

COVID-19 (TEMPORARY MEASURES) BILL

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On 1 April 2020, the Ministry of Law (“**MinLaw**”) announced that it intends to introduce the COVID-19 (Temporary Measures) Bill (“**Bill**”) in Parliament in the week of 6 April 2020. The Bill seeks to offer temporary relief to businesses and individuals who are unable to fulfil their contractual obligations because of COVID-19. This comes at a time when the coronavirus cases in Singapore surged past 1,000.

Rationale

In response to the COVID-19 pandemic, various public health measures have been imposed by governments around the world. These measures have resulted in supply chain disruptions, manpower shortages, and undermined the ability of individuals and businesses to fulfil their contractual obligations. As the MinLaw noted that it would be unfair to hold individuals and businesses strictly liable for the failure to perform certain contractual obligations due to disruptions caused by COVID-19, it seeks to introduce the Bill to provide temporary and targeted protection for such businesses and individuals.

Types of Contracts Covered

The Bill will cover the following types of contracts:

- leases or licences for non-residential immovable property (e.g. lease for factory premises);

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- construction contract or supply contract (e.g. contract for the supply of materials);
- contracts for the provision of goods and services (e.g. venue, catering) for events (e.g. weddings, business meetings);
- certain contracts for goods or services for visitors to Singapore, domestic tourists or outbound tourists, or promotion of tourism (e.g. cruises, hotel accommodation bookings); and
- certain loan facilities granted by a bank or a finance company to SMEs (i.e. businesses with turnover of not more than S\$100 million in the latest financial year)

How the Bill Works

The Bill will prohibit a contracting party from taking various legal actions against a non-performing party, including court and insolvency proceedings, enforcement of security over certain properties, and termination of leases of non-residential premises.

Some examples of relief measures are set out below:

- construction contract – a contractor will be temporarily relieved from liability for non-performance if this was caused to a material extent by COVID-19;
- contract for the provision of event catering – a catering firm will be prohibited from forfeiting a deposit if the event has been postponed because of COVID-19; and
- commercial lease – a landlord will be prevented from terminating a commercial lease due to non-payment of rent if this is attributable to COVID-19 (e.g. a restaurant whose footfall has fallen because of COVID-19). In this regard, rent will continue to accrue and be payable, though it will be due only after the relief period is over (please refer to paragraph 12 below on “*Time Period*”).

To help individuals and businesses in this difficult environment, the Bill also temporarily tweaks the existing bankruptcy and insolvency regime in the following manner:

- for individuals – increasing the monetary threshold for bankruptcy from S\$15,000 to S\$60,000;
- for companies/ partnerships – increasing the monetary threshold for insolvency from S\$10,000 to S\$100,000; and
- lengthening the statutory period to respond to demands from creditors.

Directors will also have temporary relief from their obligations to prevent their companies trading while insolvent if the debts are incurred in the ordinary course of business.

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Dispute Resolution

To resolve disputes arising from the application of the Act, assessors will be appointed by the MinLaw. Assessors will decide if the inability to perform contractual obligations was due to COVID-19, and will have the powers to grant relief that is just and equitable in the circumstances.

In this regard, the parties will not be allowed to be represented by lawyers, and there will be no costs orders. The assessors' decisions will be final and not appealable. Further details on the resolution of disputes by assessors will be released in due course.

Time Period

The measures introduced by the Bill will apply to contracts that were entered into or renewed before 25 March 2020, and cover contractual obligations to be performed on or after 1 February 2020, as the impact of COVID-19 on the Singapore economy started to be significantly felt around 1 February 2020.

The relief measures will be in place for 6 months from the commencement of the Act, and may subsequently be extended for up to a year from the commencement of the Act.

We are here to help

We understand that this may be a challenging time for you and your businesses. If you have any queries about how the Bill will affect you and your contractual obligations, we will be more than happy to address them. Please feel free to contact Ms Tan Min-Li or Ms Ge Xiaomeng.

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