


Circuit Breaker Strategy & COVID-19 (Temporary Measures) Act 2020

Singapore Implements Wide-Ranging Legal and Relief Measures

The outbreak of COVID-19 has caused unprecedented disruptions to a wide range of business sectors. The Government of Singapore has adopted a “circuit breaker” strategy to combat further spread of the virus. In addition, to alleviate the impact on businesses, the Parliament of Singapore passed the COVID-19 (Temporary Measures) Act 2020 (the “Act”) on 7 April 2020.

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Some key measures introduced by the Act that are relevant to businesses are set out below.

A. CIRCUIT BREAKER STRATEGY

On 3 April 2020, Prime Minister Lee Hsien Loong of Singapore gave an update on the COVID-19 situation in a televised address to the nation. He announced significantly stricter measures to pre-empt and control escalating infections. He said that the stricter measures imposed will act as a “circuit breaker” and be in place for one month to help reduce the risk of a big outbreak and gradually bring the number of infections down. These measures which were in place initially from 7 April 2020 to 4 May 2020, have been extended until June 2020 (the “Relevant Period”) and they include the following:

- Most physical workplace premises will be closed, except for essential services and those in economic sectors critical to local and global supply chains. For workplace premises which remain open, employers must put in place effective measures to avoid transmission including safe distancing measures and ensuring workers wear masks at the workplaces. All workplaces will also be required to have a system that logs the workers’ entry and exit from their workplaces.
- All business, social or other activities that cannot be conducted through telecommuting from home will be suspended.
- Schools and institutes of higher learning will move to full home-based learning from 8 April 2020.
- Members of the public are strongly advised to stay home and avoid going out unnecessarily, except for daily necessities, essential services or urgent medical needs.
- Temperature screening will be conducted at all supermarkets and malls with effect from 22 April 2020 and patrons visiting popular malls and supermarkets will also be required to furnish their particulars for contact tracing.
- All attractions, theme parks, museums and casinos will be closed. Sports and recreational facilities such as public swimming pools, country clubs, gyms and fitness studios will also be closed.

Essential services will remain open and available to the public during this period. Essential services are defined as certain businesses in the following sectors:

- Food establishments, markets and supermarkets, save for specialised stores and outlets retailing predominantly beverages, confectionaries, packaged snacks and desserts, and food and beverage outlets in parks.
- Transport and storage.
- Healthcare, social services for elderly and urgent dental services.
- Banking and finance services.
- Information & communications.
- Others such as selected hospitality businesses, vehicle recovery and repair, optician services and veterinary services.



Ministries and government agencies

Following the announcement of elevated safe distancing measures by the Ministry of Health on 3 April 2020, the Monetary Authority of Singapore has confirmed that financial services will remain open and available to customers and counterparties in Singapore and globally. The Singapore Exchange have also affirmed that its securities and derivatives markets will remain open and accessible during the Relevant Period. For other ministries and government agencies, electronic services remain available and transactions may still be filed on electronic portals.

Singapore Courts

The Chief Justice of Singapore has directed the Supreme Court, State Courts and Family Justice Courts will hear only essential and urgent matters during the Relevant Period. Court proceedings will be conducted, as far as possible, by electronic means of communication without requiring physical attendance before the Court. All other matters which have been assessed to be non-essential or urgent will be adjourned to such date as notified to the parties. In order to reduce the number of visitors to the Courts, the information counters at the Courts as well as the Supreme Court and State Court libraries will be closed.



B. COVID-19 (TEMPORARY MEASURES) ACT 2020

1. Temporary relief from legal action

The Act will prohibit contracting parties from taking certain legal actions against counterparties who are unable to fulfil their contractual obligations due to the COVID-19 pandemic. The prohibition shall operate retrospectively and offer temporary relief for businesses.

Contracts protected under the Act

The Act will apply to various categories of contracts including:

- Construction and supply contracts (for example: a contract for the supply of materials).
- Performance bonds or equivalent granted pursuant to a construction or supply contract.
- Leases or licences for non-residential immovable property (for example: a lease for factory premises).

- Contracts for the provision of good and services (for example: provision of venue, catering) for events (for example: weddings, business meetings).
- Certain contracts for goods and services for visitors to Singapore, domestic tourists or outbound tourists, or promotion of tourism (for example: cruises, hotel accommodation bookings).
- Certain loan facilities granted by a bank or a finance company to SMEs (businesses with turnover of not more than S\$100 million in the latest financial year) where loans are fully or partially secured against commercial or industrial immovable property, plant, machinery or other equipment used for business purposes in Singapore.
- Certain hire purchase agreements (for example: financing of a commercial vehicle).



Conditions

In order to claim relief under the Act, the following points should be considered:

- The contract should be entered into or renewed prior to 25 March 2020.
- The obligations under the contract are to be performed on or after 1 February 2020.
- The inability to perform the obligations is, to a material extent, caused by the COVID-19 pandemic (for example: if the disruptions caused by COVID-19 leads to a lack of workers and materials to construct a building).
- The party seeking to claim relief under the Act has served a prescribed notification to the other party within the prescribed period. This notification can be withdrawn by the notifying party.

Prohibited legal actions

Where certain conditions under the Act are satisfied, the following legal actions are prohibited within the prescribed period of 6 months (can be extended for a further 6 months):

- Court and insolvency proceedings.
- Enforcement of security over immovable property as well as movable property that is used for the purpose of business or trade.
- Call on a performance bond given pursuant to a construction contract.
- Termination of leases on non-residential premises.

Assessors

As a safeguard against unfair outcomes, the Minister of Law will appoint a panel of assessors who will resolve disputes arising from the application of the Act. The appointed assessors will decide if the inability to perform the contractual obligations was due to COVID-19 and will have the powers to grant relief that is just and equitable in the circumstances. Parties will not be represented by lawyers and there will be no costs ordered against either party. The assessors' decisions will be final and cannot be appealed.



2. Measures relating to Insolvency and Directors' Duties

The Act will also introduce temporary relief for businesses in financial distress by increasing the monetary threshold for insolvency from S\$10,000 to S\$100,000. This is applicable to companies and partnerships. The statutory period to respond to demands from creditors have also been extended from 21 days to 6 months.

Further, directors will be temporarily relieved from their obligations to prevent their companies from trading while insolvent if the debts are incurred in the company's ordinary course of business. However, directors remain criminally liable if the debts are incurred fraudulently.

3. Temporary Measures for Conduct of Meetings

Some companies are required by law and their constitutive documents to hold their annual general meeting during this period. However, physical meetings are not feasible during this period as the companies have to comply with safe distancing measures implemented by the Infectious Diseases (Measures to Prevent Spread of COVID-19) Regulations 2020. Unfortunately for many companies in Singapore, the provisions of their constitution require personal attendance and do not allow virtual meetings to be conducted. The Act will now allow the Minister of Law to prescribe alternative arrangements for companies to convene, hold or conduct a meeting by electronic communication, video conferencing, tele-conferencing or other electronic means.

4. Property Tax Remission

The Act requires an owner of property to pass the benefit of any refund of, or relief from liability to pay, any property tax on the property to the tenant without imposing conditions. The Act also sets out a process by which applications may be made by the tenant or the owner to a Valuation Review Panel to allow the tenant to seek redress should the owner fail to pass any benefit to the tenant, in the manner, amount, extent or time required or if there is a dispute over whether the Act applied to the owner.

5. Penalties for Contravening Provisions of Act

Any person who, without reasonable excuse, contravenes the Act shall be guilty of an offence and shall be liable on conviction to a fine or, in more severe cases, to imprisonment.

While we are working from home, we remain, as always, available and ready to assist you. If you have any queries or require any clarifications, do feel free to reach out to any of our partners whose contact details are provided below.

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