

(2) The Committee shall consist of –

- (a) a Chairperson, to be appointed by the Minister;
- (b) a representative of the Prime Minister's Office;
- (c) a representative of the Ministry;
- (d) a representative of the Responsible Ministry;
- (e) a representative of the Ministry responsible for the subject of financial services;
- (f) a representative of the Ministry responsible for the subject of industry;
- (g) a representative of the Ministry responsible for the subject of labour;
- (h) 4 members representing organisations of employers, to be appointed by the Minister;
- (i) 4 members of any workers' organisation representing workers employed in the private sector, to be appointed by the Minister; and
- (j) one member, having wide experience in the field of finance and pension, to be appointed by the Minister.

(3) A member, other than a member referred to in subsection 2(b) to (g), shall hold office for a period of 2 years and shall be eligible for reappointment.

(4) Every member shall be paid such fee or allowance as the Minister may determine.

36. Functions of Committee

(1) The Committee shall make recommendations to the Minister for the purpose of enhancing the social benefits and maintaining its sustainability.

(2) In the discharge of its functions under subsection (1), the Committee shall take the following criteria into consideration –

- (a) the erosion of purchasing power;
- (b) the sustainability and affordability of the social benefits; and
- (c) other socio-economic factors.

37. Meetings of Committee

(1) The Committee shall meet as often as is necessary but at least once a year and at such time and place as the Chairperson may determine.

(2) At any meeting of the Committee, 9 members shall constitute a quorum.

(3) Subject to this section, the Committee shall regulate its meetings and proceedings in such manner as it may determine.

PART V – MISCELLANEOUS

38. Offences

(1) Any person who –

- (a) for the purpose of, or in connection with, a claim for a social benefit, including a benefit payable under Part III, either for himself or on behalf of any other person, knowingly –
 - (i) makes a false statement or a statement which he knows or ought to have known to be false in any material particular;
 - (ii) makes a false representation; or
 - (iii) fails to disclose a material fact;
- (b) fails within the prescribed time limit to pay the social contribution;
- (c) otherwise fails to comply with this Act or any regulations made under it,

shall commit an offence.

(2) (a) A person shall –

- (i) on conviction for an offence under subsection (1)(a), be liable to a fine not exceeding 5,000 rupees and to imprisonment for a term not exceeding 3 months;
- (ii) on conviction for an offence under subsection (1)(c), be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding 12 months.

(b) A person shall, on conviction for an offence under subsection (1)(b), be liable –

- (i) in the case of a person who employs an employee in domestic service, to a fine not exceeding 5,000 rupees and to imprisonment for a term not exceeding 3 months; or
- (ii) in any other case, to a fine equal to the unpaid social contribution or 50,000 rupees, whichever is higher, and to imprisonment for a term not exceeding 12 months.

(c) A person shall, on conviction for an offence under subsection (1)(b) or (c), in addition to any penalty imposed upon him under this subsection, be ordered to pay to the Director-General the amount of any unpaid social contribution or surcharge.

(3) An order made under subsection (2)(c) may be enforced in the same manner as a judgment delivered by a Court in its civil jurisdiction.

39. Regulations

(1) The Minister may make such regulations as he thinks fit for the purposes of this Act.

(2) The Minister may, by regulations, amend the First, Third, Fourth and Fifth Schedules.

(3) Any regulations made under subsection (1) may provide for anything connected, consequential or incidental to social contribution and social benefits.

40. Repeal

The *Contribution Sociale Généralisée* Regulations 2020 are repealed.

41. Consequential amendments

(1) The Mauritius Revenue Authority Act is amended, in the First Schedule, under the subheading “**Acts**”, by inserting, in the appropriate alphabetical order, the following new item –

Social Contribution and Social Benefits Act 2021 in so far as it relates to Part II

(2) The National Pensions Act is amended –

(a) in section 2 –

- (i) by deleting the definitions “annual earnings”, “craft”, “final”, “industrial accident”, “industrial injury”, “loss of mental or physical faculty”, “monthly earnings”, “permanent” and “portage bill”;
- (ii) in the definition of “dependent’s pension”, by inserting, after the words “payable under”, the words “the repealed”;
- (iii) in the definition of “disabled” –
 - (A) in paragraph (a), by deleting the words “sections 8, 21 and 28(3)” and replacing them by the words “sections 8 and 21 and the repealed section 28(3)”;
 - (B) in paragraph (b), by inserting, after the words “for the purpose of”, the words “the repealed”;
- (iv) in the definition of “disablement pension”, by inserting, after the words “payable under”, the words “the repealed”;
- (v) in the definition of “industrial injury allowance”, by inserting, after the words “payable under”, the words “the repealed”;
- (vi) in the definition of “orphan’s industrial injury pension”, by inserting, after the words “payable under”, the words “the repealed”;
- (vii) in the definition of “survivor’s pension”, by inserting, after the words “payable under”, the words “the repealed”;

- (b) in section 13, in subsection (1B)(c), by deleting the words “the benefit under Part VA or”;
- (c) by repealing sections 17D, 17E and 19;
- (d) by repealing Part V and VA;
- (e) in section 34, in subsection (1), by deleting the words “whether or not an employee has suffered industrial injury” and replacing them by the words “claims to social benefits under the Social Contribution and Social Benefits Act 2021”;
- (f) in section 35 –
 - (i) in subsection (1)(a), by deleting the words “except for a benefit payable under Part V,”;
 - (ii) by repealing subsection (2);
- (g) in section 36, by deleting the words “or by an interested person against the decision of the Minister” and replacing them by the words “, or by an interested person against the decision of the Minister, under this Act and the Social Contribution and Social Benefits Act 2021”;
- (h) in section 37 –
 - (i) in subsection (2)(b), by inserting, after subparagraph (i), the following new subparagraph, the word “and” at the end of subparagraph (i) being deleted –
 - (ia) all sums required to pay social benefits under Part III of the Social Contribution and Social Benefits Act 2021”;
and
 - (ii) in subsection (3), by adding the following new paragraph, the full stop at the end of paragraph (c) being deleted and replaced by a semicolon –
 - (d) the social benefits payable under Part III of the Social Contribution and Social Benefits Act.
- (i) in section 42 –

(i) in subsection (1)(b), by inserting, after the words “survivor’s pension”, the words “or survivor’s benefit under the Social Contribution and Social Benefits Act 2021”;

(ii) in subsection (2) –

(A) by inserting, after the words “entitled to a survivor’s pension”, the words “or to the survivor’s benefit under the Social Contribution and Social Benefits Act 2021”;

(B) by adding the following new paragraph, the comma at the end of paragraph (c) being deleted and replaced by the words “; or” and the word “or” at the end of paragraph (b) being deleted –

(d) the survivor’s benefit under the Social Contribution and Social Benefits Act 2021,

(j) in section 44, in subsection (3), by inserting, after the words “payable under”, the words “the repealed”;

(k) in section 45, in subsection (1), by inserting, after the words “payable under”, the words “the repealed”;

(l) in section 45A –

(i) by inserting, after the words “payable under”, the words “the repealed”;

(ii) in subsection (5), by inserting, after the words “specified in”, the words “the repealed”;

(m) by repealing sections 45I and 45K.

(3) The Sugar Industry Pension Fund Act is amended, in section 4(3), by repealing paragraph (c) and replacing it by the following paragraph –

(c) an employee whose monthly remuneration does not exceed the ceiling specified in paragraph (a) of the Fifth Schedule to the National Pensions Act;

42. Transitional provisions and savings

(1) Any *contribution sociale généralisée* made under the repealed *Contribution Sociale Généralisée* Regulations 2020 shall be deemed to –

- (a) be the social contribution payable under section 3 of this Act; and
- (b) have been paid under this Act.

(2) Where, on the commencement of section 4(1)(a) and (b) –

- (a) a public sector employee earns, in a month, remuneration not exceeding the amount specified in Part II of the First Schedule, his employer shall, notwithstanding that section and until such time, and in relation to such category of public sector employee, as may be prescribed, pay, on his behalf and in respect of that month, the social contribution at the rate of 4.5 per cent of that remuneration;
- (b) a public sector employee earns, in a month, remuneration exceeding the amount specified in Part II of the First Schedule, his employer shall, notwithstanding that section and until such time, and in relation to such category of public sector employee, as may be prescribed, pay, on his behalf and in respect of that month, the social contribution at the rate of 9 per cent of that remuneration.

(3) Any industrial injury pension paid to a person under the repealed Part V of the National Pensions Act prior to the commencement of this subsection shall, on the commencement of this subsection, continue to be paid to the person under the repealed Part V of the National Pensions Act until the person ceases to be entitled to that pension.

(4) A person who is paid an industrial injury pension under the repealed Part V of the National Pensions Act shall, in respect of the industrial injury which entitled him to that industrial injury benefit, not be entitled to any industrial benefit payable under this Act.

43. Commencement

(1) Subject to this section, this Act shall come into operation on 1 September 2021.

(2) Sub-part II of Part III shall come into operation on 1 July 2023.

(3) Sub-part III of Part III, except in relation to a self-employed, and section 41(3) shall be deemed to have come into operation on 1 September 2020.

FIRST SCHEDULE
[Sections 2, 4 and 42(2)]

AMOUNT OF EARNINGS

PART I

600,000 rupees

PART II

50,000 rupees

PART III

3,000 rupees

PART IV

10,000 rupees

SECOND SCHEDULE

[Section 2]

RETIREMENT BENEFIT

	(Rs)
Amount of monthly retirement benefit	4,500

THIRD SCHEDULE
[Sections 19(2)(b)(ii) and 20(2)(a)]

COMPUTATION OF LUMP-SUM

PART I

Lump-sum computed as follows –

50% x (Retirement Benefit x 13 months) x (Average Life Expectancy - Retirement Age or Age at which the citizen leaves the country, whichever is higher)

PART II

Lump-sum computed as follows –

50% x (Retirement Benefit x 13 months) x [(Average Life Expectancy – Retirement Age or Age at which the non-citizen leaves the country, whichever is higher) or Years of Contribution, whichever is lower]

FOURTH SCHEDULE

[Section 21(3)]

REMUNERATION REGULATIONS

1. The Blockmaking, Construction, Stone Crushing and Related Industries (Remuneration) Regulations 2019
 2. The Public Transport (Buses) Workers (Remuneration) Regulations 2019
 3. The Salt-Manufacturing Industry (Remuneration) Regulations 2019
 4. The Sugar Industry (Agricultural Workers) (Remuneration) Regulations 2019
 5. The Sugar Industry (Non-Agricultural Workers) (Remuneration) Regulations 2019
 6. The Tea Industry Workers (Remuneration) Regulations 2019
-

FIFTH SCHEDULE

[Section 33(3)]

In the District Court of

**AFFIDAVIT UNDER SECTION 33(3) OF THE SOCIAL CONTRIBUTION
AND SOCIAL BENEFITS ACT 2021**

I, (name),
residing at (address),

Make oath/solemn affirmation* and say –

That to the best of my knowledge and belief, I was born on or about the year
..... and I am of the age of (years).

Sworn/solemnly affirmed* by the
abovenamed deponent on the day
of 20....

Before Me

.....
District Magistrate

Delete as appropriate
