

THE SPECIAL ALLOWANCE BILL

(No. XX of 2024)

Explanatory Memorandum

The object of this Bill is to provide for a one-off payment of a special allowance for year 2024 to employees drawing a monthly basic wage or salary not exceeding 50,000 rupees.

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*Minister of Labour and
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13 December 2024

THE SPECIAL ALLOWANCE BILL

(No. XX of 2024)

ARRANGEMENT OF CLAUSES

Clause

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A BILL

To provide for the payment of a special allowance for year 2024

ENACTED by the Parliament of Mauritius, as follows –

1. Short title

This Act may be cited as the Special Allowance Act 2024.

2. Interpretation

In this Act –

"authorised officer" means the supervising officer or any public officer authorised by him;

"basic wage or salary" –

(a) means –

(i) 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, award or agreement, or such higher basic wage or salary paid by the employer; or

(ii) in any other case, the basic wage or salary paid by an employer; and

(b) includes –

(i) the additional remuneration payable for the year 2024;

(ii) the wage adjustment payable as from 1 July 2024 under the Remuneration Regulations or such other regulations made under the Employment Relations Act;

"continuous employment" means the employment of an employee under an agreement or under more than one agreement where the interval between an agreement and the next agreement does not exceed 28 days;

“employee” –

- (a) means 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; and
- (b) includes –
 - (i) a part-time employee;
 - (ii) an atypical employee;
 - (iii) an employee working from home;
 - (iv) a share employee; and
 - (v) a person, other than a consultant, who is classified by an employer as a service provider or by any other such appellation, whether or not he holds a business registration number, but who performs personally the same or similar work of a comparable employee employed in the same enterprise or industry; but
- (c) does not include –
 - (i) a job contractor;
 - (ii) a consultant;
 - (iii) a self-employed;
 - (iv) 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;
 - (v) a person whose monthly basic wage or salary is at a rate exceeding 50,000 rupees –

- (A) where he is in the employment of an employer for part of the year only, as at his last working date with that employer;
 - (B) in every other case, as at 31 December 2024;
- (vi) a public officer, a local government officer, an employee of a statutory body who is, or has opted to be governed by the terms and conditions in a report of the Pay Research Bureau or an employee who is employed on terms and conditions specified in a report of the Pay Research Bureau;

"Minister" means the Minister to whom responsibility for the subject of labour and employment relations is assigned;

"special allowance 2024" means the special allowance payable under section 3;

"supervising officer" means the supervising officer of the Ministry responsible for the subject of labour and employment relations;

"year" means the calendar year 2024.

3. Payment of special allowance

(1) Every employee who has been in the continuous employment of an employer for the whole or part of the year 2024 shall be entitled to the payment of a special allowance.

(2) The special allowance specified in subsection (1) shall be equivalent to one month basic wage or salary where an employee has been in the continuous employment with the same employer for the whole of the year 2024 and is still in employment as at 31 December 2024.

(3) Where the employee has been in continuous employment with the same employer for only part of the year 2024 and –

- (a) is still in employment as at 31 December 2024;
- (b) his employment is terminated in the course of the year for any reason;
- (c) his contract of employment comes to an end;
- (d) he passes away in the course of the year;

- (e) he retires in the course of the year in accordance with the provisions of any agreement or enactment; or
- (f) he resigns in the course of the year on or after having been in continuous employment for at least 8 months,

the employee or his legal representative, as the case may be, shall be paid, the special allowance referred to in subsection (1), computed in accordance with the following formula –

$\frac{N}{12} \times W$ where –

“N” means the number of completed months during which the employee has remained in the continuous employment of the employer in the year 2024;

“W” means the monthly basic wage or salary payable in respect of the month of December 2024 or of the last month of his employment.

(4) Where the monthly basic wage or salary of an employee is paid partly by one employer and partly by another, each employer shall pay that part of the special allowance which bears the same proportion as the part of the basic wage or salary paid by him bears to the total basic wage or salary.

(5) (a) Subject to paragraph (b), every employer shall pay the special allowance in 2 equal instalments where –

- (i) the first instalment is paid not later than on the last working day of December 2024; and
- (ii) the last instalment is paid on the last working day of January 2025.

(b) An employer and an employee may agree on the payment of the special allowance in not more than 4 equal instalments provided that the first instalment is paid on the last working day of December 2024 and the remaining instalments are paid on such dates as they may agree or where there is no agreement, at the end of each successive month following the month of December 2024.

(6) For the avoidance of doubt, every employee who is paid in addition to the end year bonus under the Workers’ Rights Act 2019, the end of year gratuity under the End of Year Gratuity Act or the end of year bonus under any Remuneration Regulations made under the Employment Relations Act, an

allowance or bonus, by whatever name called, shall be entitled to the payment of the special allowance.

4. Powers of authorised officers

Notwithstanding any other enactment, an authorised officer may, for the purpose of ensuring compliance with this Act –

- (a) enter any work premises or office of an employer;
- (b) inspect any book or record kept by an employer in relation to his employees;
- (c) request an employer to furnish him with any information or document which he may require,
- (d) prosecute a person who commits an offence under this Act; and
- (e) enter any action on behalf of an employee.

5. Jurisdiction

Notwithstanding any other enactment –

- (a) in the Island of Mauritius, the Industrial Court;
- (b) in Rodrigues, the Magistrate for Rodrigues;
- (c) in the other islands under the jurisdiction of the State of Mauritius, the Magistrate visiting those islands,

shall have exclusive jurisdiction to hear and determine any civil or criminal proceedings under this Act.

6. Offences

Any person who –

- (a) contravenes section 3 or any regulations made under this Act;
- (b) obstructs an authorised officer in the exercise of his powers under section 4;
- (c) fails to comply with a request under section 4(c), or in complying with the request, furnishes any information or document which he

knows or should have known to be false or misleading in a material particular,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 5,000 rupees.

7. Regulations

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

8. Consequential amendments

(1) The Income Tax Act is amended –

(a) in PART XIID –

(i) in the heading, by deleting the words “**COMPENSATION 2021, 2022, 2023 AND 2024**” and replacing them by the words “**COMPENSATION 2021, 2022, 2023 and 2024 AND SPECIAL ALLOWANCE**”;

(ii) by inserting, after section 150EB, the following new section –

150EC. Financial assistance for payment of Special Allowance for year 2024

(1) In this section –

“accounting loss” means the loss made by an employer from all his activities and computed in accordance with the International Financial Reporting Standards;

“accounting profit” means the profit derived by an employer from all his activities and computed in accordance with the International Financial Reporting Standards;

“basic wage or salary” –

(a) has the same meaning as in the Special Allowance Act 2024; and

- (b) includes any payable additional remuneration;

“eligible employee” –

- (a) means an employee employed on a full-time basis –

- (i) from an export enterprise;
- (ii) from a SME deriving gross income from business;
- (iii) from such other category of employer or employee as may be prescribed;
- (iv) who has been paid the Special Allowance under the Special Allowance Act 2024; and
- (v) whose basic wage or salary for the month of December 2024 or where he is not in employment in December 2024, his last month of employment does not exceed 50,000 rupees; but

- (b) does not include –

- (i) an employee employed by a Ministry, a Government department, a local authority, a statutory body or the Rodrigues Regional Assembly; and
- (ii) such category of employees as may be prescribed;

“export enterprise” has the same meaning as in the Export Enterprises (Remuneration) Regulations 2019;

“SME” means a small or medium enterprise, whose turnover for the year of assessment 2023-2024 did not exceed 100 million rupees;

“National Minimum Wage” means the national minimum wage determined in accordance with the National Minimum Wage Regulations 2017 as subsequently amended;

“Special Allowance 2024” means the special allowance payable under the Special Allowance Act 2024.

(2) Subject to this Part, the Director-General shall pay to an employer, in respect of each of its eligible employee, an allowance equivalent to the Special Allowance paid to that employee, where the employer is –

- (a) an export enterprise;
- (b) a SME; or
- (c) such other category of employer as may be prescribed; and

which had for the year of assessment 2023-2024 –

- (i) an accounting loss; or
- (ii) an accounting profit that would be reduced by more than 50 per cent if the –
 - (A) additional remuneration 2024, the increase in National Minimum Wage payable as from January 2024 and the Special Allowance payable for the year 2024 to its employees, were deducted from that accounting profit; and
 - (B) the financial assistance payable to the employer under section 150EB, were added to that accounting profit.

(3) Subject to this Part, the Director-General shall pay to an employer, in respect of each of its eligible employee, an allowance equivalent to 50 per cent of the Special Allowance paid to that employee, where the employer is –

- (a) an export enterprise;
- (b) a SME; or
- (c) such other category of employer as may be prescribed; and

which had for the year of assessment 2023-2024 an accounting profit that would be reduced by more than 10 per cent if –

- (i) the additional remuneration 2024, the increase in National Minimum Wage payable as from January 2024 and the Special Allowance payable to its employees as from were deducted from that accounting profit; and
- (ii) the financial assistance payable to the employer under section 150EB, were added to that accounting profit.

(4) The allowance payable under subsections (2) and (3) shall not exceed 50,000 rupees in respect of each eligible employee.

(5) Subject to the other provisions of this section, an application for the allowance payable under subsection (2) or (3) shall be made electronically by the employer of an eligible employee to the Director-General in such form and manner as he may determine, giving the bank details of the bank account in which the allowance will be credited.

(6) The employer shall, on or before the end of the month following that in which the allowance is paid, electronically submit to the Director-General a “Special Allowance 2024” return claiming the allowance payable under subsection (2) or (3) and giving details of the employee

and such other particulars as the Director-General may require.

(7) No allowance under subsection (2) or (3) shall be paid by the Director-General unless the application under subsection (5) and the "Special Allowance 2024" return specified in subsection (6) is submitted to the Director-General on or before 31 March 2025.

(8) Section 150D(4)(b) and (c) and section 150D(5) to (7) shall apply to this section with such adaptations and modifications as may be necessary to enable the Director-General to pay the allowance.

(2) The Industrial Court Act is amended, in the First Schedule by inserting, in the appropriate alphabetical order, the following new words –

The Special Allowance Act 2024

(3) The Social Contribution and Social Benefits Act 2021 is amended –

(a) in section 2, in the definition of "basic wage or salary", by adding after item (c), the following new item, the word "and" at the end of paragraph (b) being deleted and the semicolon at the end of paragraph (c) being deleted and replaced by the words "; and" –

(d) excludes the special allowance payable under the Special Allowance Act 2024;

(b) in section 30B(10), in the definition of "emoluments", in paragraph (d) by adding the following new subparagraph, the word "and" at the end of subparagraph (i) being deleted and the word "and" being added at the end of subparagraph (ii) –

(iii) special allowance payable under the Special Allowance Act 2024;
