



UNOFFICIAL ENGLISH TRANSLATION

FREQUENTLY ASKED QUESTIONS ON MOVEMENT CONTROL ORDER HUMAN RESOURCE MINISTRY NO. 3

1. Does an employer have to pay salary during the 14-day extension of the Movement Control Order from April 1, 2020 to April 14, 2020?

Yes, employee's salary and relevant fixed allowances must be paid except for allowances related to attendance/travel (which are not performed during that period).

2. Can an employer force its employees to take annual leave or deduct their annual leave during the period of April 1, 2020 to April 14, 2020?

The employer cannot force its employees to take annual leave because annual leave has to be made at the request of the employee.

3. What actions can an employer take during the Movement Control Order (MCO) period?

During the MCO period, the employer is advised to take the following actions:

- i. The employer must pay full salaries and allowances within the MCO period;
- ii. Subject to the agreement of both parties, the employer can either offer its employee:
 - a. full paid leave;
 - b. half paid leave; or
 - c. unpaid leave
- iii. If the employer is forced to terminate its employees, the employer may refer to the Employee Termination Guidelines. The Employee Termination Guidelines and termination report (Form PK) are available on the JTKSM website (www.jtksm.mohr.gov.my).

4. If an employer does not take the above actions, what action can an employee take?

An action that the employee can take is to file a complaint with the Labor Office near the place of employment

5. Can an employer affected by COVID-19 take action by retrenching its employees?



Retrenchment is a form to reduce the workforce due to extra manpower. In general, retrenchment is under the prerogative of an employer. However, to ensure that the process is done fairly, there are three factors that need to be met by the employer.

- i. the excuse of the employer that business has been affected due to Covid-19 has to be genuine;
- ii. the employer must have taken steps to ensure that the termination being avoided such as reducing an employee's working hours, limiting or freezing new hires, limiting overtime, limiting work during weekends or public holidays, reducing an employee's salary, perform a temporary lay-off.
- iii. if retrenchment is inevitable, foreign employees should be terminated first. If the retrenchment involves locals, then the "Last In First Out" principle should be adhered to. However, this principle can be ignored if the employer has a valid reason. The employer must report this retrenchment to the nearest Labor Office within 30 days before the start of the retrenchment. Employers can get Guideline to Retrench Workers and Retrenchment Report (Form PK) on JTKSM website (www.jtksm.mohr.gov.my).

6. What to do if an employee is suspected of tested positive for COVID-19?

The employer must direct all employees who work closely with the employee to stay at home for 14 days to ensure the infection does not spread. Prior to that, the employee must be asked to identify all individuals who worked near (three to six feet) the employee within 14 days of being suspected, so that his/her employer has a complete list of those who might be infected. The employer must maintain confidentiality without disclosing the employee's information. In addition, the employer must carry out disinfection at the workplace and the affected workspaces. When working within a shared building or office area, the employer should notify the building management so that they can take reasonable precautions.

7. Can foreign workers holding Temporary Working Visit Pass (PLKS), Employment Pass (Expat Pass) and MM2 return to their home country?

Yes, and this is subject to conditions prescribed by the Immigration Department of Malaysia (JIM). Please contact the Home Affairs at Tel: 03- 8886 8110 / 03-8886 8126 for more information.

8. If one of the employees is COVID-19 positive, can the employer grant unpaid leave to all employees?

The employer may grant leave to other employees in order to maintain the safety and health of other employees. Such leave should be paid and not deductible. The employer cannot force its employees to take unpaid leave.

9. What can be done by workers who are paid daily wages within the MCO period if they do not get paid?



Please refer to the FAQs of Employment Retention Program (ERP) released by SOCSO at tel: 1300-22- 8000 or website www.perkeso.gov.my

10. If an employer in non-essential service is still operating without the written consent of the Director General of MOH, what action can be taken?

Anyone can report to the nearest Police/RELA/Department of Labor/Department of Occupational Safety and Health.

11. What actions can an employee take if an employer does not comply with the Movement Control Order?

The employee can report to the Police, RELA, or the Human Resource Ministry.

Reports and enquiries can be submitted via tel:

- i. 03 8889 2359
- ii. 03 8890 3404
- iii. 03 8886 2409
- iv. 03 8886 2352
- v. 03 8888 9111

or email:

- i. jtksm@mohr.gov.my
- ii. jtknsabah@mohr.gov.my
- iii. jtknsarawak@mohr.gov.my

CALCULATION OF TIME PERIOD

12. Will the 14-day movement control order beginning March 18, 2020 [Prevention and Control of Infectious Disease (Measures within the Infected Local Areas) 2020] be taken into account in the 60-day calculation set out under section 20 of the Industrial Relations Act 1967?

The MCO period commencing on March 18, 2020 will NOT be taken into account in the 60-day calculation set out under section 20 of the Industrial Relations Act 1967. This provision is made to ensure that employees comply with the MCO and to provide employees with the opportunity to file representations of dismissal after the end of the MCO period.

13. Will the 14-day MCO beginning March 18, 2020 to March 31, 2020 [Prevention and Control of Infectious Disease (Measures within the Infected Local Areas) 2020] be taken into account in calculating the duration under section 9 of the Industrial Relations Act 1967?

The MCO period commencing on March 18, 2020 will NOT be taken into account in the calculation set out under section 9 of the Industrial Relations Act 1967. This is to ensure that the



parties involved (trade unions and employers) comply with the MCO and provide opportunity for the relevant parties to take action after the end of the MCO period.

HUMAN RESOURCE MINISTRY
MARCH 31, 2020

UNOFFICIAL