

I. INTRODUCTION

1. The COVID-19 (Temporary Measures) (Temporary Relief for Inability to Perform Contracts) Regulations 2020 (the “**Regulations**”) came into operation on 20 April 2020. These Regulations detail how qualifying individuals and businesses can apply for temporary relief under the COVID-19 (Temporary Measures) Act 2020 (the “**Act**”). We summarize some key points to note in this update.

[\[Click here to access our update on the Act\]](#)

[\[Click here to access the Regulations\]](#)

II. PRESCRIBED PERIOD OF RELIEF

2. For the purposes of Parts 1 to 3 of the Act, the prescribed period of relief is currently 6 months starting on **20 April 2020 and ending on 19 October 2020** (the “**Prescribed Period**”).

III. NOTIFICATION FOR RELIEF

3. If negotiation between parties fails, a qualifying party can resort to the Act and seek a temporary reprieve for its inability to perform the covered contracts. The qualifying party (“**Party A**”) must initiate the relief process **by serving a Notification for Relief** on the counterparty or parties to the contract (“**Party B**”) and any other relevant party as required by the Act.

Prescribed Form of Notification

4. Party A can access and directly fill up **the prescribed Form 1** on the Ministry of Law’s Electronic System. If Party A is not using the Default Service Mode, it can fill up a copy of the same form.

[\[Click here to access Electronic System / Form 1\]](#)

5. Party A is permitted to (and should, if applicable) adapt the form and add on any **relevant information or supporting documents** – e.g. to show how it qualifies under Act and the COVID-19 event materially caused its inability to perform.

Prescribed Mode of Service

6. The Regulations stipulate certain modes of service in the following order of preference:

a. **By Electronic Service** (the “**Default Service Mode**”): If Party A has the last email addresses of the parties, it must log onto the **Ministry of Law’s Electronic System** using its SingPass / CorpPass to fill up and serve the Notification for Relief electronically.

b. **By Email**: Only if Party A is unable to use the Electronic System, it **may email** the Notification for Relief to Party B’s last email address.

c. **By Other Electronic Means**: If Party A is also unable to serve by email, it may serve the notification using internet-based services or mechanisms which allow Party B to **receive electronic communications** – such as internet messaging service (e.g. Whatsapp); or a website, blog or social media page etc owned /operated by Party B.

d. **By Physical Means**: As a last resort where Party A is unable to serve the document by any of the above electronic means, it may send the notification to Party B’s last postal address by **prepaid registered post**.

7. Party A must serve the Notification for Relief on all relevant party or parties to the contract **within the Prescribed Period**.
8. Further where the notification has to be served on any surety/guarantor for the subject obligation and/or issuer of a related performance bond, Party A must also conduct service on them **within 1 working day** after the Notification for Relief is served on Party B.

IV. STAY OR DISMISSAL OF COURT OR ARBITRAL PROCEEDINGS

9. Upon service of the Notification for Relief, Party A is entitled to a moratorium on legal actions. Party B is therefore not permitted to commence or continue any court or arbitral proceedings against Party A in respect of its inability to perform covered in the notification.
10. Where there are pending proceedings involving the subject inability at the time of service of the Notification of Relief, or where such proceedings are commenced after service of the notification, Party A must after serving its Notification for Relief, also submit a **Memorandum of Notification for Relief in the prescribed Form 2** to the relevant court / arbitral tribunal to stay the proceedings.

[\[Click here to access Form 2\]](#)

V. APPLICATION FOR AN ASSESSOR'S DETERMINATION

Applying For Assessment

11. If parties cannot agree on the relief, either party may apply for an Assessor's Determination (the "Applicant") by submitting the **prescribed Form 6** (with the required information and

documents) to the Registrar via the Electronic System (the "**Application**"). If the Applicant is unable to apply via this platform, the Registrar or Assessor may direct for the Application to be submitted in such other way. There is no application fee.

12. An Application for an Assessor's Determination must be served within the following periods:

Scheduled Contract	Period of Application
Event, tourism-related, construction or supply contracts	Between start of Prescribed Period and end of a 2-months period thereafter (i.e. 20 April 2020 to 19 December 2020)
Any other type of scheduled contracts	Prescribed Period (i.e. 20 April 2020 to 19 October 2020)

Serving the Application etc

13. If the Registrar is satisfied that the Application is in order, the Registrar will send the **prescribed response Form 8** to the Applicant. In turn, the Applicant must:
 - a. **within 2 working days, serve this Form 8 and any other documents from the Registrar**, on (I) the particular party or parties to the contract who had served or disputed the Notification for Relief (the "Respondent"), (II) every other party to the contract, and (III) if applicable, any other party such as the guarantor/surety for the obligation in the contract and/or issuer of a related performance bond.
 - b. **within 1 working day after serving Form 8 and other matters above, submit a Declaration of Service in the prescribed Form 4** to the Registrar.

- c. **within 2 working days after serving Form 8 and other matters above, submit a Notification of Status of Application in the prescribed Form 7** to the relevant court / arbitral tribunal of pending proceedings which was previously served a copy of the Notification for Relief.

[Responding to the Application](#)

- d. **Within 5 working days** after being served with a copy of the Application and the matters from the Registrar, the Respondent must duly complete and serve its Response **in the prescribed Form 8**.

[Hearing and Determination of the Application](#)

14. The Registrar will set down the matter for hearing and notify parties by email, of the appointment of the Assessor (and if applicable, the hearing date and place). The Regulations allow for the appointment of more than 1 Assessor, in which case any determination must be **unanimous**.
15. Generally, hearings will be conducted in an asynchronous manner by exchange of emails. However if the Assessor is of the view that the interests of justice is better served if the hearing is conducted in a different manner, the Assessor may direct for an online or a physical hearing.
16. The Registrar will notify parties of the Assessor's Determination.

[\[Click here to access Forms 4, 6, 7 and 8\]](#)

[VI. FINAL WORDS](#)

17. Parties should take particular care especially where the requirements prescribed by the Regulations are framed in **mandatory terms** (e.g. "must", as opposed to "may"). In this regard, parties should ensure strict compliance with the Regulations in all ways and manner.
18. If you have any questions on the Regulations or if we can assist you on any particular issue concerning COVID-19, please feel free to reach out to us.

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