

# **COVID-19 (Temporary Measures) Bill**

# Bill covers 4 areas

Part of Bill	Area
(1)	Temporary relief for failure to perform contractual obligations because of COVID-19
(2)	Revised limits for bankruptcy and insolvency
(3)	Temporary measures for conduct of AGMs, meetings for companies
(4)	Temporary measures for court proceedings

# Part 1 - Temporary relief for failure to perform contractual obligations because of COVID-19

# Objectives of the Bill

## (1) Fairness

- COVID-19 is an unexpected event that affects the ability of businesses and individuals to perform contractual obligations

## (2) Targeted protection from legal action

- Cash-flow relief for impacted sectors

## (3) Temporary relief

- Upholding the right to exercise contractual obligations while recognising the unprecedented effects of COVID-19

# Proposed measures

- Do not absolve or remove contractual obligations but suspend them for a prescribed period
- Relief will be provided for 6 months in the first instance, starting from commencement of Act
- Prescribed period of relief may be extended by the Minister
- Bill will cease to have effect after 1 year

# Part 1: Contracts covered by Bill

- 5 broad categories
- Excludes contracts entered into on or after 25 March 2020
- Covering obligations to be performed on or after 1 February 2020
- Includes contracts which the Government is a party to
- Categories may be amended by the Minister subsequently through subsidiary legislation

# Covers 5 broad categories of contracts

S/N	Category
(1)	Leases or licences for non-residential property (e.g. lease for factory premises)
(2)	Construction contracts or supply contracts (e.g. contract for the supply of materials)
(3)	<b>Event contracts:</b> Provision of goods and services for events (e.g. venue or catering for weddings, business meetings)
(4)	<b>Tourism-related contracts:</b> Provision of goods or services relating to tourism (e.g. hotel accommodation bookings)
(5)	Certain: (a) secured loan facilities granted by a bank or a finance company to SMEs (b) hire-purchase agreements (e.g. where good hired is a commercial vehicle)

# Types of actions prohibited

S/N	Type of prohibited action
(1)	Court and insolvency proceedings, and enforcement of judgments or arbitration decisions (international arbitrations excluded)
(2)	Enforcement of security over immovable property (e.g. commercial premises) as well as movable property that is used for the purpose of business or trade (e.g. delivery vehicle)
(3)	Call on a performance bond given pursuant to a construction contract
(4)	Termination of lease of non-residential premises



# Additional relief for event and tourism-related contracts

- If a deposit (or part of) has already been forfeited:
  - The other party must, after receiving a notification for relief, restore the deposit as if it had not been forfeited
- Deposits (or part of) may not be forfeited unless an Assessor has made a determination that the forfeiture is just and equitable
- If a person fails to comply with an Assessor's determination that a deposit should be repaid or restored, such non-compliance will be an offence

# How the relief will work

- Relief will be available where:
  - A party is unable to perform an obligation to be performed on or after 1 February 2020;
  - That inability is materially caused by a COVID-19 event; and
  - A notification for relief has been served on the other party

# How the relief will work

- Upon receiving notification for relief:
  - A party to the contract cannot take any prohibited action against the other party during the prescribed period
  - Proceedings relating to a prohibited action that have already commenced must be stayed
  - Non-compliance in relation to a prohibited action will be an offence
- Any dispute to be determined by an Assessor

# Management of disputes

- Parties may dispute that non-performance of contractual obligations was due to COVID-19
- Disputes will be determined by an assessor from a pool of Assessors appointed by the Minister for Law
- Assessor will decide if the non-performance was due to a COVID-19 event and will have powers to grant relief to achieve a just and equitable outcome
- No appeal from determination made by Assessor

# 1: Leases or licences for non-residential property

- No termination of lease / licence where non-payment of rent is due to a COVID-19 event
- Covers rental payments due on or after 1 February 2020, and where agreement was entered into before 25 March 2020
- Rent will continue to accrue and remain payable

# Illustration: Commercial tenant unable to pay rent



- Restaurant's revenue has fallen due to reduced footfall from COVID-19
- After meeting expenses like workers' salaries, restaurant cannot afford to pay rent for Feb and Mar 2020
- Landlord issues letter of demand for unpaid rent, threatens eviction

# Illustration: Commercial tenant unable to pay rent

- Tenant can seek relief from Assessors. If relief is given, then it will be a criminal offence during the 6-month prescribed period for the landlord to:
  - Terminate the restaurant's lease
  - Repossess the restaurant's premises
  - Start or continue court or insolvency proceedings against the restaurant

## 2: Construction contracts or supply contracts

- Contractor is protected from prohibited actions where non-performance of obligations was caused to a material extent by a COVID-19 event
- Contractor will not be liable for:
  - Liquidated damages
  - Delays, non-supply of goods arising from COVID-19 event
- Covers obligations to be performed on or after 1 February 2020, and contracts entered into before 25 March 2020



# 3: Event contracts

- Where event is postponed due to a COVID-19 event (e.g. safe distancing measures), deposit paid cannot be automatically forfeited by the other party
- Covers events held on or after 1 February 2020, and booked before 25 March 2020
- If there is a dispute, Assessor can decide if deposit should be fully or partially returned to a party, considering any legitimate expenses incurred

# Illustration: Postponed wedding



- Couple placed deposit with hotel for a wedding to be held on 21 March
- Seeing worsening situation, couple decided to postpone wedding
- Hotel told couple that their deposit will be forfeited if they do not hold wedding within 3 months

# Illustration: Postponed wedding

- Couple can apply for relief. If relief order is given, the hotel must restore the deposit
- If hotel believes it has grounds to forfeit the deposit, it can state its position to the Assessor
- Based on the facts, the Assessor will make a determination to provide for a just and equitable outcome
- For example (illustrations only):
  - The hotel may be required to return the deposit (or part of it) to the couple, setting off expenses reasonably incurred by the hotel
  - The hotel may be required to hold the deposit, e.g. if the couple decide to postpone the wedding
  - The hotel may proceed to forfeit the deposit (or part of it), e.g. if the couple decide to cancel the booking, and go to another hotel

# 4: Tourism-related contracts

- Where travel event cannot continue due to COVID-19 restrictions (e.g. tour package or business conference), sums paid cannot be automatically forfeited by the other party
- Covers events held on or after 1 February 2020, and booked before 25 March 2020
- If there is a dispute, Assessor can decide if sums paid should be fully or partially returned to a party, considering any legitimate expenses incurred

## **5: Certain secured loan facilities granted by bank or finance company to SMEs**

- Covers loan facilities granted by banks or finance companies to SMEs where loans are fully or partially secured against commercial or industrial immovable property in Singapore (e.g. a shopping development)
- Also covers loan facilities granted by banks or finance companies to SMEs that are fully or partially secured against plant, machinery or other equipment in Singapore that are used for business purposes
- Covers loan payments due on or after 1 February 2020, for loan agreements entered into before 25 March 2020

# Illustration: Private-hire car driver unable to pay instalments on hire-purchase loan



- Private-hire car driver bought his car on hire-purchase loan in 2019
- With fewer passengers and reduced income, unable to afford monthly instalments for February and March 2020 after meeting family expenses
- Finance company sends letter of demand, threatens repossession of car

# Illustration: Private-hire car driver unable to pay instalments on hire-purchase loan

- If relief is given, it will be an offence during the 6-month prescribed period for the finance company to:
  - Repossess the car
  - Start or continue court or insolvency proceedings against the driver
- Depending on circumstances, Assessor may make further determinations (e.g. driver pays one or more instalments)

# Part 2 - Revised limits for bankruptcy and insolvency



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- For individuals:
  - Increase the monetary threshold for bankruptcy applications from \$15,000 to \$60,000
  - Increase time period to satisfy a statutory demand from 21 days to 6 months
  - Increase time period for the setting aside of statutory demands from 21 days to 6 months
  - Increase monetary threshold for the Debt Repayment Scheme from \$100,000 to \$250,000

# Part 2: Revised limits for bankruptcy and insolvency

- For businesses:
  - Increase the monetary threshold for insolvency **from \$10,000 to \$100,000**
  - Increase time period to satisfy a statutory demand **from 21 days to 6 months**
  - Increase time period for the setting aside of statutory demands **from 21 days to 6 months**

# Part 3 - Alternative meeting arrangements

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- Enables meetings to be held in compliance with MOH's safe distancing measures, despite any contrary legal requirements
- If a meeting complies with prescribed alternative arrangements, it will be deemed to have satisfied the relevant legal requirements
- Provisions will apply retrospectively to 27 March 2020 (when MOH's safe distancing regulations came into force)

# Part 4 - Remote court proceedings

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- Measures to enable the Courts to conduct court proceedings more flexibly in light of COVID-19:
  - Judges to hear cases remotely
  - Evidence of specified categories of witnesses abroad to be taken remotely
  - Accused persons in Singapore to appear in court or give evidence remotely from Courts or Prisons
- Safeguards to ensure that only suitable cases are ordered to be heard remotely, and that the court proceedings are conducted fairly

**Thank you.**