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Procurement Policies Department
Business Development Group

27 December 2021

Dear Sir/Madam,

EXTENSION OF RELIEF PERIODS UNDER THE COVID-19 (TEMPORARY MEASURES) ACT FOR RELEVANT CONTRACTS IN THE BUILT ENVIRONMENT SECTOR

Objective

This circular informs the Built Environment (“BE”) sector on the extension of the prescribed periods for legislative relief (“relief period”) related to the BE sector in Part 2, Part 8B and Part 10A of the COVID-19 (Temporary Measures) Act (“COTMA”) from the current end date of 31 December 2021 to 28 February 2022 (for Part 2 and Part 8B) and to 31 March 2022 (for Part 10A) respectively.

Background

2 The COTMA was enacted in April 2020 to provide temporary relief to selected types of contracts severely affected by the impact of COVID-19. While the COTMA was originally intended to end on 19 October 2020, the relief period for construction and supply contracts in Part 2 and Part 8B had been extended a few times in view of the continuing impact of COVID-19 on the BE sector. Currently, construction and supply contracts are the only remaining types of contracts protected under COTMA Part 2.

3 The BE sector is on the road of recovery with construction demand and output at industry level approaching pre-COVID-19 levels. Parties in the BE sector are adapting to the new normal by adjusting their contract provisions and prices based on the evolving COVID-19 situation. An increasing number of contracts signed pre-COVID-19 are either completed or close to completion. However, there remain some challenges moving forward.

Further extension of COTMA relief periods

4 In view of the above, ***the Government will adopt a differentiated approach by extending the relief period for Part 2 and Part 8B for two months; and extending Part 10A relief period for three months.*** The extension of Part 2 and Part 8B relief period for an additional two months takes into the consideration that the BE sector is recovering. During this period, firms should prepare for the tapering of reliefs under these Parts of the COTMA. However, firms in the BE sector are still facing manpower shortage and elevated costs. A longer 3-month extension for Part 10A is to give contractors continued help in managing the higher foreign manpower salary costs. It will also complement the extension of \$250 Foreign Worker Levy rebates (earlier announced by MOM on 21 Dec 2021) for the same duration.

Extension of the relief period for Part 2 and Part 8B by two months to 28 February 2022

5 Part 2. COTMA Part 2 seeks to offer temporary relief for a prescribed period, upon service of a Notification for Relief (“NFR”), from the stipulated types of legal and enforcement actions due to inability to perform contractual obligations arising from COVID-19. In addition, for construction and supply contracts, the following reliefs apply upon service of an NFR if the conditions under the Act are met.

- First, defaulting parties are provided with a defence against any claims for breach of contract in respect of their inability to supply goods or services in accordance with the terms of their contract if that inability is due to a COVID-19 event and occurs between 1 February 2020 and 28 February 2022 (both dates inclusive).
- Second, any period during which the defaulting party is unable to perform a contractual obligation due to COVID-19 and which falls between 1 February 2020 and 28 February 2022 (both dates inclusive) will be disregarded in calculating any liquidated damages (or other types of damages) payable.

These two additional reliefs continue to apply after the expiry of the prescribed period (on 28 February 2022) provided the NFR was served during the prescribed period.

- Third, during the prescribed period, the non-defaulting party may not call upon a performance bond in relation to the defaulting party’s inability to perform a contractual obligation due to COVID-19 at any time earlier than 7 days before the date of expiry of the performance bond.

6 ***BE sector firms affected by COVID-19 can seek temporary relief from legal and enforcement actions by serving a NFR*** at MinLaw’s website (<https://www.mlaw.gov.sg/covid19-relief/notification-for-relief>) **by 28 February 2022** (a 2-month extension). If an agreement cannot be reached or there is a dispute as to whether the relief triggered by the NFR applies, either party may submit an application for an Assessor’s determination up to two months after the end of the relief period, i.e. latest by **30 April 2022**.

7 Part 8B. COTMA Part 8B provides cost-sharing of additional non-manpower qualifying costs – rental of plant or equipment, cost for maintaining the construction site by third parties, cost for extending insurance or bond and rent for premises in Singapore for storage – between contracting parties due to delays caused by COVID-19.

8 Cost-sharing relief will apply to non-manpower qualifying costs, which arise due to delays caused by COVID-19 during the period from 7 April 2020 to **28 February 2022** (a 2-month extension). The cost-sharing percentage remains at 50% of the qualifying costs, subject to a monthly cap of 0.2% of contract sum per month and a total 1.8% of the contract sum. There is no change to the monthly cap of 0.2% and overall cap of 1.8%.

9 ***Barring any unforeseen circumstances, this will be the final extension of the Part 2 and Part 8B relief period*** and contractual parties in BE sector with contracts signed pre-COVID should continue to negotiate in good faith and agree on amicable outcomes for their contracts.

Extension of the relief period for Part 10A by three months to 31 March 2022

10 Contractors can apply for an Assessor to seek a determination to adjust the contract sum for the increase in foreign manpower salary costs, in respect of Work Permit Holders, due to COVID-19 during the period from 1 October 2020 to **31 March 2022** (a 3-month extension), if contracting parties are unable to reach an amicable outcome. **Contractors may submit an application for an Assessor's determination up to two months after the end of the relief period, i.e. latest by 31 May 2022.** The application for an Assessor's determination can be made at <https://go.gov.sg/cotma10a>.

11 To ensure the safe inflow of workers while minimising importation risk, we encourage firms to continue to tap on the two viable and safe entry lanes for construction WPHs to bring in workers to meet their immediate needs - the tightened end-to-end process led by the industry, and the Work Pass Holder General lane.

Further information

12 We would like to emphasise that the reliefs related to the BE sector under the COTMA are meant to be time-limited. As the sector continues to recover and as we shift towards living with COVID-19, BE sector firms will need to partner each other even more closely for long-term sustainability and resilience.

13 Please refer to the [Annex](#) for eligibility criteria of contracts under Part 2, Part 8B and Part 10A of COTMA and further details on the processes can be found at <https://www.mlaw.gov.sg/covid19-relief>, <https://go.gov.sg/bca-guide-cotma-8a-8b> and <https://go.gov.sg/cotma10a> respectively. For clarification on this circular, please direct your queries to <https://www.bca.gov.sg/feedbackform/>.

Thank you.

Yours faithfully

ANG LIAN AIK
GROUP DIRECTOR
BUSINESS DEVELOPMENT GROUP
for CHIEF EXECUTIVE OFFICER
BUILDING AND CONSTRUCTION AUTHORITY

(Transmitted via email)

Annex: Eligibility Criteria for COTMA Part 2, Part 8B and Part 10A

	Part 2	Part 8B	Part 10A
Purpose	Moratorium and defence against any claims for breach of contract	Cost-sharing of 50% of non-manpower related qualifying costs, subject to a cap of 0.2% monthly and overall 1.8% of contract sum	Seeking determination from a Part 10A Assessor to adjust the contract sum to address the increase in wages of work permit holders
Types of contract	Construction contract, Supply contract	Construction contract <i>Note: It does not cover construction contracts where customers are individuals, unless the individuals are acting as sole proprietors in the course of the business of the sole proprietorships.</i>	Construction contract <i>Note: It does not cover construction contracts for the carrying out of construction works at or on a residential property for which approval is not required under the Building Control Act, e.g. renovation works within a HDB unit.</i>
Contract entered info	Before 25 March 2020	Before 25 March 2020	Before 1 October 2020
Other relevant dates	The inability to perform the contractual obligation is occurring between 1 February 2020 to 28 February 2022 (both dates inclusive)	<ul style="list-style-type: none"> Construction works have not been certified completed as at 7 April 2020 Contract remained in force on 2 November 2020 	<ul style="list-style-type: none"> Construction works have not been certified completed as at 10 May 2021 Construction contract remained in force on 10 May 2021
Others	The Applicant has to serve a Notification for Relief during the relief period on the other contractual party (e.g. developer or main contractor), the guarantor or surety, and/or the issuer of the performance bond (if any)	-	The Applicant has made a reasonable attempt to negotiate with the customer / client (i.e. Respondent) for a cost adjustment of the contract sum

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All companies registered or listed in BCA's Builders Licensing Scheme (BLS), Contractors Registration System (CRS) and Public Sector Panels of Consultants (PSPC)

All Part 10A assessors (through the Part 10A Registrar)