



## **Summary of the Temporary Measures for Reducing the Impact of Coronavirus Disease 2019 (COVID-19) Act 2020**

The Malaysian Institute of Certified Public Accountants ("MICPA") is pleased to provide a summary of the Temporary Measures for Reducing the Impact of Coronavirus Disease (COVID-19) Act 2020 (COVID-19 Act) which was gazetted on October 23, 2020.

This Act will be effective for two years from the date of Government Gazette, or in accordance with whichever date or duration of enforcement as allocated in the respective Section of the COVID-19 Act.

The three broad categories of the COVID-19 Act are:

- Part II addresses the inability to perform certain contractual obligation;
- Parts III to XVIII provide for modifications and amendments to certain Acts and Ordinances which are transient in nature; and
- Part XIX addresses the inability to perform statutory duties or obligations or to conduct statutory meetings.

The key temporary reliefs under the COVID-19 Act and the effective period of such reliefs are as follows:

### **Inability to perform contractual obligation**

Section 7 of Part II states that the inability of any party or parties to perform any contractual obligations arising from the seven types 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 (Act 342) 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.

The seven types of contracts are: 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; performance bond or equivalent that is granted pursuant to a construction contract or supply contract; professional services contract; lease or tenancy of non-residential immovable property; 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; contract by a tourism enterprise as defined under the Tourism Industry Act 1992 (Act 482) and a contract

for the promotion of tourism in Malaysia; and religious pilgrimage-related contract. The schedule can be amended by the Minister from time to time.

Part II is deemed to have come into operations on March 18, 2020 and shall continue to remain in operation until December 31, 2020. However, Section 10 of Part II goes on to say “any contract terminated, any deposit or performance bond forfeited, any damages received, any legal proceedings, arbitration or mediation commenced, any judgment or award granted and any execution carried out for the period from March 18, 2020 until the date of publication of this Act shall be deemed to have been validly terminated, forfeited, received, commenced, granted or carried out”.

### **Modification to Malaysian Legislation**

In total, 16 legislations were modified by the COVID-19 Act, of which 10 key areas are as summarised below.

#### 1. Extension of statutory limitation periods

Part III (modifications to the Limitation Act 1953), Part IV (modifications to the Sabah Limitation Ordinance) and Part V (Sarawak Limitation Ordinance) of the Act allow the extension of the limitation periods for actions to be brought upon under these legislations to December 31, 2020, if the expiry of the limitation period falls within March 18, 2020 to August 31, 2020.

Parts III, IV and V of the Act are deemed effective from March 18, 2020 until December 31, 2020, unless further extended by the Minister.

#### 2. Protection from insolvency

Part VII (modifications to Insolvency Act 1967) increases the existing threshold of RM50,000 for a creditor to present a bankruptcy petition against debtors to RM100,000. This section also allows two or more creditors to join in petition that in aggregate is at least RM100,000 to proceed with bankruptcy proceedings. However, any proceedings or actions which are pending before this Act is being gazetted shall be dealt with under the Insolvency Act 1967.

Part VII of the Act is deemed effective from October 23, 2020 until August 31, 2021, unless further extended by the Minister.

### 3. Protection from repossession

Part VIII (modifications to Hire Purchase Act 1967) prohibits owners in a hire-purchase agreement, the rights to possess for the goods under Section 16 of the Hire Purchase Act 1967 for any default of payment of instalment within the period from April 1, 2020 to September 30, 2020. However, any exercise of repossession before this Act is being gazetted shall be deemed to be valid and be dealt with under the Hire Purchase Act 1967.

Part VIII of the Act is deemed effective from April 1, 2020 until December 31, 2020, unless further extended by the Minister.

### 4. Protection for individuals on credit facility

Part IX (modifications to Consumer Protection Act 1999) modified two areas of the Consumer Protection Act 1999. The first modification allows the purchaser to elect either to pay the overdue instalments to the credit facility provider within 21 days after receiving notice, without any late payment charges, make an early settlement or terminate the credit sales facility and return the purchased goods. The second modification prohibits the credit facility provider to recover any debts through legal proceedings even if the purchaser failed to pay the overdue amounts if the credit facility was entered into before March 18, 2020 and no record of overdue instalment before March 18, 2020. However, any legal proceedings or actions which have been commenced before this Act is being gazetted will be dealt with under the Consumer Protection Act 1999.

Part IX is deemed effective from March 18, 2020 until December 31, 2020.

### 5. Warrant of distress exclude arrears of rent

Part X (modifications to Distress Act 1951) states that a warrant of distress issued for the recovery of rent due or payable to the landlord shall exclude the distraint for arrears of rent for the period from March 18, 2020 to August 31, 2020. However, any warrant of distress issued before this Act is being gazetted will be dealt with under the Distress Act 1951.

Part X is deemed effective from March 18, 2020 until December 31, 2020.

### 6. Modifications to Housing Development (Control and Licensing) Act 1966

Part XI [modifications to Housing Development (Control and Licensing) Act 1966] modified two areas of the Housing Development (Control and Licensing) Act 1966. The first modification prohibits property developers to impose any late payment charges in respect of unpaid instalments during March 18, 2020 to August 31, 2020.

The second modification excludes the period from March 18, 2020 to August 31, 2020 from the calculation of the time for delivery of vacant possession of a housing accommodation, liquidated damages for the failure of the property developer to deliver vacant possession, the defect liability period and the time for the property developer to carry out works to repair and make good the defects in a housing accommodation. The purchaser and developer can respectively apply to the Minister for an extension to pay or deliver up to December 31, 2020.

However, any legal proceedings which commenced, or any judgement received before this Act is being gazetted will be dealt with under the Housing Development (Control and Licensing) Act 1966.

Part XI is deemed effective on March 18, 2020.

7. Exclusion of period for key provision under Industrial Relations Act 1967

Part XII (modifications to Industrial Relations Act 1967) excluded the period from March 18, 2020 to June 9, 2020 from the calculation of the period for according recognition or notifying the trade union of workmen concerned in writing and the making of a written report to the Director General for Industrial Relations.

Part XII is deemed effective on March 18, 2020.

8. Exclusion of period for key provision under Private Employment Agencies Act 1981

Part XIII (modifications to Private Employment Agencies Act 1981) excluded the period from March 18, 2020 to June 9, 2020 from the calculation of the period for an application to renew a license.

Part XIII is deemed effective on March 18, 2020.

9. Temporarily change of use in relation to public service vehicle, tourism vehicles and goods vehicle

Part XIV (modifications to Land Public Act 2010) and Part XV (modifications to the Commercial Vehicles Licensing Board Act 1987) allow any license holder of a public service vehicle, tourism vehicle and goods vehicle to use the vehicle for the purpose of a public services vehicle, tourism vehicle or goods vehicle of any other class by application.

Parts XIV and XV are deemed effective on August 1, 2020 until December 31, 2021.

## 10. Court proceedings

Part XVI (modifications to Courts of Judicature Act 1964), Part XVII (modifications to the Subordinate Courts Act 1948) and Part XVIII (modifications to Subordinate Courts Rules Act 1955) grants power to the Chief Justice to modify any provisions of the rules of court and suspend any application of rules of court if the Chief Justice is of the opinion that it is necessary in the interest of the dispensation of justice, public safety, public security, public health and any other reason deem fit.

Parts XVI, Part XVII and XVIII are deemed effective on March 18, 2020 and shall remain effective for two years from the gazette of the Act.

### **Inability to perform statutory duties or obligations or to conduct statutory meetings**

Section 59(1) of Part XIX grants power to Minister with the responsibility of any Act may, if the Minister is of the opinion that any statutory meeting is impossible to be convened, held or conducted in the manner provided in such Act from March 18, 2020 to June 9, 2020 due to measures prescribed, made or taken under the Prevention and Control of Infectious Diseases Act 1988, to publish an order providing for alternative meeting arrangements.