

Client Alert

25 March 2020

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Restriction of Movement Order - Guidelines as at 24 March 2020

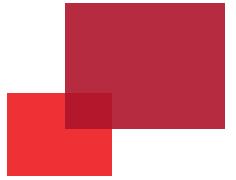
This alert follows our earlier client alerts on (i) the **Restriction of Movement Order dated 17 March 2020** and on (ii) the **Prevention and Control of Infectious Diseases Act (Measures within the Infected Local Areas) Regulation 2020** (the "**Regulations**") dated **19 March 2020**. The Malaysian Prime Minister and several ministries have provided further clarification on the impact of the Restriction of Movement Order ("**Order**"), including:

- (a) Ministry of Home Affairs ("**MOHA**") on matters relating to inter-state movement and immigration related clarifications;
- (b) Ministry of Agriculture and Food Industry ("**MAFI**") relating to export and import permits;
- (c) Ministry of International Trade and Industry ("**MITI**") relating to applications by manufacturing companies for approval to operate during the period of the Order ("**Control Period**"); and
- (d) Ministry of Domestic Trade and Consumer Affairs ("**MDTCA**") in respect of the lack of restrictions on supply chain, food sale and e-commerce activities during the Control Period.

1. Prime Minister's statement

The Malaysian Government ("**Government**") announced the following initiatives on 23 March 2020, which will form part of the comprehensive economic stimulus package to be announced on 27 March 2020 (instead of 30 March as previously expected):

- (a) **Withdrawal from Account 2 of Employees' Provident Fund ("EPF") for those below 55 years old:** Account 2 of EPF represents 30% of employees' EPF savings and can only be withdrawn pre-retirement for limited purposes such as housing loan payments, education and medical reasons. The Government will now allow EPF members below the age of 55 years old to withdraw up to MYR 500 a month from their Account 2 for a period of 12 months starting 1 April 2020. This is part of the measures to help the public cope with their daily needs amidst the economic downturn.
- (b) **MYR 500 million to be channeled to the Ministry of Health ("MOH"):** The Government will channel MYR 500 million to MOH to support hospitals nationwide to purchase medical devices such as ventilators, intensive care equipment and personal protective equipment. An additional MYR 100 million will be used to hire 2,000 new contractual healthcare workers, especially nurses, who will be employed on a 2-year contract to alleviate the burden of existing medical personnel.



- (c) **MYR 130 million to be channeled to every state:** The Government will also channel MYR 130 million to each State government. The State governments must use these funds to provide financial assistance to:
- (i) hawkers and small traders affected by the virus outbreak;
 - (ii) COVID-19 patients and their family members; and
 - (iii) State government personnel involved in the management of the virus outbreak.

2. MITI - Application by companies to continue manufacturing operations

Subject to the receipt of MITI approval, companies manufacturing essential items (for example, food and medical supplies) may continue their manufacturing operations during the Control Period. MITI had indicated that a response (in the form of an approval or rejection of the application) would be provided within 2-3 days of the application being submitted.

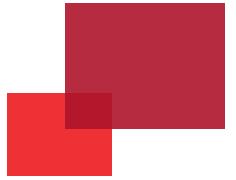
On 24 March, MITI announced that the deadline for making such applications was 11.59pm of the same day ("**Deadline**"). The online portal set up for parties to submit the application was deactivated after the Deadline and MITI is no longer accepting any applications. MITI had explained that the Deadline was set to enable MITI to review and process the thousands of applications received to date.

MITI also announced the setting up of a Special Committee headed by the Minister of International Trade and Industry, which also includes the Minister of Domestic Trade and Consumer Affairs ("**MDTCA Minister**") and the Minister of Agriculture and Food Industries ("**MAFI**") as members. The Special Committee was set up to ensure the continued supply of essential items to Malaysians during the Control Period. Companies manufacturing essential items but not submitted the application to MITI prior to the Deadline will have to engage the Special Committee for the necessary approval moving forward. Given the lack of a prescribed application process, the issuance of the approval may also be delayed.

3. MDTCA - Confirmation of operations

Companies that are not in the manufacturing sector but providing essential services (such as food supply, e-commerce, healthcare and medical) may also operate during the Control Period. Such companies can apply to the MDTCA for confirmation of the same. The MDTCA confirmation can be used as a supporting document to facilitate the transport of goods or movement of its employees in Malaysia. However, the MDTCA online portal had stopped accepting applications after the Deadline to enable the MDTCA to process all the applications received to date.

It is uncertain whether the MDTCA will (i) re-open the online portal to receive more applications after it has completed the review of the existing applications



received to date, or (ii) set up a special committee just like MITI to carry out such function (amongst others) moving forward.

To provide clarity, the MDTCA Minister had announced on 25 March 2020 that businesses involved in the following activities can continue to operate during the Control Period:

- (a) all food supply and e-commerce activities (which includes the manufacture of raw materials and food products, retail, packaging, distribution, wholesale and distribution centre activities); and
- (b) logistics and transportation services supporting supply chain and e-commerce activities for the supply of food and essential items.

Companies supporting the food supply chain and form part of the downstream industries are also permitted to operate, with minimal workforce whilst complying with the relevant Covid-19 control measures determined by the Ministry of Health. In addition, these companies are required to cease all non-essential operations during this period. These companies should also provide letters of authorisation to their on-duty employees which is discussed further in Paragraph 4(b).

This announcement can be broadly interpreted and may open the floodgates as many businesses can be argued to form part of the supply chain or downstream industries. It is likely that further clarifications will be issued in the coming days, and we should look out for the relevant developments on this matter.

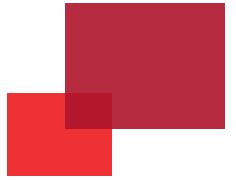
4. Inter-state movement

MOHA has clarified that:

- (c) there is no requirement to obtain permission from the Royal Malaysia Police for inter-state movement;
- (d) employers providing essential services must issue a letter of authorisation to their on-duty employees during the Control Period. This letter can be used by employees as evidence that they are employed in essential services if they are stopped by the Authorities enforcing the Order; and
- (e) any trucks delivering non-essential items during the Control Period will be in breach of the Regulations. The Minister of International Trade and Industry also announced that logistics and transport services shall only transport essential items (such as household goods, food, medical supplies, gloves and face masks) manufactured by companies approved by the MITI during the Control Period. This has resulted in operational challenges for manufacturers that require the delivery of raw materials from ports or third party suppliers, and e-commerce companies that are looking to promptly deliver products during the Control Period.

5. Immigration

MOHA has clarified that during the Control Period:

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- (a) all foreign visitors/tourists on social visit passes are allowed to leave Malaysia and should not return during the Control Period;
 - (b) foreigners who are unable to return to their home country due to the closure of the borders of their home country may apply for a special pass issued by the Immigration Department of Malaysia, provided the application is made immediately after Order has been lifted, and the relevant individuals have valid travel documents); and
 - (c) foreigners who are holding long-term passes (such as student visas, expatriate pass, temporary employment pass, Malaysia My Second Home pass, etc.) that expire during the Control Period, may (i) return to their home country without the need to renew their passes, or (ii) extend the duration of their passes within 14 days of the end of the Control Period.

6. FAQ by MAFI

MAFI has announced that:

- (a) all applications for import and export permits will be processed, and approval for permits will be issued as usual;
- (b) import or export of agricultural goods are permitted; and
- (c) all complete applications for import and export permits in relation to fish and agricultural commodities will be automatically approved. Applications for other animal commodities (such as cattle, chicken, duck or other live animal) and applications for the import/export of fish and agricultural commodities for which further supporting documents are required, will be processed manually by the relevant officers of Malaysian Quarantine and Inspection Services (MAQIS).

This will help ensure that food supply during the Control Period is not impacted by the Order.

7. Conclusion

The Prime Minister, in his special address on 25 March 2020, has stated that further details in relation to the Economic Stimulus Package will be disclosed on 27 March 2020 (instead of 30 March as previously expected) and has declared that the Restriction of Movement Order be extended to 14 April 2020. Businesses should monitor this space for further developments and we will be issuing further alerts.

