



Malaysia

Nationwide Movement Control Order extended to 14 April 2020 (No. 2)

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Movement Control Order extended to 14 April 2020 (No. 2)

The Movement Control Order (“MCO”) implemented by the Malaysian Government has been extended to 14 April 2020. Read our previous update on the MCO at <https://www.jurists.co.jp/en/articles/70947.html>.

Pursuant to the Prevention and Control of Infectious Diseases (Measures within Infected Local Areas) (No. 2) Regulations 2020 (“**Regulations No. 2**”) effective from 1 April to 14 April, enhanced measures are to be implemented to contain the spread of COVID-19 during the second phase of the MCO. Regulations No. 2 provides that no person shall move from one place to another within Malaysia except for the following purposes:

- (a) to purchase food, daily necessities, medicine or dietary supplements, within a radius of not more than 10 km from his/her residence and shall not be accompanied by any other person unless it is reasonably necessary;
- (b) to supply or deliver food, daily necessities, medicine or dietary supplements;
- (c) to seek healthcare or medical services, within a radius of not more than 10 km from his/her residence and may be accompanied by any other person as may be reasonably necessary;
- (d) to perform any official duty, with an authorization letter from his/her employer; or
- (e) to perform any duty in relation to any essential services, with an authorization letter.

The scope of essential services under the Regulations No.2 (*as amended by the Prevention and Control of Infectious Diseases (Measures within Infected Local Areas) (No. 2) (Amendment) Regulations 2020*) are as follows:

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1. Food
2. Water
3. Energy, including petrol station
4. Communication and internet, including media and post
5. Security and defence, including fire, prison, immigration and customs
6. Solid waste and public cleansing management and sewerage
7. Healthcare and medical, including dietary supplements
8. Banking and finance
9. E-commerce
10. Transportation by land, water or air
11. Port, dock and airport services and undertakings, including stevedoring, lightering or other forms of cargo handling, pilotage, and storing or bulking of commodities
12. Production, refining, storage, supply and distribution of fuel and lubricants
13. Hotels and accommodations
14. Any service or work determined by the Minister of Health as important to public health/security
15. Logistics, confined to the provision of essential services

Regulations No. 2 also expressly sets out that essential services (as specified above) include any activity and process in the supply chain of such essential services.

Further, enhanced measures are expected to be taken during phase 2 of the MCO, including (i) limited operating hours for supermarkets, grocery shops, convenience stores and petrol stations (generally 8 am to 8pm); (ii) stricter enforcement against individuals who do not comply with the MCO; and (iii) implementation of the Enhanced Movement Control Order (EMCO) in certain area(s) with high numbers of confirmed cases, wherein no business activities are permitted and all individuals are ordered to remain home.

Prime Minister Office

The Prime Minister of Malaysia announced a RM250 billion stimulus package, “People’s Economic Stimulus Package”, to help businesses and individuals affected by the COVID-19 pandemic. The Government also confirmed that all projects allocated under Budget 2020 will continue to be implemented, including the East Coast Rail, MRT2 and the National Fibreisation and Connectivity Plan. For further details, please see <https://www.pmo.gov.my/2020/03/speech-text-prihatin-esp/>

Ministry of Domestic Trade and Consumer Affairs (MDTCA)

On 25 March 2020, the MDTCA clarified that businesses involved in the following activities can continue to operate under the MCO:

- (a) all food supply and e-commerce activities, which include the manufacture, retail, packaging, distribution, wholesale and distribution of food and the manufacture of raw materials; and
- (b) logistics and transportation services supporting the supply chain and e-commerce activities for the supply of food and essential items. This also includes companies supporting the food supply chain and forming part of the downstream industries.

These companies are instructed to cease all non-essential operations and operate at minimum capacity.

Ministry of International Trade and Industry (MITI)

As at 27 March 2020, the Ministry of International Trade and Industry approved 2,732 out of 9,290 (about 29.4%) applications to

resume manufacture of critical products during the control period, provided that such resumption is at a minimal capacity and with adequate Covid-19 control measures.

During this extended control period, companies producing essential goods and the logistical arms of manufactures (not including private and individual logistic or transport service providers) who have obtained MITI's approval, as well as companies that have received MITI's approval to keep their factory machinery in "warm idle" mode, are allowed to continue operating until 14 April 2020, with the support of only those workers listed in the companies' applications. To facilitate the worker movement to and from the workplace and home, the list of approved workers, as well as MITI's approval letter, must be provided to such workers by their employers.

Ministry of Human Resources

In Malaysia, employees cannot be terminated without just cause. With respect to employment issues arising from COVID-19 and the MCO, the Ministry of Human Resources has provided the following guidance:

- (a) employers shall pay full salary to employees during the control period; salary shall be paid in accordance with the agreement between the employer and employees, which in any case shall not be less than the minimum wage prescribed under the Minimum Wages Order 2020;
- (b) allowances payable to reimburse employees for attendance/travelling (for example, travelling allowances) are not payable, if it is not so incurred; and
- (c) employers are not allowed to force employees to take or set-off annual leave or unpaid leave during the control period.

Any reduction of salary shall be agreed upon with the voluntary consent of the employees; otherwise it may amount to constructive dismissal. If a company's business is heavily affected by COVID-19 and is facing financial difficulties, the employer may, acting in good faith, discuss and negotiate with its employees on, among others matters, reducing working hours or salary on the basis that this is a cost-cutting measure taken to avoid any retrenchment exercise.

We expect to see further updates from the Ministry for the second phase of the MCO and we will continue to monitor the developments in Malaysia and keep you updated.



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