

Temporary relief for struggling businesses and individuals during COVID-19

6 April 2020

COVID-19 (Temporary Measures) Bill to offer respite for businesses and individuals struggling to fulfil contractual obligations or facing bankruptcy/insolvency as a result of the COVID-19 outbreak.

The Ministry of Law (MinLaw) announced on Wednesday, 1 April 2020 that it will urgently introduce the COVID-19 (Temporary Measures) Bill (the Bill and, when passed, the Act) in Parliament next week. The Bill grants relief to individuals and businesses that are unable to fulfil their contractual obligations as a result of the COVID-19 outbreak. It also increases the monetary thresholds and time limits for bankruptcy and insolvency. MinLaw intends to expedite the Bill by way of a Certificate of Urgency signed by the President, which will allow the three Parliamentary readings required to pass the Bill as an Act of Parliament, to be taken in just one sitting.

The measures introduced by the Bill will have retroactive effect, applying to relevant contractual obligations that are to be performed on or after 1 February 2020, for contracts entered into or renewed before 25 March 2020. The measures will apply for a period of six months from the commencement of the Act and Parliament will be able to extend the measures for a further six months if necessary.

Please see below an overview of the measures introduced by the Act.

Temporary relief for failure to perform contractual obligations because of COVID-19

Which contracts will the Act apply to?

The measures apply to the following five categories of contract:

1. Leases or licenses for non-residential property (e.g., a lease for factory premises).
2. Construction contracts or supply contracts (e.g., a contract for the supply of materials).
3. Event contracts: provision of goods and services for events (e.g., venue or catering for weddings and business meetings).
4. Tourism-related contracts: provision of goods or services relating to tourism (e.g., hotel accommodation bookings).
5. Certain:

- Secured loan facilities granted by a bank or a finance company to small and medium sized enterprises (businesses with turnover of not more than S\$100 million in the latest financial year).
- Hire-purchase agreements (e.g., where goods hired is a commercial vehicle).

What relief does the Act provide?

The Act will prohibit a party to a contract from taking the following legal actions against a non-performing party:

- Court and insolvency proceedings.
- Enforcement of security over immovable property as well as movable property that is used for the purposes of business or trade.
- Call on a performance bond given pursuant to a construction contract.
- Termination of leases of non-residential premises.

When will this relief be available?

Relief from these legal actions will be available where a party meets the following criteria:

- The party is unable to perform an obligation to be performed on or after 1 February 2020.
- This inability to perform the obligation is materially caused by a COVID-19 event.
- A notification for relief has been served on the other party.

When a party receives a notification for relief, it will be prohibited from taking any of the above mentioned legal actions. Proceedings relating to a prohibited action that have already been commenced must be stayed. Non-compliance by the recipient of a notification will be an offence.

What if a party wishes to appeal a notification for relief?

Disputed notifications for relief can be referred to an Assessor. Assessors will be appointed by the Minister for Law to resolve disputes arising from the application of the Act and will determine whether the inability to perform the contractual obligation(s) in question was due to COVID-19. Assessors will be afforded the power to grant relief that is just and equitable in the circumstances. The parties to an appeal will not be allowed to be represented by lawyers and there will be no costs orders. The Assessors' decision will be final and non-appealable. MinLaw has announced that it will be releasing details of the application process in due course.

Revised limits for bankruptcy and insolvency

The Act will also introduce a number of reliefs for individuals and businesses in financial distress.

For Businesses:

- The monetary threshold for insolvency will be increased from S\$10,000 to S\$100,000.
- The time period to satisfy a statutory demand will be increased from 21 days to six months.
- The time period for the setting aside of a statutory demand will be increased from 21 days to six months.

Furthermore, directors will be temporarily relieved from the obligation to prevent their companies from trading while insolvent, if debts are incurred in the ordinary course of business.

For Individuals:

- The monetary threshold for bankruptcy applications will be increased from S\$15,000 to S\$60,000.
- The time period to satisfy a statutory demand will be increased from 21 days to six months.
- The time period for the setting aside of statutory demands will be increased from 21 days to six months.
- The monetary threshold for the Debt Repayment Scheme will be increased from S\$100,000 to S\$250,000.

Please contact [Stephanie Keen](#) for more information on how these measures may impact your business and how Hogan Lovells can advise you in relation to them.

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