



THE TEMPORARY MEASURES FOR REDUCING THE IMPACT OF CORONAVIRUS DISEASE 2019 (COVID-19) ACT 2020

PART 1: INTRODUCTION

In addressing the impact and aftermath of the COVID-19 pandemic in Malaysia, the Temporary Measures for Reducing the Impact of Coronavirus Disease 2019 (COVID-19) Bill 2020 (“**the COVID-19 Bill**”) was tabled for its first reading on the 12th August 2020 and was passed by the Dewan Rakyat (House of Representatives) of Malaysia on the 25th August 2020. Subsequently on 22nd September 2020, the COVID-19 Bill was finally passed by the Dewan Negara (Senate). On 23rd October 2020, it received Royal Assent and is now fully effective.

The newly gazetted Temporary Measures for Reducing the Impact of Coronavirus Disease 2019 (COVID-19) Act 2020 (“**the COVID-19 Act**”) provides for temporary measures to stem the fallout from the COVID-19 pandemic by modifying the provisions of 16 legislations. Some of the key changes set out in the COVID-19 Act are discussed below.

PART 2: DEFINITION OF INABILITY TO PERFORM CONTRACTUAL OBLIGATION

1) **Section 7** of the COVID-19 Act states that:

*“The inability of any party or parties to perform any contractual obligation arising from any of the categories of contracts specified in the **Schedule** to this Part due to the measures prescribed, made or taken under the Prevention and Control of Infectious Diseases Act 1988 to control or prevent the spread of COVID-19 shall not give rise to the other party or parties exercising his or their rights under the contract.”*

2) The categories of contracts specified in the **Schedule** are:

- (a) Construction work contract or construction consultancy contract and any other contract related to the supply of construction material, equipment or workers in connection with a construction contract;
- (b) Performance bond or equivalent that is granted pursuant to a construction contract or supply contract;
- (c) Professional services contract;

(d) Lease or tenancy of non-residential immovable property;

(e) Event contract for the provision of any venue, accommodation, amenity, transport, entertainment, catering or other goods or services including, for any business meeting, incentive travel, conference, exhibition, sales event, concert, show, wedding, party or other social gathering or sporting event, for the participants, attendees, guests, patrons or spectators of such gathering or event;

(f) Contract by a tourism enterprise as defined under the Tourism Industry Act 1992 and a contract for the promotion of tourism in Malaysia;

(g) Religious pilgrimage-related contract.

3) This legal article will now provide a quick overview on the temporary reliefs accorded to the relevant legislations under the COVID-19 Act and the effective periods for such applications of such reliefs:

- Part 3 – Commencement of Modifications;
- Part 4 – Modification of Limitation Periods; and
- Part 5 – Other Modifications.

PART 3: COMMENCEMENT OF MODIFICATIONS

Table A below provides a summary of the commencement date of modifications to the relevant legislations:

TABLE A

No.	Legislation	Commencement Date and Duration of Operation
1.	Limitation Act 1953	From 18 March 2020 to 31 December 2020
2.	Sabah Limitation Ordinance	From 18 March 2020 to 31 December 2020
3.	Sarawak Limitation Ordinance	From 18 March 2020 to 31 December 2020
4.	Public Authorities Protection Act 1948	From 18 March 2020 to 31 December 2020
5.	Insolvency Act 1967	From the date of publication of this Act to 31 August 2021
6.	Hire-Purchase Act 1967	From 1 April 2020 to 31 December 2020
7.	Consumer Protection Act 1999	From 18 March 2020 to 31 December 2020
8.	Distress Act 1951	From 18 March 2020 to 31 December 2020

9.	Housing Development (Control and Licensing) Act 1966	From 18 March 2020 onwards
10.	Industrial Relation Act 1967	From 18 March 2020 onwards
11.	Private Employment Agencies Act 1981	From 18 March 2020 onwards
12.	Land Public Transport Act 2010	From 1 August 2020 to 31 December 2021
13.	Commercial Vehicles Licensing Board Act 1987	From 1 August 2020 to 31 December 2021
14.	Courts of Judicature Act 1964	From 18 March 2020 to two years from the date of publication of this Act
15.	Subordinate Courts Act 1948	From 18 March 2020 to two years from the date of publication of this Act
16.	Subordinate Courts Rules Act 1955	From 18 March 2020 to two years from the date of publication of this Act

*** Note: Date of publication of this Act is on the 23rd October 2020**

PART 4: MODIFICATION OF LIMITATION PERIODS

Table B below provides a summary of the extension of limitation period for the relevant legislations:

TABLE B

No.	Legislation	Relevant Section/Paragraphs	Extension of Limitation Period
1.	Limitation Act 1953	Section 6	Limitation period expires during the period from 18 March 2020 to 31 August 2020 shall be <u>extended to 31 December 2020.</u>
2.	Sabah Limitation Ordinance	Paragraph 1 to 4, subparagraph 5(a), paragraph 8, paragraphs 10 to 33, paragraphs 35 to 79, paragraphs 83 to 88, paragraphs 90 to 95 and paragraphs 98, 100, 106, 107, 111 and 113 in the Schedule	Limitation period expires during the period from 18 March 2020 to 31 August 2020 shall be <u>extended to 31 December 2020.</u>
3.	Sarawak Limitation Ordinance	paragraphs 1 to 4, subparagraph 5(a), paragraphs 8 to 29, paragraphs 31 and 32, paragraphs 34 to 78, paragraphs 82 to 94 and paragraphs 96, 98, 100, 106, 107, 111 and 113 in the Schedule	Limitation period expires during the period from 18 March 2020 to 31 August 2020 shall be <u>extended to 31 December 2020.</u>
4.	Public Authorities Protection Act 1948	Paragraph 2(a)	Limitation period expires during the period from 18 March 2020 to 31 August 2020 shall be <u>extended to 31 December 2020.</u>

PART 5: OTHER MODIFICATIONS

Table C below provides a summary of the modifications made to some provisions of the relevant legislation:

TABLE C

No.	Legislation	Relevant Sections	Modification of Provision
1.	Insolvency Act 1967	Section 20 and 5	A creditor or creditors shall not be entitled to present a bankruptcy petition against a debtor these sections, unless the debt owing by the debtor to the petitioning creditor, or if two or more creditors join in the petition the aggregate amount of debts owing to the several petitioning creditors, amounts to RM100,000.
2.	Hire-Purchase Act 1967	Section 16	No owner shall exercise any power of taking possession of goods comprised in a hire-purchase agreement under section 16 of the Hire-Purchase Act 1967 for any default of payment of installment during the period from 1 April 2020 to 30 September 2020.
3.	Consumer Protection Act 1999	Section 24v	The credit facility provider precluded from commencing any legal proceedings to recover the total outstanding amount payable by the purchaser under the credit sale agreement. However, this modified provision shall only apply: (a) if the credit sale agreement was entered into before 18 March 2020; and (b) if the purchaser has no overdue installments before 18 March 2020.
		Section 99	The period of limitation which expires during the period from 18 March 2020 to 15 June 2020 shall be extended until 31 December 2020.
4.	Distress Act 1951	Section 5	A landlord is prohibited from taking action under this section to recover arrears of rent for the period from 18 March 2020 to 31 August 2020.

5.	Housing Development (Control and Licensing) Act 1966	Schedules G, H, I and J of the Housing Development (Control and Licensing) Regulations 1989 (" 1989 Regulation ")	Modifications have been made to the following provisions in the contracts of sale prescribed in Schedules G, H, I and J of the 1989 Regulation which were entered into before 18 March 2020: (a) <u>Late payment charges</u> (b) <u>Vacant possession and liquidated damages</u> (c) <u>Defect liability period</u>
		Section 16N(2)	If the limitation period for the homebuyer to file a claim has expired during the period from 18 March 2020 to 9 June 2020, the homebuyer is <u>entitled to file the claim from 4 May 2020 to 31 December 2020</u> and the Tribunal for Homebuyer Claims shall have jurisdiction to hear such claim.
6.	Industrial Relation Act 1967	Section 9(3), 9(4) and 20(1A)	The period from 18 March 2020 to 9 June 2020 shall be <u>excluded from the calculation of the period</u> under the IRA 1967 <u>for according recognition or notifying the trade union of workmen</u> concerned in writing the grounds for not according recognition under the aforesaid sections.
7.	Private Employment Agencies Act 1981	Section 11(1)	The period from 18 March 2020 to 9 June 2020 shall be <u>excluded from the calculation of the period for an application to renew a licence</u> under the aforesaid section.
8.	Land Public Transport Act 2010	Section 21	The Director General of Land Public Transport may, on an application and subject to providing the required information by a licensed operator of a public service vehicle or <u>tourism vehicle</u> , authorize <u>for a period not exceeding twelve months</u> for the licensed operator to use the vehicle for the purpose of a public service vehicle, tourism vehicle or <u>goods vehicle of any other class</u> .
		Section 56	The Director General of Land Public Transport may, on an application and subject to providing the required information by a <u>licensed operator of goods vehicle</u> , authorize <u>for a period not exceeding twelve months</u> the licensed operator of a particular class of goods vehicle to use the vehicle for the <u>purpose of a public service vehicle, tourism vehicle</u> or goods vehicle of any other class.

9.	Commercial Vehicles Licensing Board Act 1987	Section 23	The Board may, on an application and subject to providing the required information by any holder of a public service vehicle licence of a particular class, authorize <u>for a period not exceeding twelve months</u> the holder of a public service vehicle licence of a particular class to use the vehicle for the purpose of a public service vehicle or <u>goods vehicle of any other class</u> .
		Section 24	The Board may, on an application and subject to providing the required information by any holder of a carrier's licence 'C' vehicle or 'A' vehicle, authorize <u>for a period not exceeding twelve months</u> the holder of a carrier's licence 'C' vehicle or 'A' vehicle to use the vehicle for the <u>purpose of a public service vehicle or goods vehicle of any other class</u> .
10.	Courts of Judicature Act 1964	New section 16A	The Chief Justice may, if the Chief Justice is of the opinion that the circumstances warrant and it is necessary in the interest of the dispensation of justice, public safety, public security, public health or propriety or for other sufficient reason to do so, <u>issue any direction relating to the business of the Court as may be necessary</u> .
		Section 17	Renumbering the existing subsection (3A) as <u>subsection (3B)</u> .
		New section 17(3A)	The Chief Justice may, if the Chief Justice is of the opinion that any meeting is not possible to be convened, held or conducted, provide for <u>alternative arrangements for such meeting</u> .
		New section 17(8)	The Chief Justice may, if the Chief Justice is of the opinion that the circumstances warrant and it is necessary in the interest of the dispensation of justice, public safety, public security, public health or propriety or for other sufficient reason to do so, <u>modify any provision of the rules of court or suspend the application of such rules of court</u> as is necessary for doing complete justice in any cause or matter pending before the Courts and to <u>ensure that the administration of justice is carried out</u> .

11.	Subordinate Courts Act 1948	New section 3A	The Chief Justice may, if the Chief Justice is of the opinion that the circumstances warrant and it is necessary in the interest of the dispensation of justice, public safety, public security, public health or propriety or for other sufficient reason to do so, <u>issue any direction relating to the business of the Subordinate Courts as may be necessary.</u>
12.	Subordinate Courts Rules Act 1955	New section 3(7)	The Chief Justice may, if the Chief Justice is of the opinion that the circumstances warrant and it is necessary in the interest of the dispensation of justice, public safety, public security, public health or propriety or for other sufficient reason to do so, <u>modify any provision of the rules of court or suspend the application of such rules of court</u> as is necessary for doing complete justice in any cause or matter pending before the Courts and to <u>ensure that the administration of justice is carried out.</u>

PART 6: CONCLUSION

As a conclusion, the COVID-19 Act seeks to alleviate some of the contractual and other issues that arose from the COVID-19 pandemic and Malaysia's movement control orders as:

- (a) it provides legal certainties to resolutions of contractual disputes from the enforcement and litigation perspectives; and
- (b) it reduces the financial and social impacts by way of making available reliefs to businesses and parties who have been unable to perform their contractual obligations due to the pandemic impact.

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